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AISLING SWAINE

CONFLICT-RELATED VIOLENCE AGAINST WOMEN

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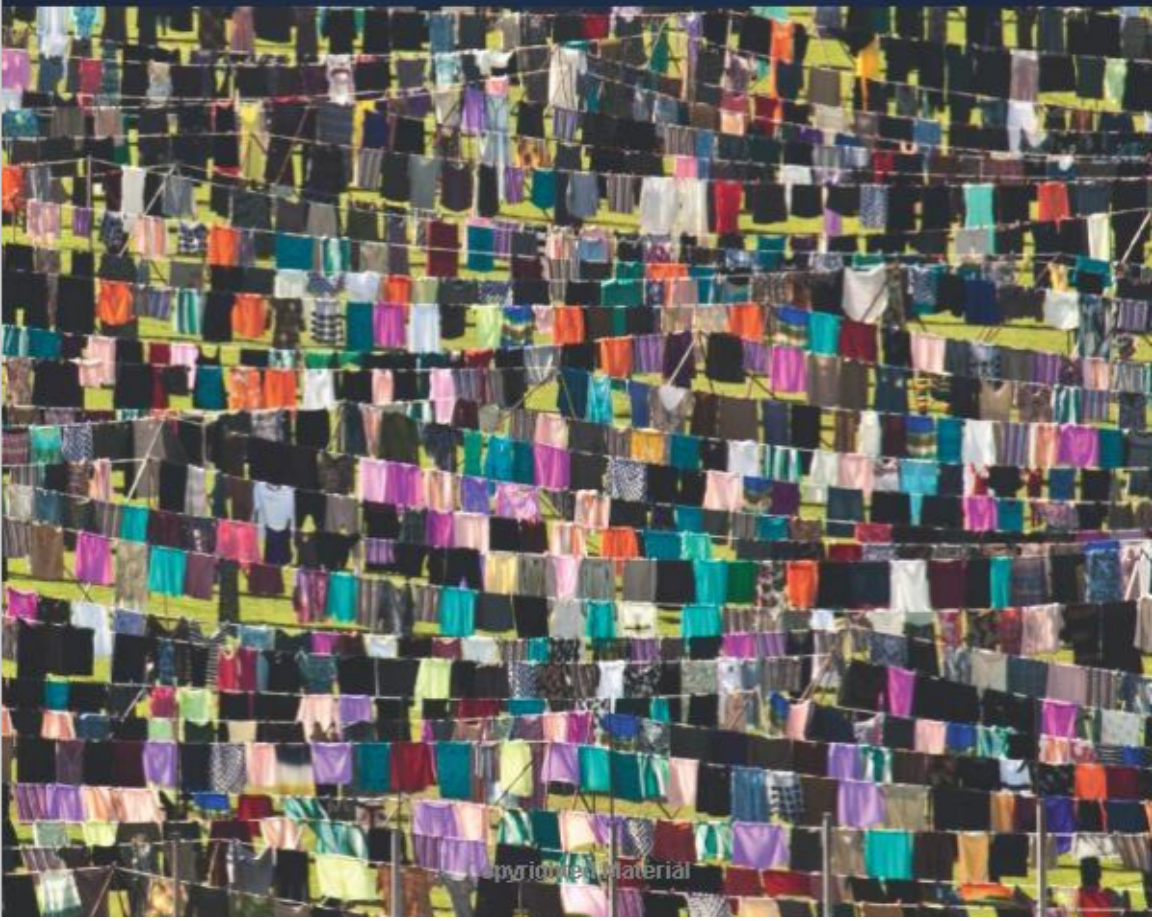

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Aisling Swaine is Assistant Professor of Gender and Security at the Department of Gender Studies, London School of Economics and Political Science. Aisling is also a visiting fellow at the Transitional Justice Institute, Ulster University, and was previously a Hauser Global Fellow at the Centre for Human Rights and Global Justice at the School of Law, New York University. She previously worked extensively with the Irish Department of Foreign Affairs, United Nations agencies and international non-governmental organizations in conflict and post-conflict settings, as well as at international policy levels. She continues to consult to international organizations globally and is a member of a number of UN advisory expert rosters.

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Conflict-Related Violence Against Women

TRANSFORMING TRANSITION

AISLING SWAINE
London School of Economics and Political Science

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For my mother and father, Mary and Laurence.

For all of your hard work and investment in all of us.
And for never objecting when I determined to take
off to random places you might never have heard of!

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Contents

Acknowledgments *page* ix
List of Abbreviations xi

PART I INTRODUCTION 1

1 Introduction 3

PART II APPROACHES TO UNDERSTANDING CONFLICT-RELATED VIOLENCE AGAINST WOMEN 27

2 Historic Prevalence Versus Contemporary Celebrity: Sexing Dichotomies in Today's Wars 29

3 Who Wins the Worst Violence Contest? Armed Conflict and Violence in Northern Ireland, Liberia, and Timor-Leste 57

PART III VIOLENCE AGAINST WOMEN BEFORE, DURING, AND AFTER CONFLICT 89

4 Beyond Strategic Rape: Expanding Conflict-Related Violence Against Women 91

5 Connections and Distinctions: Ambulant Violence Across Pre-, During-, and Post-Conflict Contexts 139

6 Seeing Violence in the Aftermath: What's Labeling Got to Do with It? 184

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PART IV JUSTICE, TRANSITION, AND TRANSFORMATION 227

7 Transitions and Violence After Conflict: Transitional Justice 229

8 Conclusion: Transforming Transition 263

Bibliography 289

Index 320

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My sister Fiona is one of those women that you aspire to be. Thank you for being you, for the supportive understanding, and curiosity about what I disappear to do. Thank you for asking the questions that you do.

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> *So, you've come to understand why men and women of good will read torture reports with fascination.*
>
> (*Return*, Carolyn Forché)

Even more words. In any event these are words of thanks and a wish for it all to simply go away.

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Abbreviations

AFL	Armed Forces for Liberia
BPFA	Beijing Declaration and Platform for Action
CAQDAS	Computer Assisted Qualitative Data Analysis Software
CAVR	Comissão de Acolhimento, Verdade, e Reconciliação (Commission for Reception Truth and Reconciliation, Timor-Leste)
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CPA	Comprehensive Peace Agreement (Liberia)
CRP	Community Reconciliation Procedures (part of the CAVR process Timor-Leste)
CRSV	Conflict-Related Sexual Violence
CRVAW	Conflict-Related Violence Against Women
DRC	Democratic Republic of Congo
DHS	Demographic and Health Survey
ECOMOG	Ceasefire Monitoring Group Peacekeeping Forces
ECOWAS	Economic Community of West African States
EU	European Union
FALINTIL	Forças Armadas de Libertação Nacional de Timor-Leste (Armed Forces for the National Liberation of East Timor)
FGM/C	Female Genital Mutilation/Cutting
Fretilin	Frente Revolucionária de Timor-Leste Independente (Revolutionary Front for an Independent East Timor)
GBV	Gender-Based Violence
GR30	General Recommendation No. 30 (of CEDAW)
HDI	Human Development Index
HRW	Human Rights Watch
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IHL	International Humanitarian Law

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INPFL	Independent National Patriotic Front of Liberia
IPV	Intimate Partner Violence
IRA	Irish Republican Army
LNP	Liberia National Police
LTRC	Liberian Truth and Reconciliation Commission
LURD	Liberians United for Reconciliation and Democracy
MSF	Médecins Sans Frontières
NGO	Non-Governmental Organization
NPFL	National Patriotic Front of Liberia
NPP	National Patriotic Party (Liberia)
NTGL	National Transitional Government of Liberia
OMT	Organização da Mulher Timorense (Organization of Timorese Women)
OPMT	Organização da Popular da Mulher Timorense (Popular Organization of East Timorese Women)
PIRA	Provisional Irish Republican Army
PNTL	Policía Nacional Timor-Leste
PSNI	Police Service of Northern Ireland
RADA	Rehabilitation and Development Agency
RUC	Royal Ulster Constabulary (of Northern Ireland)
SCSL	Special Court for Sierra Leone
SEA	Sexual Exploitation and Abuse
SGBV	Sexual and Gender-Based Violence
UDA	Ulster Defence Association
UDR	Ulster Defence Regiment
UK	United Kingdom
UN	United Nations
UNGA	United Nations General Assembly
UNIFEM	United Nations Development Fund for Women
UNMIL	United Nations Mission in Liberia
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
UNTAET	United Nations Transitional Administration in East Timor
UVF	Ulster Volunteer Force
WHO	World Health Organization
WPS	Women, Peace and Security (agenda of the UN Security Council)

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PART I

Introduction

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1

Introduction

INTRODUCTION

In the times that I have spent working in the delivery of humanitarian aid, I have had the privilege of meeting women in multiple contexts globally who recounted their experiences of being violated sexually, physically, and emotionally by armed actors in the context of political turmoil in their countries. At the same time, and also in the aftermath of these conflicts, many were also experiencing forms of endemic violence that were taking place in their homes and camps for the displaced and that were perpetrated by men who were family and community members, and even community leaders.

What is striking about being in conflict-affected contexts is observing the multifarious ways that violence can take place. Witnessing that violence through and with women and girls opens you up to a realization that in the conflicts of today, the catalogue of gendered violence is still being compiled. In one site, on one occasion, or in various locales and across many occasions, violence confronts women from multiple sources and directions. In any one day in a context such as Darfur, for example, one could observe reports of collective rape by armed actors taking place outside the camps; individual incidents of rape inside the camp of and by family and community members; honor-related harms and killings enacted by family members on teenage girls who became pregnant as a result of forced sex; sexual exploitation by community leaders bartering women's bodies for inclusion on food distribution lists; intimate partner violence; sexual exploitation by peacekeepers or by employers in communities with whom women found work near to the camps; and a litany of nondescript harms, including the invisible yet pervasive threat of violence that is simply a feature of life when you are one of those caught up in a conflict that is not of your doing.

Despite this litany of violence, the response of leaders within both the conflict-affected areas and the international community operating in Darfur (of which I was part) tended to concentrate on a singular typology of violence against women – the act of strategic rape by parties to the conflict. While prolific on a periodic basis in a

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context such as Darfur, strategic rape was not, as evidenced, the only nor the most common form of gendered harm that I observed women and girls reporting to the services I managed. Yet, in that setting I witnessed male community leaders actively and collectively expressing outrage at the attacks perpetrated against women by parties to the conflict. There was no acknowledgment that the same kinds of harms were occurring in their own homes and in the camp community more broadly. It seemed politically adept to collectively condemn violence perpetrated by those in uniform, the "enemy," while at the same time failing to acknowledge the violence against women they themselves may have been involved in.

The response of the international community was not very different. On one occasion, I turned to the UN human rights office for assistance with a number of teenage girls who were pregnant as a result of forced sex by members of the camp community (not armed actors). They had already been subject to torture-like treatment by male family members and were at risk of being killed for the sake of the family's honor. I was informed such acts were not technically part of this office's remit, as they did not fit within the parameters of international law it worked to. While this could be debated, it was clear that in reality the ways in which international law was constructed and interpreted could easily fail the women and girls who were experiencing a multitude of harms that may not have been enacted by parties to the conflict, but were occurring because of the exigencies of that conflict. International law applied to armed conflict offers a range of accountability measures that are tied to very particular actors, thresholds, categorizations, and patterns of violence. Its development has strengthened accountability for a range of crimes, including conflict-related sexualized violence.[1] It does not, however, deal with the complexity of the range of violence in the lives of women and girls caught up in conflict whose experiences, as outlined, might traverse its strict categorizations.

Transition from conflict presents similar and new challenges in this regard. While conducting ethnographic research on women's use of informal justice for intimate partner violence (IPV) in Timor-Leste in 2003, I spoke with men who occupied roles as *lian nain* or "holders of the law" who oversaw these processes.[2] During the course of multiple conversations, a group of these leaders informed me that since the United Nations had arrived to administer their country in its transition to restoration of independence, "domestic violence" had become a problem in their communities. They stated that the UN had brought this form of violence to Timor-Leste. They were angry about the presence of this violence in their communities and blamed the international presence for its appearance. A correlation was clearly made between

[1] For an overview, see: United Nations, "Review of the Sexual Violence Elements of the Judgments of the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court for Sierra Leone in the Light of Security Council Resolution 1820" (New York: United Nations Department of Peacekeeping Operations, 2010).

[2] Note that the term for this role varies across different communities within Timor-Leste. Aisling Swaine, "Traditional Justice and Gender Based Violence in Timor-Leste" (Dili: The International Rescue Committee, 2003).

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the arrival of the UN, the very visible warnings of the perils of this newly named violence in posters that now colonized the walls of their community buildings, and the obligation on them to engage with an associated lexicon that had arrived with the international presence.[3] The numerous posters and campaigning strategies used by international organizations to highlight and prevent domestic violence were obviously at the root of the opinions formed by these community leaders. These campaigns had used a legalistic term that was alien to Timorese culture and which these men, as leaders of their communities, could not identify with and thus understood this violence as something new. Yet this was in a context where violence against women in the home was not only prevalent,[4] but was chronicled in cultural framing and understanding through the analogy that violence between men and women was simply part of the everyday, just like the daily clash of the fork and spoon against a plate.[5] This violence had a place and meaning in that context, and these actors were regularly dealing with it in local justice forums.[6] Their observations, however, were a fascinating example of how international legal categories and definitions may not always fit with the lived experience of violence and may jar with a contextual understanding of what violence is and means, and indeed how and why it might be understood or labeled in a specific way.

It is noteworthy that, at this time in Timor-Leste, parallel modes of prosecutorial and restorative transitional justice models were attempting to provide redress for conflict-time violations that had occurred during that country's 25-year resistance to occupation by Indonesia.[7] Between the truth commission and the special panels courts in Dili, gendered harms were to some degree being acknowledged and recognized,[8] yet little redress was delivered as the issue fell through a gap in accountability

[3] These observations were made while conducting research for the following project: Swaine, "Traditional Justice and Gender Based Violence in Timor-Leste."

[4] Michael Dibley, Iwu Utomo, Bruce Caldwell, Terence H. Hull, Judy Gold, Abdul Wahab, Kingsley Agho, and Catherine D'Este., "Timor-Leste 2003 Demographic and Health Survey" (Dili: Ministry of Health, National Statistics Office, Democratic Republic of Timor-Leste; University of Newcastle, Australia; The Australian National University, Australia; ACIL Australia PTY Ltd., Australia, 2003); "Timor-Leste 2009–2010 Demographic and Health Survey" (Dili: National Statistics Directorate, Ministry of Finance, Democratic Republic of Timor-Leste; ICF Macro Calverton, Maryland, USA, 2010).

[5] Kathryn Robertson, "Gender-Based Violence in Timor-Leste: A Case Study" (Dili: UNFPA, 2005); UNFPA, "Just as a Spoon and Fork Always Touch Each Other: Domestic Violence in East Timor (An Assessment Tool for the First Roundtable Meeting for the Drafting of Legislation for Domestic Violence, June 2001)" (Dili: UNFPA, 2001).

[6] Swaine, "Traditional Justice and Gender Based Violence"; Annika Kovar and Andrew Harrington, "Breaking the Cycle of Domestic Violence in Timor-Leste: Access to Justice Options, Barriers and Decision Making Processes in the Context of Legal Pluralism" (Timor-Leste: United Nations Development Programme, 2013).

[7] For an overview, see: Susan Harris Rimmer, *Gender and Transitional Justice: The Women of East Timor* (London and New York: Routledge, 2010).

[8] Ibid. The Commission for Reception, Truth and Reconciliation (CAVR). "Timor-Leste: Women and the Conflict" (Dili: Republic of Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR), 2005).

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between these two processes. To the keen observer, a broader chasm was evident in the distinctive and parallel means through which gendered violence as a whole was being addressed: one approach addressed endemic violence against women through long-term community- and national-level programming; the other, separately, attempted to secure redress for conflict-time incidents of violence through distinctive and temporary transitional justice mechanisms. The space in-between these concurrent approaches signifies, and is indicative of, the ways in which "extraordinary" conflict-related and the "ordinary" endemic forms of gendered violence are captured in international frameworks. Not only are these harms differentially positioned within global frameworks, their application works to essentially dichotomize women's experiences of gendered harms within the one context and across contexts. While specific policy and programming tools, whether in justice or broader service provision should be tailored to the nature of differing harms, what are the implications of approaches that fail to comprehensively address the ways that women will experience fluctuations in the form, intensity, phases, and agents of violence across their life cycles?

Conflict-Related Violence Against Women: Transforming Transition is a product of these experiences, the questions they prompted, and the research that ensued. The book is first an exploration of conflict-related violence against women, and second, an assessment of the process of transition from conflict to peace through the lens of women's experiences of that violence. Specifically, the book explores the potential for post-conflict transitional justice measures to transform the normative basis of the empirical reality of the gendered violence evidenced across the book. The book is based on a qualitative case-study-based assessment of violence against women in the conflicts and transitions that have taken place in Liberia, Northern Ireland, and Timor-Leste. The book's central aim is to evidence a wider spectrum of conflict-related violence against women than is currently acknowledged and demonstrate the disjuncture between that empirical reality and the ways that international frameworks engage with gendered harms in transitional justice mechanisms. It confirms the need for approaches to understand and address conflict-time violence against women in ways that acknowledge their broader gendered basis and adopt transformational modes of accountability and redress.

HARM, GENDER, AND CONFLICT: LOOKING BEYOND PROSCRIBED NARRATIVES AND JUSTICE FRAMES

Over the last three decades we have come to know more about the harms that men, women, boys, and girls face during periods of armed conflict. While these are wide-ranging, and map onto the spectrum of civil, political, social, and economic rights violations, there remains a need to generate a more in-depth and expanded understanding of the physical violence that women are subjected to. In my estimation, this need is as urgent now as ever before, due to the contemporary ways that women's

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conflict-time experiences are increasingly conflated to a singular and reductive typology of wartime rape. Since first formally identified as used in systematic ways during the Yugoslav conflicts,[9] *tactical* or *strategic rape* has achieved growing legal and political significance. This term does not refer to random or privately motivated acts of rape or other forms of sexualized violence; rather, *strategic* or *tactical* refers to the deliberate systematic use of that violence as a means of attack, enacted on a directed and collective basis by state and non-state groups. As defined by the UN Security Council, it is sexualized violence "when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations."[10] In the last seventeen years, the UN Security Council has adopted four "women, peace and security" (WPS) resolutions focused specifically on sexualized violence in conflict,[11] and since 2008 it dedicates one of its calendar days per year specifically to debating this issue;[12] the United Kingdom hosted the first global conference on the issue in 2014,[13] with an associated declaration on its prevention also adopted by the G8;[14] multiple states include it as a mandatory training issue for their peacekeepers;[15] and in 2015, the United Nations General Assembly adopted a resolution designating June 19 as annual "International Day for the Elimination of Sexual Violence in Conflict."[16] These are not only extraordinary, but also rapid developments on the part of an international system that, prior to the new millennium and the slowly developing engagement on the issue by the ad hoc criminal tribunals of the 1990s, gave it little attention.[17] However, while the evolution of the "strategic" and "weapon of war" framework has done much to advance attention to violence against women during wartime, it has also become a "pre-established framework for describing wartime

[9] United Nations, Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), S/1994/674, May 27, 1994.

[10] United Nations Security Council Resolution 1820, S/Res/1820 (2008), op. 1.

[11] Ibid. United Nations Security Council Resolution 1888, S/Res/1888 (2009); United Nations Security Council Resolution 1960, S/Res/1960 (2010); United Nations Security Council Resolution 2106, S/Res/2106 (2013).

[12] The first open debate of the UN Security Council on women, peace and security focusing on sexual violence in conflict, took place on June 19, 2008. Since that date, an open debate on this topic has been held annually, for which the UN Secretary-General also submits annual reports to the Security Council.

[13] See report of the summit: "Summit Report: The Global Summit to End Sexual Violence in Conflict London 2014" (London: UK Foreign and Commonwealth Office, 2014).

[14] UK Foreign and Commonwealth Office G8, "Declaration on Preventing Sexual Violence in Conflict" (2013).

[15] Nadine Puechguirbal, "Gender Training for Peacekeepers: Lessons from the DRC," *International Peacekeeping* 10, no. 4 (2003).

[16] United Nations General Assembly, "Resolution Adopted by the General Assembly on 19 June 2015: International Day for the Elimination of Sexual Violence in Conflict, A/Res/69/293," United Nations General Assembly (New York: United Nations, July 13, 2015).

[17] I note that the Beijing Platform for Action and preceding world conferences on women did recognize issues of women and conflict, and the impacts of sexual violence.

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rape in all settings."[18] This has advanced a mantra that conflates women's experiences of conflict broadly with this singular and specific act, both occluding and negating women's wider experiences of both conflict and violence. How we have come to this moment, and what it signifies in respect of current theorizing and empirical understanding of women's experiences of conflict, is a fundamental concern underpinning this book.

So, too, is the way that international legal and policy frameworks have generated specific narratives and categorizations of conflict-related violence that now determine our understanding of it. It is through burgeoning approaches to accountability that evidence of women's experiences of conflict-related violence has most profoundly emerged in contemporary times. Through Transitional Justice mechanisms, now populous in multiple post-conflict sites globally, the harms women have experienced are increasingly documented and are becoming subject to specific treatment. Never before has such rich primary documentation of violent events been available. Consisting of judicial and quasi-judicial processes, transitional justice is generally employed as a political means to bring an end to political problems and violence.[19] A range of tools or mechanisms have emerged as part of what may be conceived of as an overall package of approaches for facilitating societies' movement from conflict to peace.[20] These include: international prosecutions; truth commissions; international and national investigatory commissions; national prosecutions; national lustration mechanisms; civil remedies; and mechanisms for the reparation of victims.[21] Doris Buss has identified "post-conflict trials … and truth commissions … [as] the most productive, recent sites" where women's experiences of conflict have become formally and legally documented and recorded.[22] Since their proliferation, international criminal courts and truth commissions have become the principal sites through which data, evidence, and narratives of women's experiences of war are formalized and made public. Criminal justice for rights violations produces very specific testimonies, judgments and categorizations of violence and remains one of the most contentious and complex challenges for societies in transition.[23] The turn toward criminal accountability in the 1990s resulted in a short-lived proliferation of ad hoc tribunals, namely the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the Special Court for

[18] Maria Eriksson Baaz and Maria Stern. *Sexual Violence as a Weapon of War? Perceptions, Prescriptions and Problems in the Congo and Beyond* (London and New York: Zed Books, 2013), pp. 42–43.

[19] Fionnuala Ní Aoláin, "Political Violence and Gender During Times of Transition," *Colombia Journal of Gender and Law* 15, no. 1 (2006), p. 840.

[20] See the following for an overview of the range of mechanisms currently in use globally: M. Cherif Bassiouni, "Accountability for Violations of International Humanitarian Law," in *Post-Conflict Justice*, ed. Dean C. Alexander and M. Cherif Bassiouni (New York: Transnational Publishers, 2002).

[21] Taken directly from ibid., p. 399.

[22] Buss, "Rethinking 'Rape as a Weapon of War'," p. 146.

[23] William A. Schabas, "Introduction," in *Truth Commissions and Courts*, ed. William A. Schabas and Shane Darcy (Netherlands: Kluwer Academic Publishers, 2004).

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Sierra Leone (SCSL) (and later the Extraordinary Chambers in the Courts in Cambodia). Through these tribunals, significant gains have been made in securing a degree of accountability for conflict-related violence against women. The documentation of organized and systematic sexualized assaults in the conflicts in the former Yugoslavia and in Rwanda during the 1990s prompted the beginnings of serious inquiry and consideration of gendered violence during armed conflict.[24] Decisions of these courts have determined sexualized violence as a war crime, a crime against humanity, and a component of genocide, giving recognition to tactical rape as an element of (some) women's experiences of armed conflict, and establishing it as a legitimate concern of the international community.[25] The adoption of the Rome Statute (1998) and the creation of the International Criminal Court (2002) signaled significant change, where crimes such as rape, sexual slavery, and forced pregnancy were given formal legal codification, solidifying the potential for international legal redress for these crimes.[26] The documentation of sexualized violence and its determination as elements of international crimes marked a turning point for how we understand this violence. It has also, however, inherently served to elevate attention to the importance of conflict-time tactical sexualized violence in ways that gendered violence outside of armed conflict has simply not received at global levels.

Truth processes, in their role in documentation and knowledge production on violent political events, are traditionally imbued with the function of facilitating a "new peaceful dispensation" following conflict.[27] Truth processes are considered to "provide a detailed account of patterns of abuse and create an accurate record of society's past."[28] In truth processes, "new facts are uncovered and previously unknown or hidden aspects of the past emerge."[29] Similar to tribunals, truth-telling processes have provided avenues through which first-hand accounts of conflict-related violence are formally documented. The increasing availability of reports from truth commissions provides an abundance of descriptive detail regarding the range of violence that occurs and the actors involved. There is also growing acknowledgment of the silences, where women's voices and experiences may not be heard, or where only particular typologies of violence are acknowledged, making evident the prevailing gaps in both research and accountability.[30] The "work of making

[24] Alexandra Stiglmayer, ed. *Mass Rape: The War Against Women in Bosnia-Herzegovina* (Lincoln, London: University of Nebraska Press, 1992).

[25] See, for example: Prosecutor *v.* Tadič, IT-94-1-A (July 15, 1999). Prosecutor *v.* Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, Case Nos. IT-96–23-T and IT-96–23/1-T (2001).

[26] United Nations, "Rome Statute of the International Criminal Court," *United Nations Treaty Series, vol. 2187, No. 38544*, United Nations (International Criminal Court, July 17, 1998). See Articles 7 and 8 in particular.

[27] Marie Breen Smyth, *Truth Recovery and Justice After Conflict: Managing Violent Pasts* (New York: Routledge, 2007), p. 7.

[28] Fionnuala Ní Aoláin and Catherine Turner, "Gender, Truth and Transition," *UCLA Women's Law Journal* 16 (2007), p. 246.

[29] Breen Smyth, *Truth Recovery and Justice After Conflict*, p. 10.

[30] Fiona Ross, *Bearing Witness: Women and the Truth and Reconciliation Commission in South Africa* (London: Pluto Press, 2003).

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women visible in these discourses … in a politically divided, sectarian society in transition from armed conflict are complex and vital."[31] The "monolithic rape identity" of women that may result from certain transitional justice approaches "excludes women's other pressing needs for equal opportunity and non-discrimination in their quest for livelihood, rehabilitation and reintegration into a post-conflict economy and society."[32] Where these mechanisms set the context for the onward post-conflict peacebuilding dispensation, there is pressing need to ensure they discern a fulsome picture of women's experiences, rights violations, and arising interests. Whether the "new facts" and "the accurate record" produced by truth processes include women's broad experiences of abuse or indeed situate those experiences within the constancy of violence in women's lives is a concern of this book.[33] As are the ways in which the "truth" or a wider discourse that is established in the aftermath of a conflict will influence the focus of politics and peacebuilding, and whether legal and normative developments post-conflict will reflect the reality of gendered violence.[34]

Important to note are wider developments in international law and policy that hold significant influence over categorizations of harm and that provide for accountability through these mechanisms post-conflict. The aforementioned WPS resolutions of the UN Security Council, beginning with the adoption of Resolution 1325 (2000), frame contemporary conceptual, legal, and policy nexuses between concepts of gender and armed conflict.[35] The UN Security Council has effectively led global normative engagement and development on issues of women and conflict broadly. It has situated its attention to violence against women within four specific resolutions that solely focus on sexualized violence, the definition of which is firmly situated within international humanitarian law (Resolutions 1820 (2000), 1888 (2009), 1960 (2010), and 2106 (2013)). As mentioned earlier, these resolutions have effectively propelled a distinctive discourse that is tied to the idea of tactical rape. While this form of violence requires capture and the work of the Security Council represents significant gains, normative frameworks composed around a specific typology of harm have the potential to engulf the policy space and inhibit broader debate inclusive of conflict-related gendered harms writ broad.

[31] Eilish Rooney, "Women's Equality in Northern Ireland's Transition: Intersectionality in Theory and Place," *Feminist Legal Studies* 14 (2006), pp. 354–55.

[32] Chiseche Mibenge, "Investigating Outcomes of a Limited Gender Analysis of Enslavement in Post-Conflict Justice Processes," *Journal of Peacebuilding and Development* 5, no. 3 (2010), p. 43.

[33] See, for example: Harris Rimmer, *Gender and Transitional Justice*; Ní Aoláin and Turner, "Gender, Truth and Transition."

[34] Fionnuala Ní Aoláin notes that "by not assessing the structures and modalities of change that create and enforce exclusion for women in post-conflict and post-repression contexts, we fail to effect meaningful political and legal transformation for women": Fionnuala Ní Aoláin, "Women, Security, and the Patriarchy of Internationalized Transitional Justice," *Human Rights Quarterly* 31 (2009), p. 2.

[35] Kwadwo Appiagyei-Atua, "United Nations Security Council Resolution 1325 on Women, Peace, and Security – Is It Binding?," *Human Rights Brief* 18, no. 3 (2011).

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While these resolutions feature throughout the book, they are not its sole focus. Rather, sites of accountability through court proceedings and reports of truth commissions are instead of interest given their role in broader knowledge production for conflict-related violence against women. These processes are driven by and through modalities of public international law, which themselves are of specific interest to this book (and my interest herein is in international humanitarian, criminal and human rights law in categorizing crimes considered to constitute violations of an international nature and law's role in transition). Underpinned by resolute notions of what "conflict-related" violations might entail, international legal frameworks are found by feminist scholars to be largely devoid of a gendered understanding of conflict and of the ways that women's experiences of "conflict-related" harms might differ from historic rigid and formalized regimes of regulating international crimes.[36] The categorization of violence in international law and policy has become a hot debate for feminist scholars as they grapple with what kinds of approaches to documentation and accountability best serve the interests of women. The function of public international law implies strategies that elevate particular offenses and particular actors responsible for crimes in prosecutorial approaches.[37] Feminist legal theorists have highlighted the gendered ways in which these laws have been developed; the resulting ways in which the public/private distinction between forms of harm has been sustained; and the precedence given to civil and political rights so that the harms that men articulate receive most attention.[38] It has been observed that these laws create a "hierarchy of violence," which, in regards to gendered violence, has largely meant that systematic public rape has been given more attention and credence than the violence that appears in women's everyday lives.[39] International law frameworks focusing on conflict-time violence and the behaviors of armed actors are a necessity in ensuring that the harms and crimes specific to those contexts are subject to modes of accountability. Through this very necessity however, arises a conundrum – how to grapple with the distinction that is thereby made between differing forms of violence, public and private, conflict and non-conflict, that one woman might experience across a lifetime, or in one conflict-time moment? International approaches to gendered harms have arguably failed to comprehensively address the range and complexity of violence present in women's lives, namely its rootedness in structural inequalities,

[36] Fionnuala Ní Aoláin, "Exploring a Feminist Theory of Harm in the Context of Conflicted and Post-Conflict Societies," *Queen's Law Journal* 35 (2009); Doris Buss, "The Curious Visibility of Wartime Rape: Gender and Ethnicity in International Criminal Law," *Windsor Yearbook of Access to Justice* 3 (2007); "Rethinking 'Rape as a Weapon of War'," *Feminist Legal Studies* 17 (2009); Fionnuala Ní Aoláin and Eilish Rooney, "Underenforcement and Intersectionality: Gendered Aspects of Transition for Women," *The International Journal of Transitional Justice* vol. 1 (2007).

[37] Harris Rimmer, *Gender and Transitional Justice*, p. 16.

[38] Hilary Charlesworth and Christine Chinkin, "The Gender of Jus Cogens," *Human Rights Quarterly* 15 (1993).

[39] Carolyn Nordstrom, *Shadows of War: Violence, Power, and International Profiteering in the Twenty-First Century* (Berkeley, Los Angeles, and London: University of California Press, 2004), p. 58.

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a dynamic of violence which feminists estimate cannot be "easily translated into the narrow, individualistic, language of rights."[40] Such an approach does little to ensure recognition of the structural causality and range of violence that women experience and the need for accountability for the same.[41] The book directly engages with the nexus between the gaps in knowledge about conflict-related gendered violence beyond strategic rape, and the gaps evident in how current international law through transitional justice mechanisms address gendered violence.

KEY MOTIVATIONS AND FOCUS OF THE BOOK

Violence, particularly conflict-related violence against women is the primary subject of this book. It is underpinned by five specific motivations. The first is to examine violence itself. The book unpacks the complexity of violence and how its fundamental nature and function influences the differing ways that violence manifests across different conflict settings. It expands knowledge and empirical evidence of the physical conflict-related harms that women experience, and how and why those appear in and across conflicts contexts. In its discussion of violence, the term "harm" is deliberately used to allow the book to probe the relationships between aspects and forms of violence without being tethered to predetermined categories of violation stipulated in law and policy. Harm captures a broad range of forms of violence, as well as injury, abuse, transgression, duress, loss, and harassment that women may characterize as their lived experience of harm, distinctive from legal categories of violence, crime, and violation.[42] Employing the term harm allows me to take women's own descriptions and interpretations of violence as a starting point and to use that to drive an inquiry into violence that looks beyond established legal and policy measures and definitions. Harm also allows for capture of forms of violence that may not ordinarily be defined as "conflict-related" and to include those in the analysis. Under the rubric of "harm," I use the term "conflict-related sexualized violence" (CRSV) to mean forms of violence specifically of a sexualized nature, such as rape, forced pregnancy, forced sterilization, forced abortion, forced prostitution, sexual enslavement, and forced nudity, carried out by parties to an armed conflict and that amount to a crime under international law.[43] There are still sexualized harms that exist beyond those categories and beyond violence of a sexualized nature, that may take place in a conflict-affected setting. I thereby also use the term "conflict-related violence against women" (CRVAW) to allow for the

[40] Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester: Manchester University Press, 2000).

[41] Okechukwu Ibeanu, "Healing and Changing: The Changing Identity of Women in the Aftermath of the Ogoni Crisis in Nigeria." In *The Aftermath: Women in Post-Conflict Transformation*, edited by Sheila Meintjes, Anu Pillay, and Meredeth Turshen, 189–209 (New York: Zed Books Ltd, 2001).

[42] Catherine O'Rourke, *Gender Politics in Transitional Justice* (Abingdon and New York: Routledge, 2013).

[43] Stop Rape Now: UN Action, "Analytical and Conceptual Framing of Conflict-Related Sexual Violence" (New York: United Nations, 2011).

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broadest capture of all forms of violence, including CRSV, that women may identify and that have a link to an armed conflict. I also use the joint term victims/survivors to refer to the women and girls subject to CRVAW that I discuss in this book. I consider that "the term 'victim'…makes invisible the other side of women's victimisation: the active and positive ways in which women resist, cope and survive."[44] However, I also know from listening to women themselves that at the time of an attack, she may indeed be or consider herself a victim. The combined term – "victim/survivor" – is used to acknowledge that either of these identities may be occupied by women who have experienced violence, and women may transition or flux between either identity based on subjective and transitioning interpretations and stages of coping with that experience.

Violence is examined with respect to two subsequent motivations: to bring the concept of gender back into an understanding of women's experiences of conflict-time harm; and to draw a "context-specific approach" into global considerations of understanding violence, and specifically CRVAW and its normative basis.[45] The intersection of harm and conflict with the concept of gender is examined in respect of what their nexus means for understanding violence against women across conflict and non-conflict temporal phases. Drawing from decades of feminist scholarship, the term "gender" is used to refer to ways of constructing perceived or actual sex-based identities (in themselves arguably conceptual constructions[46]) as gendered in the social world, of performing expectations of masculine and feminine, of the ways in which our societies construct and rely on a binary male and female out of which arises a multitude of naturalized identities, gendered hierarchies, and associated power. It ubiquitously informs the practical and symbolic basis of social roles, divisions of labor, and the ways that social, economic, political, and institutional relations operate. Gender, in conjunction with other identity-related factors, determines broader social organization patterns and how we experience privilege, as well as disadvantage and discrimination. Gender explains women's subjection to violence as arising from their subjection to gendered inequalities, giving rise to a range of harms derived from and determined by gender norms and inequalities. Gendered violence is understood to impact people of variant gendered identities, including men, boys, transgender, and intersex. I, however, am focused on gendered harms impacting women.

As discussed in the previous section, understanding of women's experiences of harm in conflict have become increasingly securitized.[47] As the global narrative has

[44] Liz Kelly, *Surviving Sexual Violence* (Cambridge: Polity Press, 1998), p. 163.

[45] See Russell P. Dobash and R. Emerson Dobash, "Context Specific Approach," in *The Dark Side of Families: Current Family Violence Research*, ed. David Finkelhor et al. (Beverly Hills, London, New Delhi: Sage Publications, 1983).

[46] Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York, London: Routledge, 2006).

[47] Sara Merger, "The Fetishization of Sexual Violence in International Security," *International Studies Quarterly* 60 (2016).

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moved toward a framing of CRVAW as primarily tactical rape by armed groups, the scholarship that has historically demonstrated the pervasiveness of gender inequalities and gendered violence in women's lives, across societies, cultures, and contexts, within professional and intimate relationships and prevalent throughout all phases of the life-cycle, has been worked out of an understanding of women's specific experiences of conflict-time harm. Mindful that a "narrow focus on bodily violation can obscure the wider social context in which abuse occurs,"[48] this book pays specific attention to the broader gender structural order and context-specific factors that will influence the prevalence and manifestation of physical violence. Elizabeth Heineman for example, has argued for the need for attention to context in her analysis of violence against women in events such as World War II. Evidence demonstrates that contextual factors, such as Japanese cultural beliefs that sex in advance of battle provided life protection, informed the purpose and context to Japan's system of comfort women.[49] The relevance of contextual factors to differentiation in resulting violence, within and outside of conflict and its parameters, is used to lend depth to an analysis of the ways that violence manifests. In doing so, the book draws in the relevance of gender norms and relations embedded in societies around the world prior to conflict, socio-economic conditions, the conditions of conflict, and other contextual factors as contributing to the ways that gendered harm appears in conflict.

On this basis, and in order to counter how CRVAW has been driven down a very specific narrow narrative path, the book's fourth motivation is to take up a mantle begun by decades of feminist scholarship: that neither violence against women in conflict, nor in peacetime, can be understood without reference to the other. While "conflict" is the pivotal point around which the examination of violence is framed, the book engages with the relationships between the violence of the everyday and that which is termed the *political violence* of conflict, i.e. the organized use of violence by armed groups to achieve political objectives. The way that violence becomes categorized or understood as "conflict-related" is a central contention that is grappled with in the book. The lens of gender and context are used to consider how "universal forms of abuse" play out in armed conflict[50] and how these might relate to what are nominally considered to be exceptional forms of gendered violence during warfare.[51] Conceptual linkages have been made between the use of rape during war and the

[48] Fionnuala Ní Aoláin, "Exploring a Feminist Theory of Harm in the Context of Conflicted and Post Conflict Societies," *Queen's Law Journal* 35 (2009).

[49] Elizabeth D. Heineman, "Introduction: The History of Sexual Violence in Conflict Zones," in *Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights*, ed. Elizabeth D. Heineman (Philadelphia, Oxford: University of Pennsylvania Press, 2011), pp. 5–6.

[50] Monica McWilliams, "Violence Against Women in Societies Under Stress," in *Rethinking Violence Against Women*, ed. R. Emerson Dobash and Russell P. Dobash (Thousand Oaks, London, New Delhi: Sage Publications, 1998).

[51] For example, see: Susan Brownmiller, *Against Our Will: Men, Women and Rape* (Bungay, Suffolk: Richard Clay (The Chaucer Press) Ltd., 1975); Alexandra Stiglmayer, ed. *Mass Rape: The War Against Women in Bosnia-Herzegovina* (Lincoln, London: University of Nebraska Press, 1992).

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prevailing attitudes toward women in times of peace,[52] and the violence that women continue to endure after the end of armed conflict. Feminist scholars have furthered the idea of continuums of violence, negating the idea that CRSV is a by-product of an episodic period in a political history. Rather, Okechukwu Ibeneau for example advances the idea that conflict violence is just one phase of ongoing pervasive violence targeted at women in all societies, whether those societies are engaged in armed conflict or not.[53] Others identify the consistency of violence in women's lives from private and intimate spaces to public spheres, and from conflict to non-conflict, as evidence of its basis in structural gender inequalities and gender power relations.[54] A critical question I consider is whether the landscape of global gendered harms in peacetime provide a basis for conflict-time gendered harms?

Through a focus on the nature of violence and its intersection with the gendered order and broader context in which it takes place, the book presents three major thematic findings in relation to these stated motivations: the first is that gendered harms occur in multifarious and variant ways beyond strategic rape within conflict settings. On the basis of a set of specific contextual variables, forms of CRVAW are identified that are perpetrated outside of specific political goals by a range of both armed and civilian actors. Challenging definitional binaries of "public" and "private" violence, these multi-purpose harms are identified as conflict-influenced and as sitting "in-between" these strict categorizations. Approaches that only identify the armed group as the starting point for analysis of CRVAW, or that assume that only armed actors perpetrate violence during conflict are shown to occlude the visibility of broader co-existing harms that require recognition and response; the second finding is based on a disaggregated and aggregated assessment of CRVAW across pre-, during-, and post-conflict phases to identify that there are connections as well as distinctions in harm across space and time. Violence is identified as ambulant – fluctuating and mutating in form across conflict and non-conflict settings in response to gender norms and contextual factors. Connections and disconnections in violence are identified and reveal the relationship between what is normatively expected in respect of violence

[52] Christine Chinkin, "Rape and Sexual Abuse of Women in International Law," *European Journal of International Law* 5 (1994).

[53] Ibeanu, "Healing and Changing," 189–209.

[54] Caroline O. Moser, "The Gendered Continuum of Violence and Conflict: An Operational Framework," in *Victims, Perpetrators or Actors? Gender, Armed Conflict and Political Violence*, ed. Caroline O. Moser and Fiona Clark (New York: Zed Books Ltd., 2001), 30–52; Cynthia Cockburn, "The Continuum of Violence: A Gender Perspective on War and Peace," in *Sites of Violence: Gender and Conflict Zones*, ed. Wenona Giles and Jennifer Hyndman (Berkeley and Los Angeles: University of California Press, 2004), 24–44; Liz Kelly, *Surviving Sexual Violence* (Cambridge: Polity Press); Liz Kelly and Jill Radford, "'Nothing Really Happened': The Invalidation of Women's Experiences of Sexual Violence," in *Women, Violence and Male Power: Feminist Activism, Research and Practice*, ed. Marianne Hester, Liz Kelly, and Jill Radford (Buckingham and Philadelphia: Open University Press, 1996), 19–33.

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against women before conflict (i.e. violence in the everyday), and the violence that is unexpected and exceptional during conflict; third, through an examination of post-conflict settings, a "labeling" process of gendered harm post-conflict is identified. Legislative reforms and the presence of international organizations in post-conflict settings lend a new framing to violence in the aftermath. A narrative of increases in violence circulates in post-conflict settings, prompting a circular rhetoric of perceptions of violence that are shown to come into contention with new ways of reporting and documentation of that violence. Conundrums present in how data and policy processes generate specific estimates of conflict and post-conflict violence that generate policy responses that miss the empirical reality of post-conflict gendered harms for women.

The book demonstrates that CRVAW is not one form or typology of harm, rather multiple multi-purpose violences co-exist and women may experience a myriad of harm from different sites and sources of violence in one conflict setting. Violence is also a phenomenon that is not static, but shifts and mutates in form and prevalence as it fluctuates in response to contextual factors and divergent sources of power across peace- and conflict-time settings. CRVAW finds its function, placement, and basis in a gendered social order that gives meaning to that violence. Gendered harm is a constant in women's lives. Its manifestation in conflict may also represent a peak, mutation, or exceptional experience of violence for some women. CRVAW holds greater personality and characteristics in terms of its normative basis, range, form, and functionality than acknowledged in the specific "weapon of war" paradigm. Approaches that focus on specific forms of CRSV as an episodic disruption to an otherwise peaceful landscape to women's lives represent reductive and universalizing categorizations of women's experiences of harm that have critical implications.

That women should name their experiences of harm and allow this to give rise to legal and political definition and redress is the fifth and final motivation underpinning the book. The four aforementioned motivations driving this book, i.e. the relevance of the examination of the nature of violence itself, its relationship to gender and context-specific factors, and the dichotomies between "conflict" and "peacetime" violence, come succinctly together in the ways that CRVAW is treated by international legal frameworks and their use in many transitional justice mechanisms. International criminal trials and truth processes are shown to neglect acknowledging and accounting for the expanded forms and nature of CRVAW across pre-, during-, and post-conflict settings examined in the book. Tensions appear in approaches taken by post-conflict justice mechanisms that simultaneously open up space for addressing women's experiences (e.g. inclusion of gendered harm in justice mechanisms) and also constrict that space and how the issue is addressed (e.g. narrow framing of CRSV used in these mechanisms). Transitional justice mechanisms are shown to miss the opportunity to deal with the past in ways that engage with the gendered basis of harms experienced by women, the variant forms of harm that women experience and the connections

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and distinctions in violence across time and space. Transition to peace through the lens of transitional justice evidences a silencing of the ways that the structural gendered order not only informs conflict-time harms, but also those following conflict. By not attending to the need to promote substantive changes in gender inequalities, these mechanisms do little to prevent the resurfacing of inequalities and variant gendered harms post-conflict. *Transformational* approaches that are facilitative of the "radical social change"[55] that is required for violence against women to be fully addressed after conflict are required. These are approaches that include but go beyond law, are people-centered and focused on inclusivity and social transformation. The book concludes that there is a critical need to address specific forms of CRVAW for accountability purposes, but doing so in ways that situates that violence within the broader universe of prevailing gendered harms and their pre-conflict normative basis.

THE APPROACH OF THE BOOK: FEMINIST PRAXIS AND COMPARATIVE ANALYSIS

Feminist and Reflexive Approaches

The book is situated within feminist approaches to research, theory, and practice. Gaby Weiner sets out three principles that guide research rooted in a feminist research perspective. First, feminist research critiques predominant ways of doing and being and challenges assumptions that are made about women; second, feminist research is oriented in "action" or in an outcome that constitutes positive changes for women; and third, feminist research improves and enhances overall practice.[56] The feminist academic approach is underpinned by the political agenda of emancipation and supports the goal of ultimately transforming discriminatory realities for women.[57] Feminism's goal of bringing about change can mean that the feminist researcher is required to straddle both the academic and praxis fields and exist "on the margins between different social worlds."[58] As I outlined in the opening passage, the ideas that underpin this book originated in the practice world and therefore fit well with both Weiner's framework and an academic feminist perspective that aims to improve praxis "in

[55] Maeve Taylor, "Gender and the White Paper on Irish Aid," *Trócaire Development Review* (2007).

[56] Gaby Weiner, *Feminisms in Education: An Introduction* (Buckingham: Open University Press, 1994), cited in Diane Burns and Melanie Walker, "Feminist Methodologies," in *Research Methods in the Social Sciences*, ed. Bridget Somekh and Cathy Lewin (London, Thousand Oaks, New Delhi: Sage Publications, 2005), p. 66.

[57] For an overview of these various aspects of feminist research approaches, see: Miranda H. Alison, *Women and Political Violence: Female Combatants in Ethno-National Conflict* (London, New York: Routledge, 2009), p. 14.

[58] Rosalind Edwards and Jane Ribbens, "Living on the Edges: Public Knowledge, Private Lives, Personal Experience," in *Feminist Dilemmas in Qualitative Research: Public Knowledge and Private Lives*, ed. Rosalind Edwards and Jane Ribbens (London: Sage, 1998), p. 2.

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morally and socially just ways."[59] It is with this in mind that the book seeks to simultaneously advance critical academic work as well as applied practice.

Prior to, and in the course of pursuing the research for this book, I advanced from the role of "aid worker" to that of "researcher," and, later, to full-time academic. I spent the greater part of the new millennium's first decade working with international humanitarian organizations in several of the most acute armed conflicts occurring during that time. Roles as humanitarian aid worker, social justice activist, action-researcher, practitioner, counselor, consultant, and policy advisor meant that I came to the research with a lived (outsider and witnessing) experience of the subject matter of the book. The "experiential research" I have undertaken previously has inevitably had a bearing on my evolving academic pursuits. While I am cognizant of the tensions that may appear when a professional/practitioner becomes a researcher, I can easily attest to how the experience of "doing" combines well with the experience of "critiquing" and that research can become "a form of professional conversation between our practice and our reflective powers – mind interacting with experience."[60] There is increasing recognition of the relevance of the "context of the researcher" herself as "part of narrative interpretation."[61] I strongly concur with feminist approaches to social research that cast doubt upon the possibility of a researcher being completely objective, particularly in relation to her research object's subjectivity within context.[62] Indeed, the experience of the research that informs this book raised an array of personal, political, and emotional factors that, in the context of empirical work, challenged the notion or utility of objectivity for someone already so engaged in those contexts in prior roles.[63] I thereby take a reflexive approach to this book, acknowledging the effects of the producer of knowledge on that knowledge,[64] and have employed it throughout the research, analysis, and write-up. I do so in an attempt to acknowledge the inevitable presence that my prior roles and experiential knowledge occupy within the overall research process and to ensure analytical accountability with respect to the methodological process and lens of analysis taken. I am also motivated by the personal drive to evidence both the need for and the possibilities presented through taking an approach that embodies the scholarly-practical connect.

[59] Marion Dadds, "Perspectives on Practitioner Research" (Bedfordshire: National College for School Leadership/Networked Learning Communities), p. 4.

[60] Ibid.

[61] Sonya Corbin and Jennifer L. Buckle, "The Space Between: On Being an Insider-Outsider in Qualitative Research," *International Journal of Qualitative Methods* 8, no. 1 (2009), p. 55.

[62] Vicky Randall, "Feminism and Political Analysis," *Political Studies* 39, no. 3 (1991).

[63] A. K. Daniels, "Self Deception and Self-Discovery in Fieldwork," *Qualitative Sociology* 6 (1983), p. 60.

[64] K. Lennon and M. Whitford, *Knowing the Difference: Feminist Perspectives in Epistemology* (London: Routledge, 1994), p. 2.

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Socio-Legal Approaches

Situated within an emerging field of interdisciplinary studies of law, this book is driven by a socio-legal approach that assesses "an interface with a context within which law exists"[65] – in this case, the context in which law engages with a sociological understanding of women's experience of gendered violence. Consequently, this study is primarily influenced by the sociological method applied to law, rather than the other way around (as is thought to be most common in the socio-legal interdisciplinary approach).[66] As noted in the opening passage, frequent and frustrating experiences with international law left me impotent in finding ways and means to assist the women I was serving in humanitarian contexts. Learning international law to become a better advocate became a prime occupation and was an early motivation for writing this book. This required that I "establish a communicative link"[67] between sociology and law, despite law being an unfamiliar field and its "rule-based paradigm"[68] conceptually challenging. The book is limited by a sociological approach to law that inevitably produces a particular sociological interpretation of "law's truth."[69] However, the book also draws from the fields of anthropology and political science, amongst others, to form an interdisciplinarity "borrowed in different degrees from different disciplines"[70] that I hope counters some of these limitations.

The "legal" within the socio-legal approach adopted by this research derives specifically from the field of feminist legal theory, an approach in which "feminist legal scholars seek to highlight and explore the gendered content of law … with a view to bringing about transformative social and political change."[71] In this sense, the book is a socio-legal engagement with law through the lens of feminist legal critique. Feminist legal scholarship presents an alternative view of law itself and challenges the ways in which law may not actually be "gender neutral," both in discourse and in application. The opportunity presented by a feminist legal theory approach "to harness law's instrumental and discursive power"[72] was a natural interdisciplinary fit. It has allowed the book to assess law's role in "gendering subjectivity"[73] and, in turn, its influence on violence and women's experiences of law. This interdisciplinary approach enables a "critique of legal and social arrangements by showing how law fails to live up to its own standards."[74] As such, the book

[65] S. Wheeler and P. A. Thomas, "Socio-Legal Studies," in *Law's Future(s)*, ed. David Hayton (Oxford: Hart Publishing, 2002), p. 271.

[66] Reza Banakar and Max Travers, "Law, Sociology and Method," in *Theory and Method in Socio-Legal Research*, ed. Reza Banakar and Max Travers (Oxford, Oregon: Hart Publishing, 2005), p. 2.

[67] Ibid., p. 5. [68] Ibid., p. 5.

[69] Reza Banakar, "Reflections on the Methodological Issues of the Sociology of Law," *Journal of Law and Society* 27, no. 2 (2000).

[70] Banakar and Travers, "Law, Sociology and Method," p. 5.

[71] Joanne Conaghan, "Reassessing the Feminist Theoretical Project in Law," *Journal of Law and Society* 27, no. 3 (2000), p. 359.

[72] Ibid., p. 362. [73] Ibid., p. 363. [74] Ibid., p. 382.

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employs a socio-legal and feminist theoretical approach in order to "ask the woman question"[75] of both the appearance of violence related to armed conflict and of how law, through transitional justice, deals with this. "Feminist methods are means to feminist ends," which I employ within a socio-legal framework to develop a "critical yet constructive" assessment of violence, law, and the knowledge required to promote engagement that could be transformative for practice.[76]

Comparative Analysis of Conflict Case Studies

The book uses case studies to produce a thematic comparative analysis of violence against women across conflict sites, as well as within them. The book is thereby written around thematic findings on violence, rather than setting out the story of violence in each case study site. Liberia, Northern Ireland, and Timor-Leste are located in, and represent, very different geographical locations of the world: Western Europe, West Africa, and South East Asia. They entail divergent socio-cultural and political systems and differ greatly in respect to economic development.[77] The characteristics of the conflicts and the ways in which violence played out within each conflict also differs greatly, which lends challenges and strengths to the books' findings. While all three sites experienced forms of protracted violent conflict that impacted civilians, the patterns and typologies of violence relevant to the aims of this book are distinctive. Brought together, these three sites represent a gradient in terms of where and how violence against women in conflict becomes identified and labeled as relevant to the discourse on "political" or "public" violence. As such, the three sites gradually build-up from Northern Ireland, where violence against women associated with the conflict is denied or silenced, and which provides the opportunity to explore dimensions of CRVAW in the absence of evidence of strategic rape; to Timor-Leste, where women's experiences of violence during the conflict are more widely acknowledged but are by no means fully understood or explored, and where sexualized violence took place in ways strategic to the Indonesian regime, as well as in subversive and less visible ways in both public and private spaces; to Liberia, where there seems to be general agreement in the literature, among policymakers and in the report of the truth commission, that "rape as a weapon of war"[78] took place, and which presents an opportunity to draw this distinct phenomenon into the analysis. The three settings also offer an insight into

[75] For an overview of the "ask the woman question" method and its development, see: Katherine T. Bartlett, "Feminist Legal Methods," *Harvard Law Review* 103, no. 4 (1990), pp. 837–49.

[76] Ibid., p. 888.

[77] Under the 2015 Human Development Index (HDI) rankings, Northern Ireland, as part of the United Kingdom, ranks 14; Timor-Leste ranks 133; and Liberia ranks 177 out of 188 countries: United Nations Development Programme, "Human Development Report: Work for Human Development," United Nations Development Programme, New York, pp. 210–11.

[78] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict" (Monrovia, 2009), p. 51.

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the "degrees" of transitional justice mechanisms that may be employed after conflict – from public inquiries focused on individual events and thus far no truth or other wider accountability mechanism in Northern Ireland; to a truth-telling process without accompanying criminal accountability in Liberia; to multiple concurrent and hybrid processes of truth telling and criminal accountability in Timor-Leste.

Together, all three sites represent a spectrum of the ways in which violent conflict can play out and the way that CRVAW may manifest. The sites were selected on the basis of underlying commonalities. On the basis of these, the overlying differences made possible the identification of the major critical findings examined in the coming chapters. Case studies are largely used as a way to overcome generalizations[79] and "to … generate theory,"[80] and in this way each one drives distinctive empirical and theoretical findings that have become the major themes of the book. Northern Ireland presented the idea of conflict-related violence outside of the strategic rape frame; Liberia offered opportunity for distinctive analysis of the connections and distinctions across peace to conflict phases; while Timor-Leste sharply illuminated the processes of labeling and redefinition of violence that occurs in post-conflict contexts. Each context leads one of the later thematic chapters in the book. Ultimately, the differences are a source of strength: they allow me to reach conclusions that are valid beyond one particular case. Comparability between cases is important, but a lack of uniformity is essential to the comparative process, revealing things that otherwise might not be seen. It is because of the distinctive characteristics of my chosen sites, and the different ways in which each conflict, its violence, and its transition occurred, that I can reach critical findings on the distinctive and common ways in which violence occurs within and across conflict and post-conflict sites.

Empirical Ethnographic Comparative Analysis of Violence

The book is less about measuring violence and more about understanding the qualitative nature of the phenomenon in and of itself as it relates to conflict and its aftermath. With context as a starting point, ethnographic empirical approaches allowed for the collection of knowledge on the lived experience of violence and the generation of "thick descriptions"[81] of violence which are found throughout the book and from which generalizations are drawn. These descriptions come from archival research and from interviews with service providers in each site who shared accounts of the violence their clientele had recounted to them and the panorama of violence to which they themselves had been exposed

[79] Shulamit Reinharz, *Feminist Methods in Social Research* (New York: Oxford University Press, 1992), p. 167.
[80] Ibid., p. 174.
[81] Jeannie Annan and Moriah Brier, "The Risk of Return: Intimate Partner Violence in Northern Uganda's Armed Conflict," *Social Science and Medicine* 70 (2010), p. 158.

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through their work.[82] I acknowledge the methodological effects and limitations of this approach, including the concern that second-hand story-tellers are sharing their interpretation of an event, filtered through their own knowledge or perspective. The effect of memory and particularized forms of remembering will obviously have an influence. Also, professionals dealing with numerous cases may articulate and compartmentalize issues of violence differently from the individual victim/survivor, which is one of the reasons feminist research emphasizes "the personal and subjective experience of the researched subject" and the importance of voice and standpoint "as the basis of feminist theorising."[83] These second-hand accounts are, however, taken here as based on lived experience that is valid to the research and therefore constitutes "an important body of knowledge."[84] I am aware that the research informants I have engaged with – professionals working with victims/survivors of violence – are always doing "research" and constructing meaning during their everyday practice.[85] The stories of violence shared by these professionals are therefore incorporated into the research process as data, while the professionals themselves are not the research subjects. That there are costs to interviewing women victims/survivors of violence ultimately informed the research approach – the possibility that recounting these experiences may re-elicit trauma and I could not guarantee access to services after interviews. While the cost of not interviewing victim/survivors is the ultimate price of their exclusion from an opportunity to have their voices heard, we need to further explore and endorse alternate knowledge sources, such as through service providers. This is increasingly pertinent given the heightened popularity of research on CRSV for a multitude of actors, students, NGOs and others, and the need for ethical and sensitive approaches to data generation.

It must be acknowledged that the empirical and archival work is influenced by the uneven pattern of data available across and within each site. It is important to

[82] The book is based on research undertaken for a PhD project. The interview-based research was undertaken in Northern Ireland during February and October 2010; in Timor-Leste for one month during August–September 2010; and in Liberia for almost one month during April–May 2010. A total of 65 interviews were undertaken (19 Northern Ireland, 26 Timor-Leste, 20 Liberia) with a total of 77 respondents (69 female and 8 male). For the safety and privacy of the interviewees and the victims/survivors, I reference each interview using an alphanumeric symbol as I discuss the findings in this study. Each site is represented by a letter: A = Northern Ireland, B = Liberia, C = Timor-Leste. And each interview within that site is represented by a number. Thus, A_1 would indicate the first interview I conducted in Northern Ireland.

[83] Samia Bano, "'Standpoint', 'Difference' and Feminist Research," in *Theory and Method in Socio-Legal Research*, ed. Reza Banakar and Max Travers (Oxford, Portland: Hart Publishing 2005), p. 101. Conaghan, "Reassessing the Feminist Theoretical Project," p. 380.

[84] Bandita Sijapat, "Contested Moralities, Disputed Ethics: The Dilemmas of Conducting Research in Post-Conflict Environments," *Programme on States and Security* (New York: The Graduate Center, The City University of New York 2010), p. 2.

[85] See: Virginia Olesen, "Feminisms and Models of Qualitative Research," in *The Landscape of Qualitative Research*, ed. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oaks, London, New Delhi: Sage Publications, 1998).

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account for patterns of data availability bias. Uneven data availability may occur for example due to the ways that human rights monitoring may focus more on the state and miss the acts of multiple stakeholders in a conflict; or because methods of documentation of harms by international organizations rely on physical access and so data may be more or less available for urban versus rural populations, or for refugees versus internally displaced populations. This is most acutely relevant for the Northern Ireland case, where there is substantially more historic and contemporary data available on women from Republican communities. Across the book, my analysis is informed by data that is more heavily representative of women from those communities, simply as a result of its availability.

In broader empirical terms, I was an outsider to all of the contexts I was researching. I felt this most acutely in Northern Ireland and Liberia as I was learning for the first time about specific local issues. I lived in Northern Ireland for the duration of the PhD that informs this book. This site presented particular challenges where for some, my accent, which is readily identifiable with "the South" or the Republic of Ireland, was assumed to signify particular political sympathies and affiliations relative to the Northern Ireland context. I struggled with it, having always been the (non-neutral) outsider in the many contexts in which I had worked. I use the term "non-neutral" because, as an aid worker, I was compelled to be neutral, but in the face of mass atrocity against a minority to whom you are providing aid, genuine, non-emotive neutrality is impossible. However, in all of the contexts I had worked in, I was considered an outsider. This was my first experience of being perceived to hold a political affiliation, and I imagine it is something that many researchers must navigate when engaging in political contexts with which they are in some way affiliated. Liberia was new, and challenges arose in navigating the space as a clear outsider, particularly in navigating assumptions about violence in that context, which I discuss more in Chapter 3. In Timor-Leste, it was almost as if I was an "insider-outsider" – former Timorese colleagues sometimes responded to my research questions with incredulity: "but Mana (sister) Aisling, you already know this stuff even better than I do!" Those who may have a partial-insider status must learn to carefully navigate this dynamic, however, so that the findings represent those views expressed by subjects, rather than reflecting the researcher's "taken for granted assumptions."[86] In this kind of reality, and as more professionals turn to researching fields with which they are already familiar, there needs to be discussion of a "space between,"[87] which acknowledges that researchers may move not only between differing research contexts and respondent identities, but also between differing identities based on the personal characteristics of the researcher and her background.

[86] J. Hockey, "Research Methods: Researching Peers and Familiar Settings," *Research Papers in Education* 8, no. 2 (1993), p. 202, citing: J. B. Stephenson and L. S. Greer, "Ethnographers in Their Own Cultures: Two Appalachian Cases," *Human Organization* 40 (1981).

[87] Corbin and Buckle, "The Space Between."

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STRUCTURE OF THE BOOK

As we come to know more about the extent and form of CRVAW, we become aware of how little we still know about the phenomenon itself as it performs its role in the armed conflicts of today. This is not only because gendered harms are still finding their place in the broader scholarship, laws, policy, and practice of addressing armed conflict, it is also because the functionality and purpose of violence, and the different ways in which it appears across different jurisdictions, has not yet been broadly theorized. Nor have the possible linkages between endemic and conflict-related violence been fully explored, particularly from an empirical basis. While feminist analysis demonstrates the consistency of gendered violence in all facets of women's lives, whether living with or in the absence of armed conflict, and transitional justice mechanisms have done much to document the violence that is happening, there remains limited theorizing on the ways that violence happens in armed conflicts, whether and how conflict-time violence relates to that which goes before and comes after the conflict, and whether and how mechanisms of accountability could or should engage with that relational aspect of violence. The privileging of some forms of violence above others, and the necessity for accountability for the range of gendered harms that occur across conflict and post-conflict contexts, implies the need to know more about what exists beyond sexualized violence as a tactic of conflict. Each chapter of the book explores aspects of these observations.

In the next chapter, the trajectory of how violence against women became framed and understood as "gendered violence" is set out as a frame for the book's discussion of women's experiences of harm. Capture of this issue through international law is also discussed, particularly in respect of the ways that particular forms of gendered violence become framed as "conflict-related." Conceptual dichotomies between conflict and peacetime, and between during- and after-conflict violence, are explored, and the chapter sets up for a longer discussion across the book on whether post-conflict accountability processes lose their value if the connections between those contexts of violence are overlooked.

Chapter 3 provides a background to the three case study sites as a basis for the later thematic discussions of gendered violence. Specifically, it examines the data on what is known about CRVAW across the sites. In so doing, it tackles one of the critical questions that this book was confronted with – how to comparatively assess violence across three very different contexts. The chapter navigates prickly questions about whether and how the violence of a war such as Liberia, which has been set out as an enigma in western understandings of conflict violence, can be assessed against other case sites. It argues that because only some sites are noted globally to have experienced strategic rape, the comparator effect with a context such as Northern Ireland propels an inquiry as to what exists beyond strategic rape.

Taking this challenge up, Chapter 4 explores forms of harm that were identified in the empirical research. Through identifying specific contextual factors that

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contribute to forms of harm, it finds that examining violence across the dichotomy of "political public violence" and "endemic private violence" exposes the forms of violence that may sit somewhere "in-between." The chapter discusses how dual-purpose violence exists in conflict contexts that are enacted for motivational factors beyond strategic collective rape. It identifies the hierarchies that emerge in international law because of the legal privileging of some harms above others.

In Chapter 5 I develop a unique "pre-, during-, and post-conflict" framework to map gendered violence across peacetime to conflict-time phases. Through a feminist analytical approach, I demonstrate how pre-conflict gendered violence both endures as well as mutates in form and function with the introduction of armed conflict, and how it further endures and also re-emerges within post-conflict contexts. The chapter evidences a complex mosaic of pre- and during- conflict violence upon which to understand gendered violence occurring in conflict's aftermath. The book's unique contribution in this regard is in identifying the inter-relational connections and distinctions between endemic and conflict-related gendered violence, and evidencing the varying and fluid dynamics between forms of extraordinary and ordinary violence that are categorized in different ways through international legal and policy frameworks. This discussion also provides empirical analysis of the nature of gendered harms post-conflict relevant for the later commentary on transitional justice.

Chapter 6 takes a somewhat different approach to analyzing violence. Focused on the post-conflict context, the chapter compares the vernacular and statistical and discourse analysis of gender violence in each post-conflict context. It specifically examines the relationship between the prevalence of violence, the reporting of violence to service providers and a process of labeling of violence that occurs as a result of policy attention to that violence. Examination of the inter-relationship between these factors identifies links between the violence labeled as conflict-related during a conflict and the violence that gets attention after conflict, and a reliance on reporting trends to paint the picture of that post-conflict violence.

Chapter 7 begins the book's substantive engagement with transitional justice. This book provides empirical evidence of the ranges of harms that women experience and maps these against truth commissions and notable criminal trials, effectively evidencing the argument that justice and accountability through law still have some way to go if they are to be transformational in women's lives. Specifically, the early judgments of the international ad hoc tribunals for the former Yugoslavia and Rwanda, as well as processes of truth and reconciliation in the three case study sites, are examined in respect of how they grapple with the complexity and characteristics of violence that the book reveals. The analysis shows that there is a selectivity on the part of transitional justice mechanisms in engaging with gender and with gendered violence, resulting in a partial and patchy representation and generation of "knowledge" on women's experiences of conflict.

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In its concluding chapter, the book finds that in the aftermath of conflict, a *transformation*, as espoused by feminist activists and scholars, rather than a *transition* is required, if the enduring gendered harms women experience are to be appropriately addressed. It makes this argument on the basis of the evidence across the book – that of the connections and distinctions between harms across phases of conflict and peace, and the variant multi-purpose violence that may be found within and across conflict contexts. The conclusion argues that to promote an approach that is transformative for women, transitional justice processes have a role to play in taking account of structural forces that simultaneously push open and close down spaces for addressing women's disaggregated and aggregated experiences of gendered violence across peace to conflict.

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PART II

Approaches to Understanding Conflict-Related Violence Against Women

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2

Historic Prevalence Versus Contemporary Celebrity: Sexing Dichotomies in Today's Wars

INTRODUCTION

Much like the endemic violence against women that occurs in societies globally, CRVAW has long existed. Public pronouncements about sexualized violence in wars today, however, proclaim a pervasiveness of sexual assault that has never been seen before, and that it has "reached epidemic proportions."[1] Perhaps it has. And alarmist pronouncements have brought with them much-needed and growing recognition to a formerly taboo issue. However, void of empirical qualitative or quantitative historical comparative analysis, these pronouncements and the attention they garner is also now subject to growing critical reaction.[2] Why a more nuanced approach grounded in broader historical and contextual analysis could not do just as well in qualifying this issue for contemporary attention is on the one hand confounding and, on the other, simply demonstrative of what is required for the concerns of women to gain traction. Exploring this issue with a view to context should not take away from the urgency of it today, but rather underscore the need to address its ingrained place in our long standing social practices of gender relations and of warfare. With this in mind, this chapter examines the character and placement that CRVAW has come to occupy in contemporary global scholarship, law, and discourse. It does so in respect to how present-day approaches to understanding CRVAW relate to what has gone before, both in terms of historical prevalence of violence and the evolution of international legal codification in response. The chapter identifies how concepts of violence, and gendered violence, have evolved, culminating in a modern engagement that has ultimately sexed conflict-time violence impacting women. Specific acts that are prolific and significant, yet do not represent the entirety of the landscape of violence women experience predominate,

[1] Elisabeth Rehn and Ellen Johnson Sirleaf, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-Building* (New York: UNIFEM, 2002), p. 10.

[2] Maria Eriksson Baaz and Maria Stern, *Sexual Violence as a Weapon of War: Perceptions, Prescriptions, Problems in the Congo and Beyond* (London, New York: Zed Books, 2013); Sara Meger, "The Fetishization of Sexual Violence in International Security," *International Studies Quarterly* 60 (2016) 149–59.

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setting up dichotomies between political and endemic violence, and between conflict and post-conflict contexts.

FROM VIOLENCE TO GENDERED VIOLENCE AND THE SIGNIFICANCE OF CONTEXT

The universe of violence and violent acts is large. What becomes legitimately categorized or defined as violence varies across cultures and societies in practical, normative, and legal terms. Violence itself has been theorized and understood variably as performance and ritual;[3] as deviant and criminological;[4] as functional and instrumental;[5] and as symbolic.[6] The nature of specific forms or locales of violence (e.g. labor- or detention-related violence),[7] or new acts of violence, mass atrocity, or violent extremism are also understood in variant ways.[8] We are witnessing new forms, or at least events and acts that become newly recognized as violent, all the time. It is thereby difficult to discern what violence is and is not. As one scholar has put it, "[r]esearchers commonly refer to a phenomenon called violence that implies a clearly understood, generic class of behaviors, and yet no such concept exists."[9] This is possibly because it "is not a finished and self-contained behavior that waits to be located and identified by a sufficiently well-tuned theoretical discrimination among a range of observable human actions."[10]

How approaches to violence have evolved is particularly pertinent in an appraisal of violence against women. As an issue that has slowly moved toward legal and policy capture, it may similarly be defined in one locale as "violence" and in another as a ritual or practice, or a natural element of human relationships. Through one set of

[3] Suzette Heald, "The Ritual Use of Violence: Circumcision Among the Gisu of Uganda," in *The Anthropology of Violence*, ed. David Riches (Oxford, UK; New York: Basil Blackwell, 1986); David Riches, "The Phenomenon of Violence," in *The Anthropology of Violence*.

[4] Erich Goode and Nachman Ben-Yehuda, *Moral Panics: The Social Construction of Deviance* (Oxford, UK and Cambridge, USA: Blackwell, 1994). David Finkelhor et al., eds. *The Dark Side of Families: Current Family Violence Research* (Beverly Hills, London, New Delhi: Sage, 1983).

[5] R. Emerson Dobash and Russell P. Dobash, "Violent Men and Violent Contexts," in *Rethinking Violence Against Women*, ed. R. Emerson Dobash and Russell P. Dobash (Thousand Oaks, London, New Delhi: Sage Publications, 1998). Stathis N. Kalyvas, *The Logic of Violence in Civil War* (New York: Cambridge University Press, 2006). Claudia Card, "Rape as a Weapon of War," *Hypatia* 11, no. 4 (1996).

[6] Pierre Bourdieu and Loïc Wazquant, "Symbolic Violence," in *Violence in War and Peace: An Anthology*, ed. Nancy Scheper-Hughes and Philippe Bourgois (Malden, MA; Oxford, UK; Carlton, Victoria: Blackwell Publishing Ltd., 2004).

[7] Allen Feldman, *Formations of Violence* (Chicago and London: University of Chicago Press, 1991).

[8] Mark Osiel, *Making Sense of Mass Atrocity* (New York: Cambridge University Press, 2009). Nancy Scheper-Hughes and Philippe Bourgois, "Violence Foretold: Reflections on 9/11," in *Violence in War and Peace: An Anthology*, ed. Nancy Scheper-Hughes and Philippe Bourgois (Malden, MA; Oxford, UK; Carlton, Victoria: Blackwell Publishing Ltd., 2004).

[9] Mary R. Jackman, "Violence in Social Life," *Annual Review of Sociology* 28 (2002), p. 388.

[10] Neil. L. Whitehead, "On the Poetics of Violence," in *Violence*, ed. Neil. L. Whitehead (Santa Fe, Oxford: School of American Research Press, James Currey, 2004).

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laws it will be codified a crime and, because of its absence in others (e.g. marital rape), deemed a legitimate behavior. The consistent yet varied manifestation of IPV in societies globally implies a need for understanding violence against women as relative to, derived from, and best understood in respect to contextual factors. "Loss of context is particularly problematic where the subject is violence. Even the deed itself – the violent character of an act – cannot be identified beyond doubt without reference to sociocultural and subjective dimensions."[11] Violence against women cannot be separated from the contexts in which it occurs and the contextually specific factors that determine whether and how it becomes defined as "violence."[12]

Gender has evolved as a critical lens and a relatively new means to examine and understand, materially and theoretically, the concept of violence. "Gendered violence" explains the contextual positioning of men and women apropos the functionality of violence. The power of gender is that it works to enable *power over*, and in this respect, to enact violence based on gendered inequalities that ordinarily favor masculinities over femininities, and some forms of masculinity over others. A ubiquitous violence, gendered violence is framed as primarily impacting women and tolerated as much as the inequalities that permeate their lives. The idea of gendered violence has been drawn into the international policy arena through definitions that determine what may and may not constitute this type of violence. Prompting a milieu of succeeding policy and international response frameworks,[13] the term "gender-based violence" has come to supplant reference to the violence that women experience.

An opportunity and a challenge arise at once in the debate over what makes violence specifically gendered. How to distinguish between ordinary, everyday violence and that of "gendered violence," particularly when everyday violence takes place in social contexts that are invariably gendered, by actors who are ascribing to gendered roles, and when both men and women are subject to men's violence in similar as well as distinctive ways? Initially, the straight-forward idea that the high prevalence of IPV and other forms of violence impacting women were rooted in gender inequalities was broadly accepted. This idea, and that gendered violence only impacts women, is increasingly challenged. Men's violence against men, particularly sexualized violence, is argued to be "gendered"

[11] Carol Hagemann-White, "A Comparative Examination of Gender Perspectives on Violence" in *International Handbook of Violence Research*, ed. John Hagan Wilhelm Heitmeyer (The Netherlands: Kulwer Academic Publishers 2003), p. 100.

[12] See Russell P. Dobash and R. Emerson Dobash, "Context Specific Approach" in *The Dark Side of Families: Current Family Violence Research*, ed. David Finkelhor et al. (Beverly Hills, London, New Delhi: Sage Publications, 1983).

[13] The UN Declaration on the Elimination of Violence Against Women (DEVAW, 1993) sets out that: "the term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." United Nations General Assembly, "Declaration on the Elimination of Violence Against Women (DEVAW), Resolution 48/104" (United Nations General Assembly, December 20, 1993).

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violence also.[14] As "violence" becomes re-framed as something that arises from the violence of (some) men on (some other) men, the performance of masculinities and the gendered norms informing this violence become evident. Whether there is such a thing as violence that is untouched by the power of gender, particularly in respect to the gendered basis of globalized macro-violence and its inevitable influence on micro-level violence, is a critical consideration.

That men and women experience violence in different ways and to differing degrees seems to at least be empirically substantiated. According to international organizations that attempt to account for global trends in violence, men are by and large the principal perpetrators as well as the principal victims of violence writ large. UN assessments indicate that lethal violence, or homicide, resulted in the deaths of 475,000 people in 2012, of which 82 percent were males, constituting more than four times that of females.[15] The highest rates of homicide are among young males (15–29 years): 18.2 per 100,000 compared to 3.2 per 100,000 for females.[16] For females however, 38 percent of homicide are perpetrated by male intimate partners, as compared to 6 percent for men by female partners.[17] Women are also more likely to experience non-lethal violence at the hands of partners. Globally, it is estimated that 30 percent of ever-partnered women have experienced intimate partner violence, while global non-partner sexual violence over a lifetime stands at 7.2 percent.[18] When combined, this rises to 35.6 percent of women who have experienced non-partner sexualized violence, intimate partner violence, or both at global estimates.[19] The global data equivalent for men's experience of these forms of violence is not available. However, national data demonstrates that within multiple domestic jurisdictions, women are much more likely to experience homicide or physical, sexual, and other forms of violence by male partners than men are by female partners. For example, in the United States, 1 in 5 women and 1 in 59 men have experienced rape or an attempted rape in their lifetime, while 27.3 percent of women and 10.8 percent of men have had some form of unwanted sexual contact in their lifetime.[20] In the United Kingdom, 93 percent of offenders were male in reported incidents of violence against women and girls.[21]

[14] R. Charli Carpenter, "Recognising Gender-Based Violence Against Civilian Men and Boys in Conflict Situations," *Security Dialogue* 37 (2006); Sandesh Sivakumaran, "Sexual Violence Against Men in Armed Conflict," *The European Journal of International Law* 18, no. 2 (2007).

[15] United Nations Office on Drugs and Crime, United Nations Development Programme, "Global Status Report on Violence Prevention 2014" (Luxembourg: World Health Organization, United Nations Office on Drugs and Crime, United Nations Development Programme, 2014), p. 9.

[16] Ibid., p. 9. [17] Ibid., p. 10.

[18] United Nations World Health Organization, "Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence" (Geneva: United Nations World Health Organization, 2013), pp. 16–18.

[19] Ibid., p. 20.

[20] Kathleen C. Basile, Sharon G. Smith, Matthew J. Breiding, Michele C. Black, and Reshma Mahendra. *Sexual Violence Surveillance: Uniform Definitions and Recommended Data Elements* (Atlanta, Georgia Centre for Disease Control and Prevention, 2014), p. 9.

[21] Crown Prosecution Service, "Violence Against Women and Girls Crime Report 2014–2015" (London: Crown Prosecution Service), p. 15.

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These numbers and the global trends they point to are not insignificant. They indicate both a variation in violence experienced by men and women globally in non-conflict periods as well as a relative consistency in the modes and types of violence to which they are predictably subjected. Feminist approaches have focused on the distinctiveness of women's experiences of violence and have argued "that women are the special targets of male violence."[22] Evident, too, is that some men are the targets of some men's violence. However, it is also discernible that in the spaces of bodily, familial, and sexual intimacy, where heteronormative ideals of masculine and feminine most acutely intersect, a particularity in women's distinctive susceptibility to men's violence arises. In attempting to understand women's experience of this violence, women's systemic positioning counts. Gender and gender inequality matter because "women face underlying structural violence – the chronic violation of dignity through the deprivation of basic human rights in daily life. The all-encompassing nature of the violence and repression results in individual psychic injury and collective social traumatisation."[23] Violence that "embodies the power imbalances inherent in patriarchal society"[24] has a conditioning effect on the use and practice of violence against women by men.

The "power of gender"[25] is that it can inform the causes and contexts to perpetration of violence (inequalities, relationships in which men hold financial, social, and familial control over women), how that violence is experienced (whether it is recognized as violence at all in legal or socio-cultural terms), and the meaning of that violence (e.g. the multiplier effect of stigma on rape survivors that is acutely attached to gendered norms of women's purity). Gender norms in context offer an explanation of causality and a meaning to violence for women. Questions of whether perpetrators are aware that their violence is gendered, or enacted on the basis of or to enforce gender norms of power, or even aware of the significance or the existence of gender in their own identity-power, are unclear. However, it is relevant that the "male order is so deeply grounded as to need no justification: it imposes itself as self-evident, universal."[26]

Claims to symmetry between men and women's subjection to violence narrow understandings of that violence "to obscure injurious behaviors that display marked gender asymmetry,"[27] and inevitably remove the structural context to men and women's subjection to violence. I do not intend to divorce men's enactment or

[22] Mary Jackman, "Gender, Violence and Harassment," in *Handbook of the Sociology of Gender*, ed. Janet Saltzman Chafetz (New York: Springer, 2006), p. 299.

[23] Tina Sideris, "Problems of Identity, Solidarity and Reconciliation," in *The Aftermath: Women in Post-Conflict Transformation*, ed. Sheila Meintjes, Anu Pillay, and Meredeth Turshen (New York: Zed Books Ltd., 2001), p. 57.

[24] J. El Bushra and Lopez E. Pia, "Gender-Related Violence: Its Scope and Relevance," in *Women and Conflict*, ed. H. O'Connell (London and New York: Oxfam 1993), p. 1.

[25] V. Spike Peterson and Anne Sisson Runyan, *Global Gender Issues in the New Millennium* (Boulder, CO: Westview Press, 2014).

[26] Bourdieu and Wazquant, "Symbolic Violence," p. 273.

[27] Walter S. DeKeseredy and Martin D. Schwartz, "Theoretical and Definitional Issues in Violence Against Women," in *Sourcebook on Violence Against Women*, ed. Claire M. Renzetti, Jeffrey L. Edleson, and Raquel Kennedy Bergen (USA: Sage, 2011), p. 8.

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experience of violence from women's. There are gendered norms of masculinities and femininities that cannot be discounted in understanding the specificities and impacts of violence on men and women and the inter-relational connections between them. In my focus on violence against women, I am instead arguing that relevant to this book is attention to the "social machinery of oppression"[28] to which women are subject, so that gendered power is understood as relevant to the empirical reality of women's predominant victimhood to violence in intimate forms.[29] There is an overarching structural condition in which women automatically experience an insidious violence that "gives a man power over her – even before he perpetrates direct violence against her,"[30] and which is taken in this book as creating specific conditions for physical harms directed at women. Exploring violence through a gendered lens politicizes it in necessary ways, it captures the ways in which women's experiences are embedded in the inequalities that frame their lives. A gender lens offers a way to understand the depth and breadth of violence that remains evolving and that drills down to the empirical and theoretical roots of the phenomenon itself.

FROM HISTORIC PREVALENCE TO SEXED CELEBRITY: CONFLICT-RELATED VIOLENCE AGAINST WOMEN

Recent and growing historical attention in scholarly work demonstrates that the assertion that sexualized violence against women is worse or more prevalent in contemporary conflicts may be turned on its head if examined in respect of what may be learned from what went before.[31] As noted by Theodor Meron, "[t]here is nothing new in atrocities or starvation."[32] So, too, while scholars and activists are documenting new forms of violence all the time, there is little new about the brutalization of women's bodies during warfare. In particular, the sexual assault of women has been an accepted and expected part of warfare for centuries.[33] The earliest books hold testament to the

[28] Paul Farmer, "An Anthropology of Structural Violence," *Current Anthropology* 45, no. 3 (2004), p. 307.

[29] DeKeseredy and Schwartz, "Theoretical and Definitional Issues in Violence Against Women," p. 8.

[30] Cynthia Cockburn, "The Gendered Dynamics of Armed Conflict and Political Violence," in *Victims, Perpetrators or Actors? Gender, Armed Conflict and Political Violence*, ed. Caroline O. Moser and Fiona Clark (New York: Zed Books Ltd., 2001), p. 16.

[31] Susan Brownmiller, *Against Our Will: Men, Women and Rape* (Bungay, Suffolk: Richard Clay (The Chaucer Press) Ltd., 1975); Nicola Henry, *War and Rape: Law, Memory and Justice* (London, New York: Routledge, 2010); Elisabeth Vikman, "Ancient Origins: Sexual Violence in Warfare, Part I," *Anthropology and Medicine* 12, no. 1 (2005), and "Modern Combat: Sexual Violence in Warfare, Part II," *Anthropology and Medicine* 12, no. 1 (2010); Carol Harrington, *Politicisation of Sexual Violence: From Abolitionism to Peacekeeping* (Surrey, Burlington: Ashgate Publishing, 2010); Elizabeth Heineman, ed. *Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights* (Pennsylvania: University of Pennsylvania Press 2011).

[32] Theodor Meron, "Rape as a Crime Under International Humanitarian Law," *American Journal of International Law* 87 (1993), p. 424.

[33] Miriam Granados and George Lopez, "The Evolution of Rape as a War Crime" (San Antonio, Texas: St. Mary's University, 2004), p. 3.

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existence of rape and what may today be labeled as extreme violence in ancient warfare. Elisabeth Vikman highlights that in the Old Testament of the Bible, Moses ordered 32,000 girls to be raped and for the warriors to retain virgin girls for their sexual reward. Rape features prominently in accounts of the Greek wars written in the eighth century BCE.[34] Regardless of whether these accounts reflect mythological ideals or factual events, it is plain that the notion of mass and egregious rape and the abduction of women and girls for sexual purposes was considered a feature of warfare by those writing in early historical periods.

Like the wars of today, women's experiences of assault in historic wars were often accompanied by extreme acts of egregious violence. Individual and collective acts of the rape of women have been documented in some of the key historic wars of revolution and liberation. During the American War of Independence (1770s), British soldiers are known to have raped young and old women, including pregnant women, and to have imprisoned and gang-raped several women and young girls, who were held for days at a time.[35] The attacks prompted a judicial inquiry, which heard some of these women's testimonies and recognized that, given their number and scale, these were not isolated events.[36] Early criminal prosecution for war-related rapes occurred in the American Civil War, where research evidences the prosecution of almost 400 soldiers in martial systems.[37]

In more recent periods of history, the mutilation of women's bodies and extreme acts of rape and violence have been documented as a feature of World War I, as well as its aftermath.[38] In World War II, the sexual violation of Polish, Russian, Roma, and Jewish women by German forces has been

[34] These wars, which are the subject of Homer's *Iliad* which is referenced in the research cited here, are estimated to have taken place at least 400 years earlier than the period in which this text was written. Vikman, "Ancient Origins: Sexual Violence in Warfare, Part I," pp. 24–29.

[35] These notes refer to a specific period of the war in 1776: David Hackett Fisher, *Washington's Crossing* (New York: Oxford University Press, 2004), p. 178, citing Robert Lawrence, *A Brief Narrative of the Ravages of the British and Hessians at Princeton in 1976–77: A Contemporary Account of the Battles of Trenton and Princeton* (Princeton: Varning Lansing Collins, 1906 & 1968); *The Papers of George Washington, Revolutionary War Series*, ed. W.W. Abbot, Dorothy Twohig, Philander D. Chase, and Beverly H. Runge (1988, University of Virginia); also more broadly evidenced in Sharon Block, "Rape in the American Revolution: Process, Reaction, and Public Re-Creation," in *Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights* ed. Elizabeth D. Heineman (Philadelphia, Oxford: University of Pennsylvania Press, 2011).
Also excerpts from the Pennsylvania Packet, Dec. 27, 1776 and Pennsylvania Evening Post, Dec. 28, 1776.

[36] Hackett Fisher, *Washington's Crossing*, pp. 178–80.

[37] Susan E. Barber and Charles F. Ritter, "'Unlawfully and Against Her Consent': Sexual Violence and the Military During the American Civil War," in *Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights*, ed. Elizabeth D. Heineman (Philadelphia, Oxford: University of Pennsylvania Press, 2011), p. 202.

[38] Brownmiller, *Against Our Will*, p. 41. Nicoletta F. Gullace, "War Crimes or Atrocity Stories? Anglo-American Narratives of Truth and Deception in the Aftermath of World War I," in *Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights*, ed. Elizabeth D. Heineman (Philadelphia, Oxford: University of Pennsylvania Press, 2011). Robert Gerwarth, "Sexual and Nonsexual Violence Against 'Politicized Women' in Central Europe After the Great War," ibid.

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documented,[39] as have the forced sterilization and other sexual harms targeted at non-Aryan women.[40] British female spies were subjected to sexual harassment and rape when captured.[41] A concentration camp established specifically for women evidences a range of harms: from harassment, to forced strip-searching and stripping for the enjoyment of officers, to rape.[42] During the Japanese assault on Nanking, more than 20,000 women and girls (some less than ten years of age, and others pregnant) were raped. The attacks included the insertion of objects into women's bodies and the public display of women's mutilated corpses.[43] Attacks also involved forcing men to have sex with family members and the dead.[44] The Japanese also famously held Chinese, Korean, Indonesian, Filipino, and Timorese women in "comfort stations" for sexual purposes.[45] Two million German women are estimated to have been raped upon the arrival of the Russian "liberators" to Berlin in 1945.[46] Despite apparent orders to the contrary, Russian soldiers are known to have raped German women multiple times, including the insertion of objects into women's bodies as part of rape.[47] Similarly, there is evidence of US troops sexually assaulting women and girls in the aftermath of World War II,[48] and in the Vietnam War,[49] with particularly brutal forms of violence wrought on women's bodies evident in the My Lai attack.[50] Documented also in this era is the sexual assault on women that featured in the Indonesian anti-left purge of the 1960s[51] and the East Pakistan

[39] Fionnuala Ní Aoláin, "Sex-Based Violence and the Holocaust – a Reevaluation of Harms and Rights in International Law," *Yale Journal of Law and Feminism* 12 (2000); Brownmiller, *Against Our Will*. Jeffrey Burds, "Sexual Violence in Europe in World War II, 1939–1945," *Politics and Society* 37, no. 35 (2009).

[40] Henry, *War and Rape*.

[41] Sara Helm, *A Life in Secrets* (London: Anchor, 2007).

[42] Sara Helm, *If This Is a Woman, Inside Ravensbrück: Hitler's Concentration Camp for Women* (London: Little, Brown, 2015).

[43] Iris Chang, *The Rape of Nanking: The Forgotten Holocaust of World War II* (New York: BasicBooks, 1997).

[44] Elisabeth Jean Wood, "Variation in Sexual Violence During War," *Politics and Society* 34, no. 3 (2006), p. 311.

[45] Sharon Fredrick, *Rape: Weapon of Terror* (River Edge: Global Publishing Compant Inc., 2001), p. 2, citing George Hicks, *The Comfort Women* (New York: W.W. Norton & Company, 1995), p. xix. See also: Radhika Coomaraswamy, "Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences: Report on the Mission to the Democratic People's Republic of Korea, the Republic of Korea and Japan on the Issue of Military Sexual Slavery in Wartime," in *E/CN.4/1996/53/*, Commission on Human Rights (United Nations Economic and Social Council, 1996); Christine Chinkin, "Editorial: Women's International Tribunal on Japanese Military Sexual Slavery," *American Journal of International Law* 95 (2001).

[46] Anonymous, *A Woman in Berlin: Diary 20 April to 22 June 1945* (London: Virago Press, 2010), p. 10.

[47] Ibid.

[48] See, generally: J. Robert Lilly, *Taken by Force: Rape and American GIs in Europe During World War II* (New York: Palgrave Macmillan, 2007).

[49] Wood, "Variation in Sexual Violence During War," pp. 325–16.

[50] Kevin Gerard Neill, "Duty, Honor, Rape: Sexual Assault Against Women During War," *Journal of International Women's Studies* 2, no. 1 (2000).

[51] Leslie Dwyer, "The Intimacy of Terror: Gender and the Violence of 1965–66 in Bali," *Intersections* 10 (2004).

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(now Bangladesh) nationalist conflict of 1971 in which women experienced sexualized abuse at the hands of neighbors and friends, whom, at the outset of conflict, became the aggressors.[52]

Evidence of violence against civilian women in present-day conflicts has emerged from the 1980s to today in locales in Latin America (Argentina, Chile, El Salvador, Colombia, Guatemala, Haiti, Honduras, Nicaragua, and Peru), the wars in Eastern Europe (the former Yugoslavia and Kosovo in the late 1990s), in Africa (Angola, Burundi, Central African Republic, Côte D'Ivoire, Democratic Republic of Congo, Liberia, Libya, Rwanda, Sierra Leone, Mozambique, Somalia, South Africa, South Sudan, Sudan, and Uganda), in the Middle-East (Iraq and Syria), and in the Asia Pacific region (Afghanistan, Cambodia, India/Pakistan/Kashmir, Indonesia, Myanmar, Papua New Guinea, Sri Lanka, and Timor-Leste).

These are probably the most oft-cited locales where evidence of CRVAW is available. In plotting these out, we move chronologically from the early Biblical era, to the Greeks and Romans, to the liberation wars and those of the previous and this century's forms of warfare. Contemporary emerging rich theory and political focus on CRSV specifically is prompting much re-examination of historic wars and women's experiences of them.[53] Evidence from earlier periods is also prompting more examination of this issue in wars of the current era, which, in comparative terms, is now producing much more prolific information on women's experiences of wars than ever before.[54]

There remains uneven coverage of CRVAW in past as well as contemporary conflicts, however. Feminist scholars remain skeptical of contemporary attention, and experience denotes the necessity for caution. For example, scholars argued that the interest in sexualized violence in the former Yugoslavia was primarily because the war involved the rape of white women.[55] The ways that the US Bush Administration invoked the situation of Afghani women as a rationale for its incursions there is broadly indicative of how making the brutalization of women's bodies visible has utilitarian power. Recognition that the growing knowledge on this issue over the past three decades not only stems from the activism of women's and human

[52] Yasmin Saikia, "War as History, Humanity in Violence: Women, Men, and Memories in 1971 East Pakistan/Bangladesh," in *Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights* ed. Elizabeth Heineman (Pennsylvania: University of Pennsylvania Press, 2011).

[53] Aisling Swaine, *Debating the Long and the Short-term View of Sexual Violence in War*, 50:50 Inclusive Democracy, April 18, 2015: www.opendemocracy.net/5050/aisling-swaine/debating-long-and-shortterm-view-of-sexual-violence-in-war-contexts.

[54] For example, see sexual violence research initiatives such as: The Geneva Centre for the Democratic Control of Armed Forces, "Documenting Sexual Violence in Conflict: Data and Methods – an Annotated Bibliography" (Alliance for Direct Action Against Rape in Conflict and Crises 2006); "Sexual Violence Research Initiative," www.svri.org/index.htm; and international policy initiatives: Belgian Development Cooperation UNFPA, European Commission, "Report on the International Symposium on Sexual Violence in Conflict and Beyond" (Brussels, 2006).

[55] Rhonda Copelon, "Surfacing Gender: Reconceptualising Crimes Against Women in Times of War," in *The War Against Women in Bosnia-Herzegovina*, ed. Alexandra Stiglmayer (Lincoln, London: University of Nebraska Press, 1994).

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rights organizations but also from political imperatives on the part of governments, humanitarian organizations, and international media is required. So too is recognition that "[w]e . . . live in mediatised times."[56] The power of the perceived chaste innocence and vulnerability of the woman sexually violated by "monster" combatants[57] means that engagement with conflict-affected populations now entails looking for "the sexual violence story." Women who have experienced sexualized violence in the Syria and ISIS contexts are showcased in real-time on Internet sites, YouTube, and daily newspapers, their celebrification now an element of their maltreatment and dehumanization. The rape of women in places such as Libya in 2011, for example, was beamed live to the world, with real-time video footage of a woman alleging rape by Gadaffi forces.[58] In today's world of 24-hour and instant news, where "the sexual violence story of war" now matters, (some) CRSV is reported and made visible as it happens.

FROM HISTORICAL TO CONTEMPORARY CAPTURE: A GENEALOGY OF CRVAW IN INTERNATIONAL LAW

As with the argument made above, the appearance of violence impacting women in war's regulatory framework is not new but has over time, gradually featured more and more. Specifically, "rape" (by armed actors), as a legally defined and determined crime, has been prohibited and regulated by an evolving law of war developed over centuries. From codes as early as those used by Richard II (1385) and Henry V (1419) in the Hundred Years' War to more modern international criminal frameworks, rape has surprisingly been designated for redress.[59] The first estimated recorded legal conviction for war rape occurred within an international military tribunal examining the military occupation of Austria in 1474.[60] In the 1500s and 1600s, eminent juridical thinkers estimated that wartime rape was unlawful, even to female combatants, and should be punished similar to that in peacetime.[61]

[56] Simon Cottle, *Mediatized Conflict: Developments in Media and Conflict Studies* (New York: Open University Press, 2006), p. 1

[57] Henri Myrttinen and Aisling Swaine, "Monster Myths, Selfies and Grand Declarations," *International Feminist Journal of Politics* 17, no. 3 (2015).

[58] Andrew Harding, "Libya: 'Forced to Rape in Misrata'," *BBC News*, May 23, 2011; Pascale Harter, "Libya Rape Victims 'Face Honour Killings'," BBC News, June 14, 2011; "Libya: Gadaffi Investigated over Use of Rape as a Weapon," BBC News, June 8, 2011.

[59] Meron, "Rape as a Crime," p. 425 and *Henry's Wars and Shakespeare's Laws: Perspectives on the Law of War in the Later Middle Ages* (Oxford, New York: Oxford University Press, Clarendon Press, 1993), chapters 6 & 8.

[60] Tom Shanker, "Crimes of War: A-Z Guide: Sexual Violence," www.crimesofwar.org/thebook/sexual-violence.html. Also publication of the same in: Tom Shanker, "Sexual Violence," in *Crimes of War: What the Public Should Know*, ed. Roy Guttman and David Rieff (Singapore: Tien Wah Press, 1999).

[61] Kelly D. Askin, "Prosecuting Wartime Rape and Other Gender-Related Crimes Under International Law: Extraordinary Advances, Enduring Obstacles," *Berkeley Journal of International Law* 21, no. 2 (2003), p. 299, citing: Aberico Gentili, De Jure Belli Liajo Tres 258–59 (John C. Rolfe trans., 1995)

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When examined through the prism of the growing codification of CRSV, the favoring of masculinist standards and the concerns of men through these developments becomes evident. Over time, rape has become the harm of most concern, not uncoincidentally a harm that perhaps most challenges men's control over "their own" women's bodies, sexuality, and reproductive capacity. Through the conflation of CRVAW as CRSV and specifically rape through international law, "sexual difference in bodies is made meaningful and significant only in relation to the division of humanity into a gender hierarchy that puts men and masculinity into a position of superiority."[62] Claims about and to addressing women's harms may thereby say more about men and men's concerns than they do about women and their individual rights. In the majority of international legal frameworks that have evolved since the 1600s, there is a role prescribed for men to protect women from a harm that would impinge on men's own "honor" and the family of their name. In the 1623 Hugo Grotius publication "De Jure Belli ac Pacis," rape was progressively classified as a crime during war; however, this hinged on preserving woman's chastity (presumably for the preserve of designated men?).[63] In 1863, the Lieber Instructions[64] (or code[65]) prohibited all forms of rape in war and gave protection to women in their capacity within the family,[66] while the same idea of rape as an assault on the family (rather than on the individual) continued into the 1907 Hague Convention[67] (some scholars note that this requires broad interpretation and has rarely been used[68]).

The categorization and status of sexualized violence is estimated by some to be "ambiguous" in the international humanitarian law developments since this period: namely, the International Military Tribunals following World War II, the 1949 Geneva Conventions, and the Additional Protocols of 1977.[69] Feminist critical theorists find, however, that they have continued to nominate an attention to women's concerns where they intersect with those of

(1612), and Hugo Grotius, De Jure Belli Ac Pacis Libri Tres 656–57 (Francis W. Kelsey trans., 1995) (1646).

62 Terrell Carver, "Men and Masculinities in International Relations Research," *Brown Journal of World Affairs* xxi, no. I (2014), p. 114.

63 Hugo Grotius, *The Law of War and Peace* (1625), and Julie Mertus, *War's Offensive on Women: The Humanitarian Challenge in Bosnia, Kosovo and Afghanistan* (West Hartford, Connecticut Kumarian Press, 2000), p. 73, cited in Granados, "The Evolution of Rape as a War Crime."

64 United States War Dept, Instructions for the government of armies of the United State in the field, by United States Adjutant-General's Office (Francis Lieber, 1800–1872).

65 Rhonda Copelon, "Gender Crimes as War Crimes: Integrating Crimes Against Women into International Criminal Law," *McGill Law Journal* 46 (2000), p. 220.

66 Granados, "The Evolution of Rape as a War Crime," pp. 4–5.

67 Fredrick, *Rape: Weapon of Terror*, p. 14; David S. Mitchell, "The Prohibition of Rape in International Humanitarian Law as a Norm of *Jus Cogens*: Clarifying the Doctrine," *Duke Journal of Comparative and International Law* 15 (2005), p. 237.

68 Meron, "Rape as a Crime Under International Humanitarian Law," p. 425.

69 Mitchell, "The Prohibition of Rape in International Humanitarian Law," p. 237.

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men's. While rape was included in testimonies made to the Nuremberg tribunals[70] (where the range of German assaults on women were detailed over and above assaults by allies)[71] and in the indictment at the Tokyo tribunal where details of the "Rape of Nanking" emerged, the trials are estimated to have failed to comprehensively address rape, as well as the range of violence encountered by women.[72] The historical positioning of rape as an attack on (male) honor, and an attack on the (male's) family, rather than on individual women's rights, continued into the Geneva Conventions (1949).[73] It also framed the capture of "enforced prostitution and any other form of indecent assault" as "humiliating and degrading treatment" in Additional Protocols I and II (1977),[74] limiting these violations to "secondary importance," again associated with male dignity and honor.[75] This "male status violation"[76] is elevated compared to the significance of the act on the individual person,[77] which in turn requires "creative interpretation" if it is to be adequately categorized as a grave breach (a category defined by the International Committee of the Red Cross (ICRC) in 1992).[78]

Through these developments, the crime of rape has gained placement in the laws regulating warfare, and, through that crime, women have become visible. That it is through a sex-based crime, with women's chastity and honor signifying male honor, speaks volumes about not just how women are gendered female in the everyday, but

[70] Rape was listed as a crime against humanity under Allied Local Council Law No. 10: see Copelon, "Gender Crimes as War Crimes: Integrating Crimes Against Women into International Criminal Law," p. 221. For details on submission of documentary evidence of rape and testimonies, see: Henry, *War and Rape*, chapter 3.

[71] For data on Russian testimony of sexual violence by German actors see: Vyacheslav M. Molotov, "Molotov's Notes on German Atrocities in Occupied Soviet Territory" (Kuibyshev: Embassy of the Union of Soviet Socialist Republics, 1942); and wider testimony on German assault of women: Henry, *War and Rape*, chapter 3.

[72] Henry, *War and Rape*, p. 29.

[73] Article 27 (2) of: ICRC, "Convention (IV) Relative to the Protection of Civilian Persons in Time of War," International Committee of the Red Cross (Geneva, August 12, 1949); Copelon, "Gender Crimes as War Crimes: Integrating Crimes Against Women into International Criminal Law," p. 221, and International Committee of the Red Cross, "Women Facing War" (Geneva: International Committee of the Red Cross, 2001), p. 57.

[74] "Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)," ed. International Committee of the Red Cross (June 8, 1977). Article 75 (b).

[75] Copelon, "Gender Crimes as War Crimes: Integrating Crimes Against Women into International Criminal Law," p. 221.

[76] Naomi Cahn, Dina Francesca Haynes, and Fionnuala Ní Aoláin, "Criminal Justice for Gendered Violence and Beyond," *International Criminal Law Review* 11 (2011), p. 432.

[77] Hannah Pearce, "An Examination of the International Understanding of Political Rape and the Significance of Labeling It Torture," *International Journal of Refugee Law* 14, no. 4 (2002), p. 541.

[78] Cahn, Haynes, and Ní Aoláin, "Criminal Justice for Gendered Violence and Beyond," p. 432. Meron, "Rape as a Crime Under International Humanitarian Law," p. 426, citing: International Committee of the Red Cross, "ICRC Aide-Mémoire" (International Committee of the Red Cross, 1992).

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also about how law is constructed. Intrinsic to the gendering of law is that while men may be gendered masculine, the "generic or de-gendered mode [also available to men] allows them to represent the human being as simply human irrespective of sex and, thus, by stealth devalue the feminine and feminized persons."[79] The "masculinity here is not in the people; it is in the rationality that these presumptions construct . . . hiding within an apparently degendered world of actors."[80] In the apparent degendered world of men, harms impacting women are rationally only those that threaten covert as well as overt measures of masculinity.

The preoccupation with sexualized forms of harm continued with the creation of specific international criminal frameworks in the 1990s. This period is cited as a significant moment in which systematic rape (and wider sexualized and gendered crimes) in warfare became distinctly recognized in discourse and legal codification of crimes in war.[81] The statutes of the International Criminal Tribunal for the Former Yugoslavia (ICTY, 1993),[82] the International Criminal Tribunal for Rwanda (ICTR, 1994),[83] and the ensuing Rome Statute of the International Criminal Court (ICC, 1998/2002)[84] set out international codification of crimes of a sexual and gendered nature.[85] The ICTY has been noted to have "significantly expanded the boundaries of international law."[86] It prosecuted numerous cases involving sexualized violence by military and civilian actors on men, women, and children in various locales and stages of the conflict.[87] Four cases were ground-breaking in creating new legal capture of harms: the

[79] I borrow the framework of Terrell Carver who has theorized how "Masculinity differs from femininity in that it presents itself in two ways: a generic mode and a gendered mode." Carver, "Men and Masculinities," p. 117.

[80] Ibid., pp. 120–21.

[81] See, for example: Doris Buss, "Rethinking 'Rape as a Weapon of War'," *Feminist Legal Studies* 17 (2009); Fiona de Londras, "Prosecuting Sexual Violence in the Ad Hoc International Criminal Tribunals for Rwanda and the Former Yugoslavia," in *UCD Working Papers in Law, Criminology & Socio-Legal Studies* (Dublin University College Dublin, 2009); "Prosecuting Sexual Violence in the Ad Hoc International Criminal Tribunals for Rwanda and the Former Yugoslavia," in *Transcending the Boundaries of Law: Generations of Feminism and Legal Theory*, ed. Martha Fineman (New York: Routledge, 2011).

[82] United Nations Security Council, "Resolution 827, Statute of the International Tribunal for the Former Yugoslavia," S/RES/827 (1993).

[83] "Resolution 955, Statute of the International Tribunal for Rwanda," in *S/RES/955* (1994).

[84] United Nations, "Rome Statute of the International Criminal Court," United Nations Treaty Series, vol. 2187, No. 38544, (United Nations, International Criminal Court, 17 July 1998).

[85] Article 7, 1(g) sets out the following as crimes against humanity: "Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity"; and Article 8, 2, b (xxii) sets out the following as war crimes: Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions: ibid.

[86] Henry, *War and Rape*, p. 65.

[87] These include, for example: Bralo, Brdanin, Čelebiči, Dragan, Kunarac, Krajisnik, Krstic, Kvocka, Milan Simic, Vasiljevic, and Zelenovic cases. See: United Nations, "Review of the Sexual Violence Elements of the Judgments of the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court for Sierra Leone in the Light of

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Tadič case (which is often disregarded as it did not charge for crimes of rape as a result of the withdrawing of testimony by witness F; however, it did hear substantial evidence of rape and sexual assault of men and was the first ICTY case to do so);[88] the Čelebiči case (first judgment of the ICTY and it found rape as torture and a grave breach);[89] the Kunarac (often referred to as Foča) case (cited as providing "monumental jurisprudence"[90] by convicting three accused of rape, torture, and enslavement as a crime against humanity, violation of laws of war, and outrages on personal dignity);[91] and the Furundžija case (which found rape as outrages upon personal dignity).[92] The work of the ICTR is notable for expanding legal capture of rape, particularly in providing for and formally defining "rape" under international law for the first time, and, through the Akayesu case of 1998, defining it as an element of genocide.[93] Since then, there have been further capture and defining of gender-based harms as international crimes such as the prosecution of forced marriage in the SCSL.[94] While these developments are significant, they are also nascent and cannot be taken as a complete reflection of the range, form, and prevalence of gendered violence impacting women in those contexts. The Rome Statute of the ICC (1998) has solidified sexualized violence as an international crime, albeit within the parameters of constituting a war crime, a crime against humanity, and genocide.[95] These trials and accompanying international criminal statutes are seen by some to signify progressive moves by the international community to prosecute crimes impacting women and the relevance of gender in crime.[96] They are

Security Council Resolution 1820" (New York: United Nations Department of Peacekeeping Operations 2010).

88 *Prosecutor V. Tadič*, IT-94–1-A (July 15, 1999). For comment, see: Kelly D. Askin, "Sexual Violence in Decisions and Indictments of the Yugoslav and Rwandan Tribunals," *American Journal of International Law* 93, no. 1 (1999), p. 105. Henry, *War and Rape*, pp. 66–72.

89 *Prosecutor V. Zejnil Delalic, Zdravko Micic (Aka "Pavo"), Hazim Delic and Esad Landzo (Aka "Zenga") (Celibici Case)*, IT-96–21-A (February 20, 2001). For comment see: Karen Engle, "Feminism and Its (Dis)Contents: Criminalising Wartime Rape in Bosnia and Herzegovnia," *American Journal of International Law*, no. 99 (2005), p. 798.

90 Kelly D. Askin, "Foca's Monumental Jurisprudence," Institute for War and Peace Reporting, http://iwpr.net/report-news/analysis-focas-monumental-jurisprudence.

91 *Prosecutor V. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic* Case Nos. IT-96–23-T & IT-96–23/1-T (2001). For comment, see: Doris Buss, "Prosecuting Mass Rape: Prosecutor V. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic," *Feminist Legal Studies* 10 (2002).

92 *Prosecutor V. Anto Furundžija*, IT-95–17/1-T (December 10, 1998). For comment, see: Mark Ellis, "Breaking the Silence: Rape as an International Crime," *Case Western Reserve Journal of International Law* 38 (2006–7), p. 237.

93 *Prosecutor V. Akayesu*, Case No. ICTR 96–4-T (September 2, 1998). For comment, see: Buss, "Rethinking 'Rape as a Weapon of War'."

94 "Prosecutor V. Sesay, Kallon & Gbao," in *Case No. SCSL-04–15-A*, ed. Special Court for Sierra Leone (October 26, 2009).

95 Rhonda Copelon, "Towards Accountability for Violence Against Women in War: Progress and Challenges," in *Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights* ed. Elizabeth Heineman (Philadelphia, Oxford: University of Pennsylvania Press, 2011), p. 248.

96 Ellis, "Breaking the Silence," p. 242.

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also, however, considered by many feminist scholars to remain insufficient in their jurisdictional and substantive coverage to address the accountability requirements of women affected by conflict.[97]

Human rights law, and specifically the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979),[98] while initially silent on violence against women, offers norms of non-discrimination and substantive equality, as well as General Recommendations 12 and 19,[99] as guidance to the convention's applicability to violence. More recently, "General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations (GR30)"[100] has offered the broadest interpretation of what the term "gender-based violence" might mean relevant to human rights law and to conflict contexts. GR30 classifies violence against women and girls as "a form of discrimination" and includes in its capture multiple forms of violence that "happens everywhere" and by perpetrators that "include members of government armed forces, paramilitary groups, non-State armed groups, peacekeeping personnel and civilians."[101] Notably, GR30 stipulates that sexualized violence may be used as a tactic of war, and also acknowledges the wider harms women might experience that would invoke the convention's response.[102] GR30 is reflective of the equality-based frame offered by CEDAW. It moves normative measures toward the understanding of gender and its nexus with women's experiences of violence outlined earlier, framing gender as causal in CRVAW. It provides the most comprehensive framework to date of gender's role in the broad range of harms impacting women across conflict and post-conflict contexts.

Since the turn of the century, the explosion of "soft law" responses through the pioneering work of the UN Security Council has provided a contemporary framework specifically focused on women and conflict. As noted in Chapter 1, the WPS agenda has played a role in definitively driving how violence impacting women and girls in conflict is understood and addressed. Four of the eight WPS

97 For example see: Askin, "Prosecuting Wartime Rape and Other Gender-Related Crimes Under International Law: Extraordinary Advances, Enduring Obstacles."

98 United Nations General Assembly, "Convention on the Elimination of All Forms of Discrimination Against Women," in *Resolution 34/180*, ed. United Nations General Assembly (December 18, 1979).

99 United Nations Committee on the Elimination of Discrimination Against Women, "General Recommendation 19" (11th session: Committee on the Elimination of Discrimination Against Women 1992); "General Recommendation 12" (8th Session: Committee on the Elimination of Discrimination Against Women 1989).

100 United Nations Committee on the Elimination of Discrimination Against Women, "General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations, CEDAW/C/GC/30," Committee on the Elimination of Discrimination Against Women (October 18, 2013).

101 Ibid., para 34.

102 Catherine O'Rourke and Aisling Swaine, "Guidebook on CEDAW General Recommendation No. 30 and the UN Security Council Resolutions on Women, Peace and Security" (New York United Nations Entity on Gender Equality and the Empowerment of Women, UN Women, 2015), p. 12.

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resolutions, Resolution 1820 (2008),[103] Resolution 1888 (2009),[104] Resolution 1960 (2010),[105] and Resolution 2106 (2013)[106] specifically deal with "sexual violence when commissioned as a tactic of war." These resolutions, while ground-breaking, are, however, guilty of repeating what has gone before – a preoccupation with sexualized harms, and in this case, only those that are strategically enacted by parties to conflict. The function of the early critique of international security and calls for specific action by the Security Council, had been to redress the invisibility of women's concerns from the foremost arena where security becomes defined, shaped, and made ready for transnational export. Instead, the protection of women from what is perceived as their own physical vulnerability (rather than an acknowledgment of the structural context that creates gendered vulnerability) predominates in these resolutions. "Men are in charge of international politics, and the headline importance of violence tells us how masculine hierarchies are arranged, defended, and naturalized as unchangeable."[107] The protectionist approach to women's victimhood places women in subjective deference to the Security Council's power to decide what violence, where, and from whom women can be protected. The Security Council has effectively determined what security means (from a normative and practical perspective) and what kind of conflict-related violence causes insecurity for women. Wider harms and the structural causes of women's unequal social, economic, and political insecurities as giving rise to strategic as well as other forms of violence women experience in conflict are not recognized.[108] The reductive approach of the Security Council resolutions is both characterized by, and characterizes, the paternalist leanings toward women that have been evident to date in the development of international law responses to women and conflict.

HISTORICAL PREVALENCE TO MODERN VISIBILITY: CONTEMPORARY PREDICAMENTS AND DICHOTOMIES

Evident in the foregoing assessment is that we are undoubtedly witnessing an era of rapid and immense global recognition of, and response to CRVAW. When brought together, the accumulative effect of the increased visibility of CRVAW and the growing architecture of legal and political frameworks that engage with CRSV specifically could tempt one to believe that a point of convergence has been reached between women's experiences of conflict harms and corresponding international responses. It may be ceded that there has been "a remarkable

[103] United Nations Security Council Resolution 1820, S/Res/1820 (2008).
[104] United Nations Security Council Resolution 1888, S/Res/1888 (2009).
[105] United Nations Security Council Resolution 1960, S/Res/1960 (2010).
[106] United Nations Security Council Resolution 2106, S/Res/2106 (2013).
[107] Carver, "Men and Masculinities," p. 121.
[108] Diane Otto, "Power and Danger: Feminist Engagement with International Law Through the UN Security Council," *Australian Feminist Law Journal* 32 (2010), p. 106.

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progression of language in international law regarding sexual violence," and it has broadly moved from being perceived as an inevitability of war to its customary positioning as a breach of international law standards.[109] However, "winning at law seldom ends the larger struggle,"[110] and it is instructive to consider what these developments really tell us.

First, while we cannot know in comparable historic or contemporary terms whether sexualized violence is or is not the predominant violence for women in war, it is clear that a consistent and specific interest in *sexualized* violence permeates the trajectory of historic to contemporary political and legal reactions. "Conflict-related Violence Against Women" has become "Conflict-related Sexual Violence." Women's experiences of conflict have become sexed over time and are the pivot in international law and policy around which men's concern with protecting women's sexed bodies circulate. David Riches has asked, "what is it about violence that makes it efficacious in action and potent in imagery?"[111] Sexualized violence neatly echoes these precise qualities. It possesses a competence and a potency that extends beyond the act itself – the sexual degradation of women's bodies evoking a symbolism of attack on nationhood and citizenship and, importantly, on masculinity and the warrior male protector. So potent in imagery is this violence that, once recognized as a practice in war, it has prompted a response not seen for other forms of harm. It has been deemed the "worst harm" that could impact women, the harm above all harms.

Second and relatedly, in perusing the genealogies outlined earlier, the inordinate focus on political/public rape in war's regulatory frameworks, and the emergence of a "governing global discourse"[112] tied to a specific typology of conflict-time rape, becomes evident. Where CRVAW is recognized as sexualized violence, it is further delineated as penetrative sexualized assault and tethered to the idea of its "strategicness."[113] Interchangeably associated with the term "tactical," this framing implies that rape and sexualized violence are (always) part of the weaponry employed in war and performed for the purposes of political strategic ends.[114] The political intent and the armed actor agent of that violence is what makes it "conflict-related." Importantly, this predominant framing becomes a signifier for what "conflict-related" violence against women might include and exclude, particularly when it comes to legal frameworks of accountability.[115] As a framework, the focus on tactical rape works in the idea that this is a violence that is (solely) acted on an ordered and on a collective basis, while extinguishing the potential for recognition of broader forms of harm that women might name as being of most concern to them.

[109] Mitchell, "The Prohibition of Rape in International Humanitarian Law," pp. 244–47.
[110] Martha Albertson Fineman, *The Neutered Mother, the Sexual Family and Other Twentieth Century Tragedies* (New York: Routledge, 1995), p. 16.
[111] Riches, "The Phenomenon of Violence," p. 7.
[112] Maria Eriksson Baaz and Maria Stern, *Sexual Violence as a Weapon of War: Perceptions, Prescriptions, Problems in the Congo and Beyond* (London, New York: Zed Books, 2013), p. 16.
[113] Ibid., pp. 44–45. [114] Eriksson Baaz and Stern, *Sexual Violence as a Weapon of War*, chapter 2.
[115] Eriksson Baaz and Stern, *Sexual Violence as a Weapon of War*, footnotes 14, 15 for chapter 1.

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Third, it is evident that the contextual lineage and historical pattern to CRVAW has "disappeared" from current discourse and attention to the issue. This implies an absence of historical precedent, as if sexualized violence in today's wars is something "new" and characteristic of "modern" warfare, which in turn implies that today's "modern" wars are more likely to produce mass violence, particularly rape, of this kind. The evidence gathered here suggests that this may not solely be the case.[116] There is evidence of historical precedent to CRVAW, as well as the extreme and egregious physical harm and mutilation of women's bodies during war. This does not mean that sexualized violence has been prolific in all wars or a feature of the actions of all armed groups.[117] Nor does it mean that in today's wars, women are not specifically singled out for sexualized or egregious harms. Rather, acknowledgment is required of the historic and structural precedent to the assault of women in wartime. This is particularly important in approaches taken to contemporary conflicts which are estimated to have a higher probability of harms impacting civilians.[118] What may be new today is that women's experiences of violence have come to light.[119] The inclusion of sexualized violence as "worthy" news in contemporary war reporting and the growing disclosure of the prevalence of rape in war underscores what feminist scholars have been stating for years – that, to date, there has been inadequate attention to and categorization of CRVAW, and it has taken a long time for little progress to be made. As noted by Theodor Meron, "calamitous circumstances are needed to shock the public conscience into focusing on important, but neglected areas of law, process and institutions."[120] In mapping the historical data onto the legal and normative developments, it is obvious that the exposure

[116] Kelly Greenhill argues that a number of statistics used in UN reports which state that "the proportion of civilian victims has been rising steadily" in contemporary armed conflicts is based on mistaken interpretation of statistics that have in turn been widely used by academics, practitioners and policy makers alike, fueling a mis-representation of civilian casualties in contemporary armed conflict. Kelly M. Greenhill, "Counting the Cost: The Politics of Numbers in Armed Conflict," in *Sex, Drugs and Body Counts: The Politics of Numbers in Global Crime and Conflict*, ed. Peter Andreas and Kelly M. Greenhill (Ithaca, London: Cornell University Press, 2010).

[117] Elisabeth J. Wood, "Rape During War Is Not Inevitable: Variation in Wartime Sexual Violence," in *Understanding and Proving International Sex Crimes*, ed. Morten Bergsmo, Alf Butenschøn Skre, Elisabeth J. Wood (Beijing: Torkel Opsahl Academic EPublisher, 2012), p. 416.

[118] For an overview of differing positions on this issue, and to hear a contrary position resulting from a study that found that this was not the case see: Erik Melander, Magnus Öberg, and Jonathan Hall, "Are 'New Wars' More Atrocious? Battle Severity, Civilians Killed and Forced Migration Before and After the End of the Cold War," *European Journal of International Relations* 15 (2009), and Tristan Anne Borer, "Gendered War and Gendered Peace: Truth Commissions and Postconflict Gender Violence: Lessons from South Africa," *Violence Against Women* 15, no. 10 (2009), p. 1169.

[119] Harrington, *Politicisation of Sexual Violence*, p. 1. An alternative view is that there is a proliferation of intra-state as opposed to international armed conflicts: Theodor Meron, "The Humanization of Humanitarian Law," *American Journal of International Law* 95 (2000), pp. 243–44, and that "in a globalised world, intra-state conflicts are becoming increasingly international in nature and effects": Stockholm International Peace Research Institute, *SIPRI Yearbook 2005* (Stockholm International Peace Research Institute, 2005), p. 83.

[120] Meron, "Rape as a Crime Under International Humanitarian Law," p. 424.

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of the abuse of women in conflict in contemporary times has prompted the strengthened international response seen today.

Fourth, while systematic sexualized violence is unquestionably significant and may be prominent in many women's experiences of conflict, a focus solely on this form of violence makes redundant the revalence of endemic violence in women's lives. On the one hand, while I may easily map out the endeavors of feminists to identify gender as causal to the violence in women's lives within and outside of armed conflict, on the other, it is more difficult to find such analysis, particularly the relevance of gender and of women's experiences of gendered violence in the "pre-conflict" phase, within the legal and policy developments specific to armed conflict. While there has been specific attention to CRSV, the understanding of this violence as "gender-based" is not specifically articulated in the frameworks discussed, until the very recent move by CEDAW to draw an explicit link between gender, discrimination, and CRVAW in the human rights realm. Lack of recognition of the nexus between gender and violence, and of the global asymmetrical gendered patterns of harm that I discussed earlier, leave gaps in a fulsome understanding of how gender, violence, and armed conflict will intersect and what this can mean for women. Global legal and policy approaches focused on tactical rape as the political violence of concern negate the political nature of the ordinary systemic gendered violence before conflict, and miss ensuring that war's regulatory frameworks are also used to tackle the structural causes and historic context to wartime violence against women. How CRVAW could instead be understood as holding potency because it represents the continuing historic practice of the brutalization of women's bodies in warfare over time, as well as a continuation of the gendered harms that women ordinarily experience outside of and before war, remains a critical gap in both knowledge and response.

Finally, the earlier mapping also demonstrates an over-emphasis on the "during conflict" temporal period, with little (if growing) attention to how this maps onto either pre-existing gendered harms, as just discussed, or those that follow in the post-conflict period. Debate on the possible connections between conflict and post-conflict gendered violence is emerging; however, to date legal and policy developments have done little to extend their analytical framing and remit toward grappling with the fallout of mass political violence and what that might mean in the aftermath. It is evident that "[f]or many women, the end of war does not mean the advent of security."[121] It is further evident that in the development of understanding and responses to CRVAW, gaps remain in extending the parameters of "conflict-related" to grappling with gendered violence in the aftermath. While transitional justice mechanisms primarily function post-conflict, they often only look backward to the conflict period and neglect to more broadly engage with the

[121] Tracy Fitzsimmons, "The Postconflict Postscript: Gender and Policing in Peace Operations," in *Gender, Conflict and Peacekeeping*, ed. Dyan Mazurana, Angela Raven-Roberts, and Jane Parpart (USA: Rowman & Littlefield Publishers, 2005), p. 185.

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past's relevance to the post-conflict context. Questions thereby arise about whether the international legal and policy frameworks developed to respond to security and conflict, including those employed in transitional justice mechanisms, should also engage with the post-conflict context. In what ways can gendered violence after conflict be understood as "conflict-related" and in the historic trajectory of understanding and response to CRVAW, where do the dynamics of post-conflict violence against women fit?

In all, the accelerated way that CRVAW has recently gripped the international system[122] has arguably given rise to a singular construction of this violence as CRSV (read: "mass" and "strategic" rape, which are different connotations of violence but become conflated in this construction); who is responsible for it (armed actors, or, indeed "monsters," as they are acclaimed to be in some realms[123]); and a prevention and response thesis that largely focuses on engaging with armed actors and using justice as a deterrent.[124] Ultimately, and of most concern to this book, is that a universalized notion of women's experiences of conflict, and specifically of the conflict-related harms they may experience, has abruptly emerged and now predominates. It is acknowledged that a paradigmatic rendition of a complex issue is often what enables international political frameworks to engage with it. However, the ramifications of a continuing adherence to reductive interpretations of CRVAW requires scrutiny given the risks it poses for the creation of a more comprehensive understanding and response to the reality of violence in women's lives. Rather than a point of convergence, I find that there are two main areas of contention and fissures that remain significant as contemporary global approaches to understanding and responding to CRVAW evolves: 1) the need to capture public political violence under international law frameworks while at the same time avoiding the reinforcement of false dichotomies that exclude and make invisible private violence from legal and policy assessments of CRVAW; and 2) the need to continue to expand understanding of during-conflict violence while also exploring how it connects to the before and after-conflict period, and its relevance for justice and transition. Underpinning both is the need for attention to the relevance of my earlier overview of the nexus between gender and violence, and the ways that gender informs the current empirical realities of patterns of gendered violence in men and women's lives globally. These two critical areas of contention are further explored here to provide a platform for the empirical inquiry that takes place through these lenses in the remainder of the book.

[122] Karen Engle, "The Grip of Sexual Violence: Reading UN Security Council Resolutions on Human Security," in *Rethinking Peacekeeping, Gender Equality and Collective Security*, ed. Dianne Otto Gina Heathcote (Basingstoke: Palgrave Macmillan, 2014).

[123] Myrttinen and Swaine, "Monster Myths, Selfies and Grand Declarations."

[124] See, for example: Paul Kirby, "Ending Sexual Violence in Conflict: The Preventing Sexual Violence Initiative and Its Critics," *International Affairs* 91, no. 3 (2015).

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The Fallout of Divorce: Political Versus Endemic Gendered Violence

The most commonly used term, particularly by feminist scholars wishing to denote contested definitions of what does and does not constitute violence against women in conflict, is to refer to it as "political violence."[125] The elevation of sexualized political violence above other forms of violence is evidenced in the review of historical violence against women outlined before, and the ways in which the concept of rape as a weapon of war "has taken on legal significance," as explored through the genealogy of law.[126] Carolyn Nordstrom cautions that, in distinguishing between war-related rape (or genocidal rape which was the focus of her discussion), there runs the risk of normalizing ordinary rape.[127] This tension between what becomes categorized as political and/or extraordinary violence and thus captured in these frameworks, and that which is considered endemic or ordinary violence, is a manifestation of a dominant, if restrictive, framework which feminists have long struggled with. Feminists identified the public/private divide as a characteristic of liberal societies around which legal and sociological categorizations are organized.[128] The law is seen as "both central to concepts of public and private and crucial in constructing the distinctions between them."[129] This role extends to constructing a distinction between what is termed as public/political violence and private violence. As discussed in Chapter 1, "political" denotes organized violence that is deemed to have formal political function, and is enacted by combatants for political ends as part of wider or "mass" violence.[130] As a result, private violence, that which takes place outside of formal political imperatives is largely excluded from definitional concepts that underpin political violence.[131] This legal categorization of violence impacts how violence is viewed[132] and serves to distinguish between war-related and non-war-related violence.[133] Reproducing and

[125] See, for example: Fionnuala Ní Aoláin, "Political Violence and Gender During Times of Transition," *Colombia Journal of Gender and Law* 15, no. 1 (2006), p. 833, which cites: Douglas Hibbs, *Mass Political Violence: A Cross-National and Causal Analysis* (New York: John Wiley and Sons Inc., 1973), p. 7.

[126] Buss, "Rethinking 'Rape as a Weapon of War'," p. 148.

[127] Carolyn Nordstrom, "Rape: Politics and Theory in War and Peace," *Australian Feminist Studies* 11, no. 23 (1996), p. 156.

[128] Margaret Thornton, "The Cartography of Public and Private," in *Public and Private Feminists Legal Debates*, ed. Margaret Thornton (Melbourne: Oxford University Press, 1995). And for an overview of the thesis of Public/Private, see: Carole Pateman, *The Sexual Contract* (Cambridge: Polity Press 1988).

[129] Hilary Charlesworth, "Worlds Apart: Public/Private Distinctions in International Law," in *Public and Private Feminists Legal Debates*, ed. Margaret Thorton (Melbourne Oxford University Press, 1995), p. 246, citing Katherine O'Donovan, *Sexual Divisions in Law* (London: Weidenfield and Nicolson 1985), p. 3.

[130] See, for example: Fionnuala Ní Aoláin, "Political Violence and Gender During Times of Transition," *Colombia Journal of Gender and Law* 15, no. 1 (2006), p. 833, which cites: Douglas Hibbs, *Mass Political Violence: A Cross-National and Causal Analysis* (New York: John Wiley and Sons Inc., 1973), p. 7.

[131] Ní Aoláin, "Political Violence and Gender," p. 836. [132] Ibid., p. 831.

[133] Carolyn Nordstrom, "Rape: Politics and Theory in War and Peace," *Australian Feminist Studies* 11, no. 23 (1996), p. 156.

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representing the multi-faceted complexity of what is political about violence in this way tends to situate forms of violence within distinct legal parameters – either as a specific by-product of armed conflict, or something more normalized and endemic. As a result, attention to endemic, "ordinary," or "private" forms of harm, their relevance to what happens in conflict, and/or their enduring occurrence before, during or after times of conflict becomes omitted from an understanding of conflict-time violence as well as accountability for the same.

There is growing evidence, however, that in some war-impacted contexts women experience higher rates of IPV than wartime rape.[134] A prevalence study in the Democratic Republic of Congo, for example, found that rates of IPV might exceed 400,000 incidents.[135] Additional work substantiates this, with proposals that non-combatant-led violence is the most prolific violence in that site.[136] A study in rural Côte d'Ivoire found that the most common perpetrators of violence against women may not be combatants, either during the conflict itself or when violence is examined as ever-present in a woman's life across conflict and non-conflict periods.[137] Difficulties abound when drawing lines between and then measuring and assessing prevalence of what is and what is not *conflict-related violence*, particularly when assessing violence generally taking place within a context that is affected by conflict.[138] There also arises potential for data to be tailored to support predominant narratives of violence and to funding imperatives,[139] which has impacts for service provision[140] and the potential to miss a reality in favor of a political or policy imperative. Feminist legal scholars have argued that rape in war should not be considered distant from the violence women experience in their homes and streets.[141] By demarcating them as different things, frameworks of international law have not comprehensively addressed the roots and complexity of the harms

[134] "Rethinking Gender-Based Violence" (Child Protection in Crisis Learning Network, 2009).

[135] Amber Peterman, Palermo, Tia, Bredenkamp, Caryn, "Estimates and Determinants of Sexual Violence Against Women in the Democratic Republic of Congo," *American Journal of Public Health* 101, no. 6 (2011).

[136] Harvard Humanitarian Initiative and Oxfam International, "'Now the World Is Without Me': An Investigation of Sexual Violence in Eastern Democratic Republic of Congo" (Cambridge, MA: Harvard Humanitarian Initiative Oxfam International, 2010).

[137] Mazeda Hossain et al., "Men's and Women's Experiences of Violence and Traumatic Events in Rural Côte D'Ivoire Before, During and After a Period of Armed Conflict," *BMJ Open* 4 (2014), p. 6.

[138] Françoise Roth, Tammy Guberek, and Amelia Hoover-Green, "Using Quantitative Data to Assess Conflict-Related Sexual Violence in Colombia" (Benetech, Corporacion Punot de Vista, 2011).

[139] Ibid.

[140] Lindsay Stark and Alistair Ager, "A Systematic Review of Prevalence Studies of Gender-Based Violence in Complex Emergencies," *Trauma Violence and Abuse* 12, no. 3 (2011).

[141] Copelon, "Gender Crimes as War Crimes: Integrating Crimes Against Women into International Criminal Law," p. 239.

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that women experience.[142] The genealogy of how we have come to understand violence against women in context, and its gendered basis, is omitted.

It is important to assess international law's role in defining the boundaries of "what is a legal matter and what is not," and thereby what is relevant and what is not,[143] in respect of whether contemporary legal frameworks account for or have the potential to account for the nuanced nature of violence that this book explores. The public/private distinction results in hierarchies in which public/political forms of violence receive attention and are readily condemned, while less visible forms do not, and, in fact, are seen as personal.[144] The ordinary violence is relegated to the mundane, while the extraordinary violence receives legal codification and attention. In line with the public/private distinction, ordinary violence is not captured, and, instead, these categories run the risk of creating false dichotomies of what is lawful and unlawful.[145]

In this respect, it is relevant to pause and consider the analysis of "violence" outlined earlier in this chapter. As discussed in Chapter 1, the premise of this book is to begin an assessment of CRVAW through an exploration of violence itself. This book has assumed the position that violence has a meaningful and creative effect[146] and that this meaning may be derived from understanding violence in its social context.[147] Assessing violence in this way "demands a focus on the mundane, the ordinary rather than the extraordinary."[148] Therefore, rather than disregarding the mundane in the ways in which this overarching framework and international law have done, theorizing how the mundane informs what happens in conflict and how ordinary violence endures during conflict is perhaps more appropriate. A "hyper vigilance to the less dramatic, permitted and even rewarded everyday acts of violence"[149] is critical if the more extreme political violence is to be prohibited.

An approach that considers what went before (the gendered subjugation of women through endemic gendered violence) and a context-specific approach that assumes that violence responds to conditional factors (including the addition of armed conflict) provides a mode to understand the ways in which gendered violence before

[142] Fionnuala Ní Aoláin, "Exploring a Feminist Theory of Harm in the Context of Conflicted and Post-Conflict Societies," *Queen's Law Journal* 35 (2009).

[143] Ann Stewart, "The Contribution of Feminist Legal Scholarship to the 'Rights Approach to Development'," in *Gender, Law and Social Justice*, ed. Ann Stewart (London: Blackstone Press Ltd., 2000), p. 8.

[144] See generally: Tina Sideris, "Rape in War and Peace: Social Context, Gender, Power and Identity" (Zed Books Ltd.).

[145] Jill Radford and Elizabeth A. Stanko, "Violence Against Women and Children: The Contradictions of Crime Control Under Patriarchy," in *Women, Violence and Male Power: Feminist Activism, Research and Practice*, ed. Marianne Hester, Liz Kelly, and Jill Radford (Buckingham and Philadelphia: Open University Press, 1996), p. 67.

[146] Jon Abbink, "Preface: Violation and Violence as Cultural Phenomena," in *Meanings of Violence: A Cross Cultural Perspective*, ed. Jon Abbink and Göran Aijmer (Oxford, New York: Berg, 2000), p. xiii.

[147] Ibid., p. xiii. [148] Dobash and Dobash, "Violent Men and Violence Contexts," p. 142.

[149] Nancy Scheper-Hughes and Philippe Bourgois, "Introduction: Making Sense of Violence," in *Violence in War and Peace: An Anthology*, ed. Nancy Scheper-Hughes and Philippe Bourgois (UK: Blackwell Publishing Ltd., 2004), p. 20.

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conflict informs what happens during conflict. This may reveal not only the means and manifestation of what may be categorized as political violence against women, but also the wider harms that continue into and confront a particular context of conflict. Given the pervasiveness of gendered violence across societies and cultures, this contextual approach is relevant in assessing why and how this violence becomes an element of political violence across many conflict sites.

Inter-relational Connections Between During and Post-Conflict Violence

I have just argued that what "went before" (i.e. a gendered order and context that give rise to patterns of harm in women's lives) is relevant to understanding the gaps in law's framing of political and private violence related to conflict. I also earlier identified and now argue for the need to examine gaps in understanding of what "comes after," i.e. the relevance of patterns of gendered harm from conflict to post-conflict phases. Debate on the possible connections between conflict and post-conflict gendered violence has largely relied on the idea of prevalence and frequency of violence, i.e. are the rates of post-conflict violence a result of what happened during conflict? A number of scholarly legal, sociological, anthropological, and political science publications state that violence against women "intensifies"[150] or increases in the aftermath of conflict.[151] Some argue that sexualized violence continues after conflict but responds to the context of transition by taking different forms.[152] There are also reports that the sexual abuse of females of younger ages (girls) in contexts, such as Liberia, becomes more prevalent than that of women in the post-conflict phase.[153] These and other bodies of work make direct links between women and girls' subjection to violence

[150] Sheila Meintjes, Anu Pillay, and Meredeth Turshen, eds. *The Aftermath: Women in Post-Conflict Transformation* (New York: Zed Books Ltd., 2001).

[151] For example, see: Bett Goldblatt and Sheila Meintjes, "Gender and the Truth and Reconciliation Commission: A Submission to the Truth and Reconciliation Commission" (South Africa: University of the Witwatersrand, 1996); Carolyn Nordstrom, *Girls and Warzones: Troubling Questions* (Sweden: Life & Peace Institute, 1997); Kimberly Theidon, "Reconstructing Masculinities: The Disarmament, Demobilisation and Reintegration of Former Combatants in Colombia," *Human Rights Quarterly* 31 (2009); Wenona Giles and Jennifer Hyndman, eds., *Sites of Violence: Gender and Conflict Zones* (University of California Press, 2004); Debra L DeLaet, "Gender, Sexual Violence and Justice in War-Torn Societies," *Global Change, Peace & Security* vol. 20, no. 3 (2008); Christine Chinkin, "Rape and Sexual Abuse of Women in International Law," *European Journal of International Law* 5 (1994); Brandon Hamber, "'Have No Doubt It Is Fear in the Land': An Exploration of the Continuing Cycles of Violence in South Africa," *Zeitschrift für Politische Psychologie* 7 (1999); Brandon Hamber et al., "Discourses in Transition: Re-Imagining Women's Security," *International Relations* 20, no. 4 (2006); Galuh Wandita, Karen Campbell-Nelson, and Manuela Leong Pereira, "Learning to Engender Reparations in Timor-Leste: Reaching out to Female Victims," in *What Happened to the Women? Gender and Reparations for Human Rights Violations*, ed. Ruth Rubio-Marín (New York: Social Science Research Council, 2006).

[152] Sideris, "Rape in War and Peace: Social Context, Gender, Power and Identity."

[153] See, for example: Stephen Lewis, "Peace Is a Mere Illusion When Rape Continues. Remarks Delivered at the Wilton Park Conference: Women Targeted or Affected by Armed Conflict: What

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during conflict and their experiences of gendered violence in the aftermath. Documentation has included examples such as Yugoslavia, where it was found that weapons used during the conflict were then used in interpersonal violence once the conflict was over.[154] In El Salvador, women's groups have argued that IPV increased following the civil war. This was attributed to the return of men who were jobless and the accumulation of ten years' experience in using violence.[155] Nordstrom cites studies that show that those in uniform demonstrate higher rates of sexual and intimate partner violence in times of war and peace.[156] She notes in later work the influence of cycles of violence and that those who perpetrate violence in war continue to do so after war.[157] There are reports of increased IPV among US troops returned from tours of duty in the wars in Afghanistan and Iraq.[158] A quantitative study of immigrant men in the United States found that men exposed to political violence were more likely to have perpetrated IPV in the past year than those who had not been pre-exposed to political violence.[159] Similar to the links that are made between early childhood exposure to violence and later likelihood to commit violence, that study underscores the relevance of exposure to political violence as a factor in post-war violence against women.[160] Contextual factors, such as gender inequalities and changing gender roles after conflict and during immigration, are noted as a relevant consideration that this study does not account for, but others do.[161] Theoretical approaches to the issue of masculinities for example explore the impact of militarism on men and wider society and consider whether this may explain trends in male violence after conflict. Kimberly Theidon proposes that "the militarisation of daily life and the forging of militarised masculinities" prompts the "domestication of violence" following a war. The dynamics of masculinities, within the state as a body-politic and within armed movements, are often reasons why women may be more at risk of violence in the post-conflict period.[162] While these are obviously significant considerations, there however appears to be little empirical evidence exploring whether the returning men who are violent, were also violent in their relationships before exposure to political violence, and thereby they simply bring this violence back into women's lives. Nor is there extensive data showing

Role for Military Peacekeepers?," *Pambazuka News*, www.pambazuka.org/en/category/comment/50445.

154 United Nations Secretary-General, "Report of the Secretary-General on Women, Peace and Security, S/2002/1154" (New York, United Nations, 2002), p. 15.

155 Fitzsimmons, "The Postconflict Postscript," p. 185.

156 Nordstrom, *Girls and Warzones: Troubling Questions*, p. 28.

157 Carolyn Nordstrom, *Shadows of War: Violence, Power, and International Profiteering in the Twenty-First Century* (Berkeley, Los Angeles, and London: University of California Press, 2004), p. 179.

158 Bill Berkowitz, "Bringing the Violence Home," AlertNet, www.alternet.org/story/18857/bringing_the_violence_home/; "Intimate Partner Violence: Information Specific to Veterans," www.ptsd.va.gov/public/pages/domestic-violence.asp; Jennifer Cotter, "War and Domestic Violence," *Marxist Theory and Critique of the Contemporary* 6 (2002).

159 Jhumka Gupta, Dolores Acevedo-Garcia, David Hemenway, Michele R. Decker, Anita Raj, Jay G. Silverman, "Premigration Exposure to Political Violence and Perpetration of Intimate Partner Violence Among Immigrant Men in Boston," *American Journal of Public Health* 99, no. 3 (2009), p. 462.

160 Ibid., pp. 466–67. 161 Ibid. 162 Theidon, "Reconstructing Masculinities," p. 21.

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that men who were not violent in their relationships before a conflict become so after conflict. A qualitative study in post-conflict Sierra Leone and Liberia found that women did not perceive their husband's violence toward them as stemming from the war, and that the violence in their home had been present before the war.[163] However, the women interviewed did feel that there were impacts on the men: they had been fighters who used violence to access goods, and they did the same now. Interviewees perceived there to be a wider acceptance of violence as a means to deal with stressors and as a response to frustration.[164] In studies such as these, the "war-factor" cannot be divorced from the wider context in which women are experiencing violence. It is a context in which men's authority is paramount and transgressions of expected gendered behavior are triggers for violence (before and after war). It is also a context where increasing economic independence of women is seen to cause an increase in violence for some women, but a decrease for others. Additionally, the context of poverty means that mothers whose husbands have been killed in the war have no choice but to marry the men available, many of whom are ex-fighters and who may be those who committed mass atrocities and in some estimations discussed, will have higher proclivity to violence.[165]

It is not clear from any of this foregoing research whether it is reports of violence that have increased or actual incidence, and this distinction is not adequately explored. There is little available data to quantitatively support the claims made (albeit there is some qualitative data that does not specifically say whether the distinction between reporting and prevalence has been considered). It may be that the perceived severity of the violence has increased as a result of the dynamics of the conflict itself.[166] Some of the conclusions made may therefore constitute an assumption, a logical assumption, that while "we are far from knowing if cultural wounds lead to ongoing cycles of social instability and violence,"[167] where there is a peak in violence during conflict, one can assume that violence does not simply go away.

In all of this, changes to trends in reporting of violence after a conflict are a critical consideration. Comparisons between *opportunities* to report violence before, during, and after a conflict do not seem to feature in estimations of increased violence after conflict. Analysis of reporting is a critical gap in current estimations of post-conflict violence, and one that this book later pursues in Chapter 6. There is also a need to consider whether wide-scale and mass socio-political violence influences violence in other spheres, private or otherwise.[168]

[163] Eve S. Puffer, Rebecca Horn, Elisabeth Roesch, and Heidi Lehmann, "Women's Perceptions of Effects of War on Intimate Partner Violence and Gender Roles in Two Post-Conflict West African Countries: Consequences and Unexpected Opportunities," *Conflict and Health* 8 no. 12 (2014), pp. 6–7.

[164] Ibid., pp. 7, 9, 10. [165] Ibid. [166] Giles and Hyndman, *Sites of Violence*, p. 7.

[167] Nordstrom, *Shadows of War: Violence, Power, and International Profiteering in the Twenty-First Century*, p. 60.

[168] Sideris, "Rape in War and Peace: Social Context, Gender, Power and Identity," p. 153.

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Regardless of whether there is an increase or a decrease, evident are two things: that gendered violence against women is present in the aftermath of a conflict; and that in some instances, there may be links between the "political" violence of a conflict and the violence that women experience after conflict. Just as war can provide opportunity for women and some "pockets of peace"[169] (particularly if violent husbands are away and there is an absence of mass political sexualized violence), the aftermath presents its own challenges. Many feminist scholars highlight the ways in which any gains made during conflict are retracted after conflict as men attempt to reassert control, which may play out within intimate relationships.[170] While this may be true, there is also the possibility that this assessment lacks a comparative element to understand just how different the post-conflict context may be from the pre-conflict context. The efforts at retraction by men may not just be about men establishing their authority in the home once again, but also may be relative to the possibilities that now exist post-conflict that were never there before and were never a threat to men's power. While the majority of post-conflict literature focuses on the "backlash" against women after conflict, the general pattern in Africa demonstrates unprecedented gains in terms of women's rights,[171] at least, in my view, from a formal legislative perspective. While gender equality may remain a site of conflict and struggle between men and women, that struggle also translates into some gains that were never there before. The exclusion of women from post-conflict governance or economic opportunities, for example, becomes more obvious to both local activists and international commentators. This is possibly because of the opportunities presented by the restructuring of social and political institutions and the creation of democratic governance after conflict, and also in some cases, because women took more public roles during conflict in the absence of men. Whether women were ever part of these structures prior to the conflict does not appear in assessments. What is available, however, is data that shows that gains made by women post-conflict, such as a 30 percent quota for women in elections in post-conflict Timor-Leste[172] or the securing of 48.8 percent representation of women in the Rwanda parliament post-genocide,[173] compares favorably to the paltry 15 percent representation of women in a liberal democracy such as Ireland.[174] Violence does function as a

[169] Ibid., p. 185.

[170] Brandon Hamber, "Masculinity and Transitional Justice: An Exploratory Essay," *The International Journal of Transitional Justice* vol.1 (2007), p. 385.

[171] Aili Mari Tripp, "Legislating Gender-Based Violence in Post-Conflict Africa," *Journal of Peacebuilding and Development* 5, no. 3 (2010), p. 8.

[172] Caren Grown, Geeta Rao Gupta, and Aslihan Kes, *Taking Action: Achieving Gender Equality and Empowering Women* (UK & USA: United Nations Development Programme, 2005), p. 107; Irene Cristalis and Catherine Scott, *Independent Women: The Story of Women's Activism in East Timor* (London: Catholic Institute for International Relations 2005), chapter 5.

[173] Elizabeth Powley, "Rwanda: Women Hold up Half the Parliament," in *Women in Parliament. Beyond Numbers*, ed. Julie Ballington and Azza Karam (Stockholm: IDEA, 2005), p. 154.

[174] Claire McGing, "Women in Irish Politics: Why So Few and Are Quotas the Answer?," Political reform. ie, http://politicalreform.ie/2011/05/18/women-in-irish-politics-why-so-few-and-are-quotas-the-answer/.

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control mechanism, and, as such, it can be expected to be used by men to reassert their control after the flux caused by conflict. Whether this is any different from the kinds of normative controls which violence was used for before (and during) the conflict is not evident in the literature. Violence in the aftermath thus requires assessment not only in respect of what went before (pre and during conflict) but also in relation to factors within the after-conflict situation itself that will contextualize the form and intensity of that violence. The enduring violation of women across periods of both peace and conflict is central to understanding what the post-conflict context may present for women.

CONCLUSION: DICHOTOMIES AND DILEMMAS FOR ACCOUNTABILITY

Why does any of this matter? Accountability and the lack of justice for CRVAW remains a critical gap for women and girls. The categorization of conflict-time harms through international law and policy implies strategies that elevate particular offenses, particular actors responsible for crimes, and particular accountability approaches.[175] As such, what violence is called, codified, or indeed labeled as within emerging legal and normative frameworks impacts where and how violence gets addressed, neglected, or made invisible. For these reasons, the categorization of violence in law (and policy) as mapped over time in this chapter matters for whether and how women's experiences of conflict-related harm will be addressed. Overtime, particular forms have been privileged for attention, and while these harms require such attention, they may not be the only issues that actually affect women's lives. The problem with categorizing certain violations as "political," as discussed earlier, is relevant in considering what kinds of violence are included or excluded from the remit of transitional processes. Is the value of only addressing political violence lost when the connections between past, present, and future violence are not captured, understood, or are ignored? As evidenced in this chapter, "the sexual violence story" may not be exceptional to today's wars, but rather indicative of the political currency available to making CRVAW visible or invisible in some contexts today. A more appropriate approach would be one that, first, makes today's events potent because they are indicative of the continuing practice of the brutalization of women's bodies in warfare over time; and second, because they represent the manifestation of the gendered harms ordinarily present in women's lives in conflict contexts. There remains the need to make visible wider harms that women experience during conflict, as part of, alongside or distinct to strategic rape, and to deconstruct false dichotomies so that all harms reach policy and legal significance.

[175] Susan Harris Rimmer, *Gender and Transitional Justice: The Women of East Timor* (London and New York: Routledge, 2010), p. 16.

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3

Who Wins the Worst Violence Contest? Armed Conflict and Violence in Northern Ireland, Liberia, and Timor-Leste

INTRODUCTION

Violence is considered to be "understood best when . . . examined over a range of cultural settings."[1] However, researching violence across diverse settings, such as those selected for examination in this book (Liberia, Northern Ireland and Timor-Leste), poses a series of conundrums. It is tempting to single out the most egregious violence among them for attention, or to take for granted that the most attention-grabbing brutality reflects a singular reality of violence that has occurred. Racist and neo-colonial pronouncements on these settings also materialize in the secondary western media and popular resources that inform our research, pitching violence in the global south as peculiarly atrocious relative to the alleged civility of violence in the global north. Comparative assessment of episodes of intense and extreme violence could easily become a "contest of brutality," fetishizing one case over the other, unless keen attention is paid to the way that violence is being portrayed. In bringing the contexts of Liberia, Northern Ireland, and Timor-Leste together for comparative analysis, not only do patterns of violence across sites become visible, so too do exceptional acts of violence that distinguish one site from another. The three sites present examples of violence that are often categorized as the "worst harms" in media and political pronouncements. These dynamics, inherent to violence research and case study assessment, presented multiple conundrums as I was undertaking the research for and writing this book. The study of violence across such sites and engaging with their "worst harms" required asking honest and reflexive questions about personal assumptions and the exceptionalism attributed to (some) warfare in existing materials, and how these may be best navigated in comparative theoretical and empirical assessments of violence in differing settings.

The overall aim of this chapter is to provide background to the three case studies that feature in the book. The chapter fulfills two functions. The first is to provide the reader with an overview of the historico-political background to the each of the

[1] David Riches, "Preface," in *The Anthropology of Violence*, ed. David Riches (Oxford, New York: Basil Blackwell, 1986), p. vii.

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conflicts that the book engages with. The second is two-fold: to provide a rich summary of existing documentation about CRVAW in each site, and in so doing, to identify and critically assess the trends and patterns in violence that the documentation focuses on. These are set out in the first half of the chapter. I then include a discussion of "who wins the worst violence contest" as a means to tackle some of the assumptions and biases about what is "known" about violence in each setting. The inclusion of this discussion here is to acknowledge the potential pitfalls that emerge when doing comparative assessment of what are assumed to be very different conflicts. It also serves to account and provide a platform for the ways that I analytically engage with examples of "egregious" and "extreme" violence that arise from empirical data in the next three chapters. I employ a reflexive lens as the frame for both navigating the challenges that the study of violence across diverse sites poses for the researcher, as well as establishing the very basis for the approach taken to the comparative assessment of violence across the book.

ARMED CONFLICT AND TRANSITION IN NORTHERN IRELAND, LIBERIA, AND TIMOR-LESTE

Liberia, Northern Ireland, and Timor-Leste have all experienced very different conflicts and political transitions, and have each experienced distinctive modalities of warfare and resulting patterns of violence. An overview of the conflict and ensuing transition is presented through the lens of general conflict violence documented in each site. These summaries present the periods of conflict in each that the book specifically focuses on.

Republic of Liberia

Located within a complex of post-colonial era West African states, Liberia's founding, geo-political positioning, and natural resources greatly inform its cycles of armed violence and political contestation. Arriving in West Africa on ships sponsored by the American Colonization Society, freed American slaves established Liberia as the first independent African state in 1847.[2] An evolving Americo-Liberian oligarchy oppressive to the indigenous population prompted the first major insurrection in 1979, led by Master-Sergeant General Samuel Doe and his Armed Forces for Liberia (AFL).[3] With the aim of freeing indigenous Liberians, it marked the beginning of inter-ethnic and ethnically targeted violence,[4] expulsions,

[2] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report: Volume Three, Title 1 Women and the Conflict" (Monrovia, 2009), p. 4.
[3] Stephen Ellis, *The Mask of Anarchy* (Malaysia: C. Hurst & Co., 2001), p. 52.
[4] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," pp. 4, 5, 7.

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and executions in the country.[5] Charles Taylor's National Patriotic Front of Liberia (NPFL) attacked in 1989,[6] marking the beginning of a fourteen-year period widely considered to be Liberia's contemporary civil war.[7] Taylor's forces enacted violence against ethnic groups affiliated with Doe, and vice versa.[8] As the NPFL grew, Taylor's control of these forces diminished, and NPFL members began committing abuses against the civilian population on a massive scale.[9] Splits in the movement included the creation of the Independent National Patriotic Front of Liberia (INPFL)[10] by Prince Johnson, who captured and publicly killed Doe in 1990.[11] In 1991, the Economic Community of West African States (ECOWAS) installed an Interim Government of National Unity, which Taylor refused to recognize.[12] Taylor

[5] Desirée Nilsson and Mimmi Soderberg Kovacs, "Breaking the Cycles of Violence? Promises and Pitfalls of the Liberian Peace Process," *Civil Wars* 7, no. 4 (2005), p. 398. This period marked some of the first massacres in Liberia, such as an attack by the AFL on St. Peter's Lutheran Church where 600 people who were taking refuge inside were killed: Abiodun Alao, *The Burden of Collective Good Will: The International Involvement in the Liberian Civil War* (Aldershot, Brookfield: Ashgate, 1998), p. 24.

[6] Mark Huband, *The Liberian Civil War* (London, Portland: Frank Cass, 1999).

[7] This period encompasses two cycles of conflict: the first period termed an "armed conflict" ("Liberia at a Crossroads: Human Rights Challenges for the New Government." *A Human Rights Watch Briefing Paper*, 2005), p. 5) or the "first war" (Quentin Outram, "'It's Terminal Either Way': An Analysis of Armed Conflict in Liberia, 1989–1996," *Review of African Political Economy* 24, no. 73 (1997), p. 358), which was prompted by an attack on Liberia by Charles Taylor in 1989 and ended with his election as president in 1997; and the second period of conflict from 1999 to 2003, when tensions between Charles Taylor's government and emerging armed factions manifested in a further cycle of conflict: Mike McGovern, "Liberia: The Risks of Rebuilding a Shadow State," in *Building States to Build Peace*, ed. Charles T. Call and Vanessa Wyeth (Boulder, London: Lynne Rienner Publishers, 2008), p. 337; Adekeye Adebajo, *Building Peace in West Africa: Liberia, Sierra Leone and Guinea-Bissau* (Boulder, London: Lynne Rienner Publishers, 2002), p. 46. Liberia's conflict is also estimated to have constituted a "regional conflict complex" which directly involved Sierra Leone, drew in political and armaments support from Guinea, Côte d'Ivoire, and Burkina Faso, and implicated the international involvement of the Economic Community of West African States (ECOWAS) which, as a result of regional concerns over the situation, deployed the ECOWAS Ceasefire Monitoring Group Peacekeeping forces (ECOMOG) to Liberia in 1990: Matiangai Sirleaf, "Regional Approach to Transitional Justice? Examining the Special Court for Sierra Leone and the Truth and Reconciliation Commission for Liberia," *Florida Journal of International Law* 209 (2009), pp. 217–21; Desirée Nilsson and Mimmi Soderberg Kovacs, "Breaking the Cycles of Violence? Promises and Pitfalls of the Liberian Peace Process," *Civil Wars* 7, 4 (2005): 396–414, p. 400; Chernor Jalloh and Alhagi Marong, "Ending Impunity: The Case for War Crimes Trials in Liberia," *African Journal of Legal Studies* 53 (2004–5), p. 61; "Truth Commission: Liberia – Digital Collection," United States Institute of Peace, www.usip.org/publications/truth-commission-liberia.

[8] Stephen Ellis, "Liberia: 1989–1994: A Study of Ethnic and Spiritual Violence," *African Affairs* 94 (1995), p. 167.

[9] "Liberia: A Human Rights Disaster: Violations of the Laws of War by All Parties to the Conflict" (Human Rights Watch, 1990), p. 3.

[10] Ellis, *The Mask of Anarchy*, p. 1.

[11] Doe was captured under circumstances which are still being disputed (largely relating to whether ECOMOG forces were involved). Prince Johnson subjected him to an extended period of torture and eventual murder. Johnson filmed the torture, including the severing of Doe's ears and Johnson's consumption of the ears: Huband, *The Liberian Civil War*, pp. 191–93.

[12] Ellis, "Liberia: 1989–1994: A Study of Ethnic and Spiritual Violence," p. 169.

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continued to control about 60 percent of Liberia from this time.[13] Within this territory, there were approximately 60,000 "armed civilians" (as opposed to trained fighting units) with their own areas of control and operating under their own rules, using their weapons for personal rather than strategic ends.[14] Thirteen peace agreements between May 1990 and August 1994 failed to secure peace.[15] In the July 1997 election, Taylor and his fighting-faction-turned-political-party, the National Patriotic Party (NPP), won an overwhelming majority and Taylor became president.[16] Dissatisfaction with Taylor's rule prompted his main opponents to unite under the umbrella group Liberians United for Reconciliation and Democracy (LURD).[17] In what is regarded as a continuation of the civil war,[18] LURD advanced on Monrovia, committing mass atrocities, until a formal cessation of hostilities was agreed in 2003. Uniquely, Liberian women played a major role in bringing about the peace agreement and an end to this period of war.[19]

During this period, all parties to the conflict were responsible for atrocities, including war crimes, crimes against humanity, and violations of international human rights law, international humanitarian law, international criminal law, and domestic criminal law.[20] Estimates of the death toll during the fourteen-year period vary among reports and academic sources. The Liberian Truth and Reconciliation Commission (LTRC) estimates that the conflict resulted in the death of more than 250,000 people and displaced over two million.[21] The first year of the war, 1990, resulted in 20–25,000 deaths,[22] approximately 90 percent of whom were civilians[23]

[13] Ibid., p. 170. Further splits resulted in eight leading factions engaging in the war, fueled by their control of natural and economic resources such as diamonds, gold, timber, and rubber: Adebajo, *Building Peace in West Africa*, p. 47. Also see the following for an account of the various factions: Ellis, *The Mask of Anarchy*.

[14] Ellis, "Liberia: 1989–1994: A Study of Ethnic and Spiritual Violence," p. 185.

[15] Adebajo, *Building Peace in West Africa*.

[16] McGovern, "Liberia: The Risks of Rebuilding a Shadow State," p. 337; Huband, *The Liberian Civil War*, p. 219; Nilsson and Soderberg Kovacs, "Breaking the Cycles of Violence? Promises and Pitfalls of the Liberian Peace Process." By early 1997, 74 percent of fighters had been demobilized and a general amnesty granted to all faction fighters as part of the peace accord: Adebajo, *Building Peace in West Africa*, pp. 50 & 66, and "Liberia at a Crossroads: Human Rights Challenges for the New Government," p. 5.

[17] Mats Utas, "Victimcy, Girlfriending, Soldiering: Tactic Agency in a Young Woman's Social Navigation of the Liberian Warzone," *Anthropological Quarterly* 78, no. 2 (2005), p. 412.

[18] In all, the conflict in Liberia is referred to as the 14-year civil war, encompassing events from 1989 to 2003. Nilsson and Soderberg Kovacs, "Breaking the Cycles of Violence? Promises and Pitfalls of the Liberian Peace Process," p. 396.

[19] See, for example, the documentary film: Abigail E. Disney (Producer) and Gini Reticker (Director), *Pray the Devil Back to Hell* (USA: Fork Films, 2008).

[20] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume II: Consolidated Final Report" (Monrovia: Liberia Truth and Reconciliation Commission).

[21] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," p. 48.

[22] Bill Berkeley, "Liberia: Between Repression and Slaughter," *The Atlantic* 270 (1992), p. 313.

[23] Physicians for Human Rights; 1992; "Anguish in a Divided Land," cited in: Association of Female Lawyers of Liberia (AFELL) and the Editors, "Hundreds of Victims Silently Grieving," in *What*

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and 3,000 of whom are thought to have died from lack of food in Monrovia between July and August alone.[24] Women were subjected to sexualized violence, which occurred on a widespread basis during all periods of the conflict. These assaults were often accompanied by physical brutality, sexual slavery, and gang rape, and resulted in death, displacement, and a wide range of harms specifically addressed to women.[25] The United Nations Mission in Liberia (UNMIL) was established in October 2003, and a peacekeeping force of 15,000 was put in place, which is still present, albeit on a smaller scale.[26] The key post-conflict challenges have been institutional reform, re-establishment of the rule of law, and dealing with the needs of a country in which 76 percent of the population is living on less than fifty US cents per day.[27]

Northern Ireland

Located in the northern-most region of the island of Ireland in Western Europe, Northern Ireland is a region of the United Kingdom with a population of 1.8 million. The United Kingdom characterizes the period of contemporary political violence (1969–98), colloquially known as "the Troubles," as "deviant criminal behavior."[28] Although there is no agreed-upon narrative over how the contemporary era of the Troubles began, its roots are largely attributed to the historical extension of British colonial control over the island of Ireland. The gradual emergence of competing nationalisms of a minority Irish (mainly Catholic) population, seeking a free and later united Ireland, and majority British (mainly Protestant) population, defending union with Britain, brought cycles of violence from the 1600s onwards. Following the War of Independence (1919–21),[29] a six-county Northern Ireland was partitioned with a separate parliament, while the twenty-six-county southern Ireland was given "dominion" status to Britain under the Government of

Women Do in Wartime, ed. Meredeth Turshen and Clotilde Twagiramariya (London, New York: Zed Books Ltd., 1998).

24 Ellis, *The Mask of Anarchy*.

25 Truth and Reconciliation Commission of Liberia, Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict."

26 Nilsson and Soderberg Kovacs, "Breaking the Cycles of Violence? Promises and Pitfalls of the Liberian Peace Process," p. 402. The UN Mission in Liberia (UNMIL) was renewed by the UN Security Council on a decreasing scale in September 2015: Resolution 2339 S/RES/2239 (2015).

27 Republic of Liberia, "Millenium Development Goals Report 2004" (Monrovia: Government of Liberia, 2004), p. 13.

28 Fionnuala Ní Aoláin, *The Politics of Force: Conflict Management and State Violence in Northern Ireland* (Belfast: Blackstaff Press, 2000), p. 230.

29 Ibid.; Sinéad McCoole, *No Ordinary Women: Irish Female Activists in the Revolutionary Years 1900–1923* (Dublin O'Brien Press Ltd, 2004), p. 31.

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Ireland Act (1920) and later full independence.[30] The Northern Ireland Civil Rights Association,[31] inspired by global civil rights movements, led mass public civil rights marches in the 1960s, calling for reforms following entrenched marginalization of the minority population since partition.[32] Political loyalties became entrenched and violent reprisals to the protests caused wider violence to erupt. The re-emergence of paramilitary organizations, most notably on the Republican side with the creation of the Provisional Irish Republican Army (PIRA), and on the Loyalist side, the Ulster Volunteer Force (UVF), as well as later splinter groups from both sides, made the 1970s the bloodiest period as these groups began to clash.[33] State security measures in Northern Ireland went through a rapid militarization in response, which included the deployment of British armed forces to Northern Ireland.

In terms of the civilian impact of the conflict, the death toll, and the intensity of the violence is sometimes underestimated. *Lost Lives*, published in 2004, documents 3,703 deaths as a result of, or related to, the political violence between 1966 and 2003.[34] Brendan O'Leary and Josh McGarry's work contextualizes this data and concludes that, when assessed in terms of the ratio of victims per population of the entire United Kingdom, some 100,000 people would have been killed (based on the 1981 census).[35] Between 1968 and 1994, there were 33,000 shootings and 16,000 explosions, incendiaries, and defusions,[36] resulting in more than 33,000 people suffering serious injuries.[37] Mass cross-ethno-national and cross-community violence has not been documented. There has been very little documentation of the gendered violence women may have experienced. Notably, the Troubles periods pre-dates the contemporary preoccupation with CRSV discussed in the previous chapter. The most researched and documented aspect of women's experiences of the conflict was its effects on domestic violence. Following frequent attempts to

[30] John McGarry and Brendan O'Leary, *Explaining Northern Ireland* (Oxford: Blackwell Publishers, 1995), p. 98 & 101. Also: John Darby, *Northern Ireland: The Background to the Conflict* (Belfast: Appletree Press, 1983).

[31] McGarry and O'Leary, *Explaining Northern Ireland*, p. 160; Darby, *Northern Ireland: The Background to the Conflict*, p. 26.

[32] Eilish Rooney, "Political Division, Practical Alliance: Problems for Women in Conflict," *Journal of Women's History* 6/7, no. 1 (1995), p. 41.

[33] During the mid-1970s there were up to 35 known Loyalist paramilitary groups. The only paramilitary organization that gained recognized legal status was the Ulster Defence Association (UDA), which in the 1970s had up to 40,000 members: Brendan O'Leary and John McGarry, *The Politics of Antagonism* (London: The Athlone Press, 1993), p. 26. The Irish National Liberation Army (INLA) were a splinter group within the Nationalist/Republican side of the conflict.

[34] David McKittrick et al., *Lost Lives* (Edinburgh: Mainstream Publishing Company (Edinburgh) Ltd., 2004), p. 1526.

[35] O'Leary and McGarry, *The Politics of Antagonism*, p. 12.

[36] Rooney, "Political Division, Practical Alliance," p. 41.

[37] McGarry and O'Leary, *Explaining Northern Ireland*, p. 40.

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resolve the ongoing violence,[38] the Belfast/Good Friday Agreement in 1998[39] was signed by the main Nationalist and Unionist political parties and established a power-sharing executive with democratically elected membership that has overseen the period of transition to date.

Democratic Republic of Timor-Leste

Located in South East Asia and colonized by Portugal since the sixteenth century, the division of the island of Timor into western and eastern regions controlled by the Portuguese and Dutch respectively in the 1800s created what is now "East Timor" or, officially, Timor-Leste. The fall of the Salzar regime in Portugal resulted in the rapid withdrawal of the Portuguese administration in 1974, leaving Timor-Leste's nascent political associations to quickly organize and respond in the face of a pending Indonesian attack. Fretilin (Frente Revolucionária de Timor Leste Independente/Revolutionary Front for an Independent East Timor) proclaimed independence on November 24, 1975.[40] Indonesia launched a "full-scale invasion" on Timor-Leste on December 7, 1975.[41] Fretilin's armed wing, the FALINTIl forces,[42] organized an armed resistance to the attack and occupation, claiming a contested representation of the people of Timor-Leste in doing so.[43] Relations between Indonesia and Portugal over the territory were pursued through the United Nations system. Indonesia consistently rejected the application of the Fourth Geneva Convention on "occupation" during the conflict

[38] A sequence of proposals attempted to bring the two sides together, including the formation of a British-Irish Intergovernmental Council in 1981, the signing of the "Anglo-Irish Agreement" in 1985 by the British and Irish governments, and a renewed strategy in the early 1990s by the British government delineating a period of "talks about talks" between all parties, the main hurdle being the uneasiness of the Unionist position with the terms of the Anglo-Irish Agreement. O'Leary and McGarry, *The Politics of Antagonism*, pp. 214–16, and ibid., chapters 7 & 9.

[39] Ní Aoláin, *The Politics of Force*, p. 25; also "Good Friday/Belfast Agreement: Agreement Reached in the Multi-Party Negotiations" (1998).

[40] The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Commission for Reception, Truth and Reconciliation (CAVR), Volume I, II, III and IV" (Dili: The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR), 2006). See Volume I, Part 3: History of the Conflict.

[41] The Timor-Leste Commission, "Chega!." See Volume I, Part 3: History of the Conflict, particularly from page 203; "United Nations General Assembly Resolution 3485" (New York: United Nations General Assembly, December 12, 1975).

[42] Forças Armadas de Libertação Nacional de Timor-Leste/Armed Forces for the National Liberation of East Timor (FALINTIL).

[43] FALINTIL, The armed wing of the largest political party, Fretilin, had gained control during the intra-Timorese period of fighting and had declared independence (see footnote 83). It must also be noted that Indonesia had been infiltrating Timor-Leste for some time prior to the attack and received some support and sympathy from pro-Indonesian political parties, primarily the UDT: The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)." See Volume I, Part 3, History of the Conflict.

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in Timor-Leste,[44] insisting that Timor-Leste was the legitimate 27th province of Indonesia.[45] The UN Security Council defined and condemned Indonesia's actions as an "invasion" and considered Timor-Leste to be a "non-self governing territory under Portuguese administration."[46]

The Indonesian regime employed aggressive tactics to quash the Timorese resistance – tactics which some refer to as genocide.[47] These included mass killing, napalm aerial attacks, and wide-scale aerial bombardment of villages.[48] Indonesia also engaged local Timorese auxiliaries to root out members of the resistance and perpetrate torture and intimidation on behalf of the Indonesian government.[49] Sexualized violence featured in this conflict during armed attacks on communities, as well as through the torture, detention, and capture of women for sexual slavery and the forced "marriages" of Timorese women to Indonesian officers.[50] The initial years of the occupation were also characterized by famine and disease. In the first year, 60,000 people died – 10 percent of the population. Overall, it is estimated that between 102,800 and 183,000 people died during the 1974–99 period.[51]

Following the announcement of a special "autonomy package" for Timor-Leste in 1998 by a new Indonesian government,[52] a popular consultation on autonomy, supported by the United Nations, was conducted mid-1999.[53] The Timorese

[44] Kristen Boon, "Legislative Reform in Post-Conflict Zones: Jus Post Bellum and the Contemporary Occupant's Law-Making Powers," *McGill Law Journal* 50 (2005), p. 305.

[45] Suzannah Linton, "Accounting for Atrocities in Indonesia," *Singapore Yearbook of International Law* 10 (2006), p. 212.

[46] The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)." See Volume I, Part 1, p. 10.

[47] John Taylor and Arnold Kohen, *An Act of Genocide: Indonesia's Invasion of East Timor* (London: Tapol, 1979).

[48] See, for example: John Taylor, *East Timor: The Price of Freedom* (London: Zed Books, 1999); also Taylor and Kohen, *An Act of Genocide*. And Paul Hainsworth and Stephen McCloskey, eds., *The East Timor Question: The Struggle for Independence from Indonesia* (London and New York: I.B Tauris & Co. Ltd, 2000). Emma Franks, "Women and the Resistance in East Timor: 'The Centre, as They Say, Knows Itself by the Margins'," *Women's Studies International Forum* 19, no. 1/2 (1996), p. 159.

[49] Elizabeth Stanley, *Torture, Truth and Justice: The Case of Timor-Leste* (London and New York: Routledge, 2009), p. 81.

[50] The Commission for Reception, Truth and Reconciliation (CAVR). "Timor-Leste: Women and the Conflict" (Dili: Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR), 2005).

[51] Post-CAVR Technical Secretariat, "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR): A Plain Guide" (Dili, Post-CAVR Technical Secretariat 2006), p. 9.

[52] An agreement was reached between Indonesia and Portugal to facilitate the popular consultation: "Agreement Between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor," *S/1999/513*, ed. United Nations (May 5, 1999).

[53] Despite widespread rights violations, intimidation, abuse, detentions, and threats, 98.6 percent of registered voters came out, giving a result of 78.5 percent in favor of rejecting autonomy under Indonesia: The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR)." Volume I, Part 3, History of the Conflict, p. 297.

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overwhelmingly rejected autonomy in favor of full independence, prompting an Indonesian scorched-earth campaign which destroyed three-quarters of Timor-Leste's infrastructure, inflicted torture, and sexualized violence upon civilians, and forcefully displaced 250,000 people to West Timor.[54] The United Nations Transitional Administration for East Timor (UNTAET) administered the territory for over two years in preparation for elections and the restoration of independence to an elected Timorese government.[55] A UN peacekeeping force was put in place, which varied in strength in response to political events. It was scaled back around 2004/5 as peace was bedding down, but had to be reinforced again following inter-Timorese violence, the shooting of the Timor-Leste President, and the displacement of 100,000 people between 2006 and 2008.[56] The United Nations Integrated Mission in Timor-Leste, established at the time of this crisis, completed its mandate on December 31, 2012.

The characteristics of the three conflicts, and the ways that violence took place, differ greatly. The violence in Northern Ireland did not involve mass violent assaults on a cross-ethno-national basis, nor did it have what today would be termed a "humanitarian crisis" (even though displacement and loss of home and livelihoods occurred in the early stages of the conflict). Both Liberia and Timor-Leste experienced open attacks on communities and mass displacement of populations. They also had long periods where the United Nations essentially administered the territory and brought in forces to keep the peace, effectively bringing an international influence to how the country's conflict was understood and recovered from. This was not the case for Northern Ireland, where the international community did not play any administrative role as such (aside from US political support for the peace process and European Union funding for peacebuilding). These differing dynamics have differing effects, not just on the way that violence happens, but also on how it is framed and understood by the actors involved, a theme that will continue to be discussed throughout this book.

[54] Between 1,200 and 1,500 people were killed by Indonesian militia and military in 1999, over 900 directly after the referendum; over half the population were forcibly displaced from their homes: The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR), "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR)." Volume I, Part 3, History of the Conflict, see particularly p. 299.

[55] The UN Transitional Administration of East Timor (UNTAET) oversaw full administration of the territory under the following: United Nations Security Council Resolution 1272, S/RES/1272 (October 25, 1999). It must be noted that the Timorese government considers that independence was 'restored' rather than newly gained in 2002 given that independence was originally declared on November 28, 1975: Government of Timor-Leste, "History/Restoration of Independence," http://timor-leste.gov.tl/?p=29&lang=en.

[56] "Timor-Leste's Displacement Crisis," in *Asia Report N°148* (International Crisis Group, March 31, 2008).

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CONFLICT-RELATED VIOLENCE AGAINST WOMEN IN LIBERIA, NORTHERN IRELAND, AND TIMOR-LESTE

When juxtaposed, patterns of violence against women across these sites become visible. Through comparative assessment, the ways that particular forms of violence gain attention and prominence also become apparent. These trends and their relevance to navigating the pitfalls that might present when examining and furthering understanding of violence within and across different sites are presented. Three thematic areas of violence are identified in existing documentation and discussed here: 1) A Predominance of Sexualized Violence; 2) Sexualized Reproductive Harms; and 3) Domestic Violence and Conflict.

A Predominance of Sexualized Violence

The available data on women's experiences of the conflicts in Liberia and Timor-Leste reveals a predominant discourse equating women's experiences of these conflicts with the experience of sexualized violence, particularly by combatants. The UNWHO interviewed 450 Liberian women in camps for internally displaced people around Monrovia in 1995 and found that 33 percent had reported an experience of rape, and in more than 50 percent of these cases there had been more than one assailant.[57] A purposive sampling survey of 200 women in 1998 found that 15 percent had experienced sexualized violence.[58] Research in 1999 recorded women testifying that entire villages had been raped.[59] A WHO study in 2004 found that 77.4 percent of women had been raped in the conflict.[60] An additional study in 2005 estimated that 72.1 percent of women had been raped during the conflict.[61] The 2008 Liberia Demographic and Health Survey (DHS) found that 18 percent of women reported experiencing sexualized violence in their lifetime, with only 8 percent attributed to combatant or police actors.[62]

[57] United Nations World Health Organization, "Rape – a Silent Scourge of the Liberian Conflict" (Monrovia: United Nations World Health Organization, 1995), pp. 1, 4. In the same year, UNICEF recorded 652 reported rapes within six months in one town. Cited in: Amnesty International, "Liberia: A New Peace Agreement – an Opportunity to Introduce Human Rights Protection" (Amnesty International, 1995), pp. 8–9.

[58] Shana Swiss et al., "Violence Against Women During the Liberian Civil Conflict," *Journal of American Medical Association* 279, no. 8 (1998).

[59] Kenneth L. Cain, "The Rape of Dinah: Human Rights, Civil War in Liberia, and Evil Triumphant," *Human Rights Quarterly* 21, no. 2 (1999), p. 8.

[60] This study was conducted in two counties: Montserrado and Bong counties. Cited in: United Nations World Health Organization "Sexual and Gender-Based Violence and Health Facility Needs Assessment, Liberia" (Monrovia: United Nations World Health Organization, 2004).

[61] The study was conducted in four counties: Lofa, Nimba, Grand Gedeh, and Grand Bassa counties. Cited in: UNIMIL, "Research on the Prevalance and Attitudes to Rape in Liberia September to October 2008" (Monrovia: United Nations Mission in Liberia (UNMIL) Legal and Judicial System Support Division Coordinator, 2008), p. 11.

[62] Liberia Institute of Statistics and Geo-Information Services (LISGIS) [Liberia], Ministry of Health and Social Welfare [Liberia], National AIDS Control Program [Liberia], and Macro International

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Data such as this matter greatly in establishing "knowledge" on women's experiences of the conflict. These studies indicate a high proclivity of sexualized violence and propagate a very specific understanding of conflict-time and gendered violence. Drawing from the WHO studies, the most often cited statistic for the Liberia conflict is that 75 percent of women were raped.[63] Dara Cohen and Amelia Hoover-Green have critically assessed these studies and found significant discrepancies. Through their analysis, Cohen and Hoover-Green find that the majority of prevalence studies show that up to 20 percent of all women in Liberia experienced sexualized violence – significantly lower than both WHO study findings.[64] They also find that broader harms, such as displacement, were more prevalent in the report of the LTRC, and that, in the 2007/08 Liberia DHS, women reported nonsexual crimes at a higher rate than sexualized crimes.[65] Cohen and Hoover-Green note that the statistic of 75 percent was used globally to advocate for attention to this issue, which drives a very particular story of that conflict. The data methodologies and the questions that are asked of violence matter greatly in creating a depiction of women's experiences of wartime harm.

Through its statement-taking process, the Commission for Reception, Truth and Reconciliation (CAVR) in Timor-Leste collected 853 reports of sexualized violence during that conflict. Rape by Indonesian forces was the most commonly reported incident, constituting 46.1 percent of the total reports (393/853), followed by sexual harassment and other acts of sexual violence at 27.1 percent (231/853), and sexual slavery at 26.8 percent (229/853). An International Rescue Committee study conducted in 2002 (two years after the Indonesian exit) found that 1 in every 4 women had experienced violence by a perpetrator outside their family during the crisis in 1999 (92 percent involving a weapon, and 95.8 percent involving sexual harassment of some form).[66] It is estimated that almost 10 percent of Timorese women detained by the Indonesian military and its proxies during the early years of the occupation were raped.[67]

Inc. *Liberia Demographic and Health Survey 2007* (Monrovia: Liberia Institute of Statistics and Geo-Information Services (LISGIS) and Macro International Inc., 2008).

63 Dara Kay Cohen and Amelia Hoover-Green. "Were 75 percent of Liberian women and girls raped? No. So why is the UN repeating that misleading 'statistic'?" Monkey Cage, *The Washington Post*, October 26, 2016. www.washingtonpost.com/news/monkey-cage/wp/2016/10/26/were-75-percent-of-liberian-women-and-girls-raped-no-so-why-is-the-un-repeating-that-misleading-statistic/?utm_term=.ec75e2bc1b63. Accessed October 26, 2016.

64 Dara Kay Cohen and Amelia Hoover-Green, "Dueling Incentives: Sexual Violence in the Liberian Civil War and the Politics of Human Rights Advocacy," *Journal of Peace Research* 49, no. 3 (2012), p. 450.

65 Ibid., p. 450.

66 International Rescue Committee, "A Determination of the Prevalence of Gender Based Violence Among Conflict-Affected Populations in East Timor, Report of the Pilot Study" (Dili: International Rescue Committee, 2002). Michelle Hynes, Jeanne Ward, Kathryn Robertson, and Chadd Crouse, "A Determination of the Prevalence of Gender-Based Violence Among Conflict-Affected Populations in Timor Leste," *Disasters* 28, no. 3 (2004) p. 314.

67 The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste

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Statistics on incidents of sexualized assault do not offer the full picture of women's experiences of variant harms. In both Timor-Leste and Liberia, assaults were accompanied by physical brutality and varying forms of verbal and physical torture. It can be difficult to disaggregate the range of violence that occurred in tandem within sexual attacks. Documentation to date evidences that in Liberia, incidents of gang rape (in some cases involving up to fifteen men),[68] multiple rape, vaginal and anal rape, and the insertion of objects[69] (including irons, sand, hot peppers, boots, guns, and cassava) into women's vaginas occurred.[70] Young girls in Liberia were raped to death in front of their parents.[71] Women have described cases where their wombs "come out" or move out of place as a result of these rapes.[72] In Timor-Leste, women were similarly subjected to gang rape and attacks that involved burning of their skin, beatings, and other forms of physical torture.[73]

What has been categorized as "sexual slavery" featured in both of these conflicts.[74] In Timor-Leste, some women were summoned to military barracks to provide sexual entertainment to soldiers on an ongoing basis. Others were forced to "marry" Indonesian soldiers who came to women's homes daily to rape them or who occupied their homes in a forced "marital" arrangement and then passed them on to incoming soldiers during military rotations.[75] Women had little choice but to accept these situations, fearful of the violence involved and anxious to protect their own communities. Sexualized assault centers were also established in Timor-Leste, where hotels were used to commit multiple rapes of captured women and girls.[76] Women and girls in Liberia were abducted and forced to join faction ranks as fighters. They were forced to take on domestic and military support

(CAVR)." See Volume III, Part 7.7 Rape, Sexual Slavery and Other Forms of Sexual Violence, p. 1940.

68 Cain, "The Rape of Dinah," p. 8.

69 Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," p. 40.

70 Ibid., pp. 35, 41. 71 Ibid., p. 40. 72 Cain, "The Rape of Dinah," p. 38 & footnote 50.

73 The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR)." See Volume III, Part 7.7 Rape, Sexual Slavery and Other Forms of Sexual Violence.

74 For Timor-Leste see: ibid. Also, UNIFEM, "Gender Profile of the Conflict in Timor-Leste" (United Nations Development Fund for Women), p. 3; The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR)." See Volume III, Part 7.7 Rape, Sexual Slavery and Other Forms of Sexual Violence. For Liberia see: Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," section II.

75 The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR)." See Volume III, Part 7.7 Rape, Sexual Slavery and Other Forms of Sexual Violence.

76 Ibid.

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roles and were shared among fighters as "wives."[77] Stephen Ellis notes the abduction and sexual slavery of women in Liberia within the context of looting, wherein women were considered to be "included in the category of consumer items ripe for plunder."[78] This corresponds to the notion of women as "booty" in war, and is resonant with Jonathan Gottschall's suggestion that, in some cases, sexual desire and/or viewing women as sexual property plays a part in sexualized violence.[79] The motto of the NPFL was "We fight to loot."[80] Their use of violence did not serve direct political ends, but rather was motivated by a wide array of individual interests, "including the protection of families and the seeking of power and wealth" and warlordism.[81] For Timor-Leste, mass rape was more intensely reported to the CAVR for the period prior to, during, and immediately after the 1999 referendum that lead to the withdrawal of Indonesian forces, than for the wider period of the conflict.[82]

For the Northern Ireland site, there is, as yet, no evidence available that forms of systematic cross-community sexualized violence targeted at women by opposing paramilitary or state forces took place. Evidence does account for forms of individual and isolated incidents, mainly involving violence against women from Republican backgrounds. There is one account of a Catholic woman who was raped several times at gunpoint and shot by a group of four Loyalist paramilitaries who broke into her home.[83] In another incident, paramilitaries attacked the wife of a Nationalist Member of Parliament. They kicked and beat her "senseless" and "scratched the initials of the UVF[84] on her breasts with a penknife."[85] Gang rapes have been referred to as occurring "on a smaller scale" in Northern Ireland, but there is little

77 Shana Swiss, "Liberia: Anguish in a Divided Land" (Physicians for Human Rights, 1992). Research in 2008 found that female combatants were more likely to have been subjected to sexual slavery than males who were also forced to join fighting forces: Kirsten Johnson et al., "Association of Combatant Status and Sexual Violence with Health and Mental Health Outcomes in Postconflict Liberia," *Journal of American Medical Association* 300, no. 6 (2008), p. 681; "'The Guns Are in the Bushes': Continuing Abuses in Liberia" (Human Rights Watch, 2004), p. 16.

78 Ellis, *The Mask of Anarchy*, chapter 2 & p. 125. M. Utas (2005). "Victimcy, Girlfriending, Soldiering: Tactic Agency in a Young Woman's Social Navigation of the Liberian Warzone." *Anthropological Quarterly* 78(2) pp. 411–12, and Outram, "It's Terminal Either Way," p. 368.

79 Jonathan Gottschall, "Explaining Wartime Rape," *The Journal of Sex Research* 41, no. 2 (2004).

80 Berkeley, "Liberia: Between Repression and Slaughter," p. 56.

81 Utas, "Victimcy, Girlfriending, Soldiering," p. 411.

82 The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR)." See Volume III, Part 7.7 Rape, Sexual Slavery and Other Forms of Sexual Violence.

83 Michael Farrell, *Northern Ireland: The Orange State* (London: Pluto Press, 1980), p. 303.

84 "Ulster Volunteer Force" (UVF), a Loyalist paramilitary group in Northern Ireland.

85 Peter Janke, *Ulster: A Decade of Violence*, vol. 108, Conflict Studies (1979), p. 14.

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contextual data to accompany these reports.[86] Instances have been recorded of security forces threatening women with rape in detention or during interrogation,[87] including an incident where a male interrogator straddled a female detainee,[88] and another where four officers repeatedly threatened a woman with rape over a three-day period of detention.[89] An Amnesty International mission visiting prisons in Northern Ireland in 1978 documented three women who "had been threatened with rape and in two cases the light in the interview room was allegedly switched off just after the threat was made."[90] One woman described how after her release she spent time scrubbing herself in the bath "as if you had been raped you know … You're trying to get the smell of those boys off ye." And "I think that's when your sexuality really hits home is that all these things can go wrong for you as a woman and who's to say that you can't be raped in a cell and no-one would know about it because all these possibilities are reality when you're locked in a 6 foot by 8 foot space."[91]

Further sexualized abuse and harassment has been documented for Northern Ireland. During raids on homes (more prevalent in the early stages of the conflict) and searches at checkpoints,[92] women (and men) were subjected to physical and sexual harassment, including invasive body searches, sexual harassment, and sexual threats.[93] Sexual and physical abuse was also a feature of arrest and detention;[94] females were more likely to recount

[86] Monica McWilliams, "Violence Against Women and Political Conflict: The Northern Ireland Experience," *Critical Criminology* 8, no. 1 (1997), p. 81. Also, Bernadette Fitzmaurice, "Rape Comes to Ulster," *Forthnight* 185 (1982), p. 12.

[87] Colm Campbell and Ita Connolly, "A Deadly Complexity: Law, Social Movements and Political Violence," *Minnesota Journal of International Law* 16, no. 2 (2007), p. 288, and McGarry and O'Leary, *Explaining Northern Ireland*, p. 44.

[88] Helen Harris and Eileen Healy, *"Strong About It All … " Rural and Urban Women's Experiences of the Security Forces in Northern Ireland* (Derry: North West Women's/Human Rights Project Publications, 2001), p. 59.

[89] Women Against Imperialism, "Women Protest for Political Status in Armagh Gaol" (Belfast, Northern Ireland: Women Against Imperialism, 1980).

[90] Amnesty International, "Report of an Amnesty International Mission to Northern Ireland (28th November–6th December 1977)" (1978), p. 13. Further documentation of abuses in the report are not sex disaggregated, which missed the opportunity by the Amnesty International visit to document in detail the specific abuses targeted at women and men by the Amnesty International visit.

[91] Harris and Healy, *"Strong About It All … "* p. 35.

[92] The security forces in Northern Ireland had access to special powers, including for arrests; G. Ellison and J. Smyth, *The Crowned Harp: Policing Northern Ireland* (London: Pluto Press, 2000). "In 1971 there were 17,262 house searches. By 1973, this had risen to 75,000, one fifth of all houses in Northern Ireland." Taken from: Darby, pp. 40–41.

[93] Campbell and Connolly, "A Deadly Complexity: Law, Social Movements and Political Violence"; Harris and Healy, *"Strong About It All … "*; McCafferty, *The Armagh Women*.

[94] The majority of the cases documented in the cited literature are of women from Republican communities who were targeted by the security forces. This speaks to a dearth in knowledge about the experiences of women from loyalist and unionist communities.

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psychological sexualized abuse,[95] including derogatory sexualized name-calling.[96] Strip-searching became synonymous with the Northern Ireland conflict, which featured most prominently during the 1980s and for a short period in the early 1990s.[97] Strip-searches during imprisonment involved complete forced stripping, the visual and physical examination of genitalia,[98] and the removal and inspection of sanitary materials of women who were menstruating.[99] One woman was strip-searched 240 times while in detention;[100] another was strip-searched up to ten times per day and was sometimes woken in the middle of the night to be strip-searched.[101] At least one scholar has noted how strip-searching was used as a means of disempowering women[102] and was

[95] Campbell and Connolly, "A Deadly Complexity: Law, Social Movements and Political Violence," pp. 290–91.

[96] Women Against Imperialism, "Women Protest for Political Status in Armagh Gaol," p. 11.

[97] Through the course of the Troubles in Northern Ireland, one in twenty political prisoners were women: Mary Corcoran, "'We Had to Be Stronger': The Political Imprisonment of Women in Northern Ireland 1972–1999," in *Irish Women and Nationalism: Soldiers, New Women and Wicked Hags*, ed. Louise Ryan and Margaret Ward (Dublin, Portland: Irish Academic Press, 2004), p. 114. McCafferty, *The Armagh Women*; Christina Loughran, "Armagh and Feminist Strategy: Campaigns around Republican Women Prisoners in Armagh Jail," *Feminist Review* 23 (1986). It must be noted that the majority of available literature focuses on Republican women's experiences of imprisonment.

[98] One woman was handcuffed and strip-searched twice by a male officer while being held down by a female officer, including the insertion of his fingers inside her, both when lying on her front and back: Women Against Imperialism, "Women Protest for Political Status in Armagh Gaol."

[99] Rhiannon Talbot, "Female Combatants, Paramilitary Prisoners and the Development of Feminism in the Republican Movement," in *Irish Women and Nationalism: Soldiers, New Women and Wicked Hags*, ed. Louise Ryan and Margaret Ward (Dublin, Portland: Irish Academic Press, 2004), p. 141. A group called "Women Fight Back" issued a press release regarding the experience of one woman, Geraldine Skillen, who was stopped by several RUC officers on the street. Two RUC officers forced her into the back of their truck and held her down while a third officer "forced himself on top of her and began to kiss and fondle her, forcing his tongue into her mouth." One of the officers holding her down also forced his hand between her legs and she was slapped when she tried to resist. On arrival at Woodbourne barracks she was denied a call to a solicitor and the verbal, physical, and sexual abuse continued. I found a copy of the press release in a box of printed matter in The Linenhall Library in Belfast, with no dates or other identifying markers.

[100] Loughran, "Armagh and Feminist Strategy."

[101] Brighton International Women's Day Delegation, "Derry: The Last 20 Years," in *4 Days in Belfast and Derry: Impressions of Life in the North of Ireland* (Brighton: Brighton International Women's Day Delegation, 1988), p. 14. During a visit to Armagh prison in March 1988, a women's group from Brighton learned that there had been 45 strip-searches in the prison the previous month alone, and that four remand prisoners had been strip-searched constantly as they came to and from court hearings. They documented a story of one woman whose ovaries had collapsed; on the way out of the prison to receive medical assistance she was strip-searched. Another woman had been forcibly taken from her cell, and her clothes pulled from her as she was dragged across the prison to the prison governor – where she was presented with the top part of her body completely naked for adjudication: Eileen Fairweather, Roisín McDonough, and Melanie McFadyean, *Only the Rivers Run Free: Northern Ireland: The Women's War* (London: Pluto Press, 1984), p. 220.

[102] Cited in: McWilliams, "Violence Against Women and Political Conflict: The Northern Ireland Experience," p. 79.

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understood by women as "a powerful tool."[103] As women prisoners participated in political strikes and protests during their detentions,[104] they were subjected to physical and sexual harassment by male prison guards.[105] As one woman commented, the prison governor (responsible for running the institution) "tried to break the prisoners in an exclusively female way."[106] As Mary Corcoran notes, their bodies "assumed a central place in the prison struggle."[107]

Despite this litany of assaults on women, Northern Ireland does not spring to mind when one thinks of contexts that have experienced CRSV, which is quite the opposite case for Liberia and Timor-Leste. Forms and variants of sexualized violence across conflict contexts become understood and categorized as different things. For Liberia, the report of the LTRC found that rape and sexualized violence were used as a "weapon of war" and women's bodies formed part of the battlefront.[108] The report of the CAVR in Timor-Leste found that sexualized abuses were "tools" used within formal or informal policy of the Indonesian security forces.[109] Sexualized violence may have been the predominant harm that women experienced. It may also have been the harm that researchers and analysts prioritize in line within international legal and policy frameworks that privilege these harms. While these reports are not legal documents nor are these pronouncements akin to legal decisions, they hold significant influence in determining the "truth" of what occurred, even where it may be questionable whether the reports themselves have conflated mass incidence with strategic intent. Either

[103] Talbot, "Female Combatants, Paramilitary Prisoners and the Development of Feminism in the Republican Movement," p. 142.

[104] Prisoners used different tactics to protest the removal of political status by the Thatcher government (early 1970s) such as the "dirty" and "blanket" protests and the hunger strikes of the early 1980s: Ní Aoláin, *The Politics of Force*, p. 57. Women prisoners were active and participated fully in these "causes." Yet little attention was given to these women, and for some the experience was rendered different as two women on hunger strike were strapped down and force fed for 206 days despite their wishes to remain on hunger strike: McCafferty, *The Armagh Women*, p. 79.

[105] Ibid., p. 26. Many women identified these violations as akin to rape: Harris and Healy, "*Strong About It All . . .* " p. 38. According to McCafferty, in response to political protests women were denied liberty to empty their "chamber pots" and forced to use their cells as toilets. As part of their protest they smeared excrement and menstrual blood on the walls and were forced to empty their chamber pots containing urine and sanitary towels in the wing corridors. They could change their clothes once every three months and did not have sheets on their beds. The number of sanitary towels they were allowed was restricted, and those that were provided came without wrapping: McCafferty, *The Armagh Women*, p. 10.

[106] Fairweather, McDonough, and McFadyean, *Only the Rivers Run Free*, p. 222.

[107] Mary Corcoran, *Out of Order: The Political Imprisonment of Women in Northern Ireland 1972–1998* (Devon: Willan Publishing, 2006).

[108] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," p. 51.

[109] The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)." See Volume III, Part 7.7 Rape, Sexual Slavery and Other Forms of Sexual Violence.

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way, these reports opt into the language of international law and policy on potential conflict-related gendered harms.

While political sexualized violence was not an explicit feature of the Northern Ireland conflict, a range of forms and incidents of sexualized violence by parties to the conflict took place, which, when collated as they are here, evidence a comprehensive schemata of that violence. Given the UK government's standpoint that the events in Northern Ireland were simply a domestic criminal matter, the conflict was not subject to international analysis in the ways that the events in Liberia and Timor-Leste were. The violence of state and non-state actors was not framed relative to international normative frameworks. When drawn together with the critical analysis of the political traction afforded to the "weapon of war" discourse, these sexualized harms question whether isolated cases can count as being conflict-related harms and where this might fit relative to loud pronouncements about strategic rape in other sites. When and how isolated cases count as constituting "conflict-related" violence against women under international law, and when and how "women [themselves might] perceive sexual violence to be a weapon of war"[110] are pertinent considerations. Strategic rape theory relies on the idea that sexualized violence is a clearly delineated tactic systematically perpetrated through the command of soldiers.[111] Given the chaos evident in a setting such as Liberia, where violence became divorced from a wider ideological struggle and the system of command and control, it is unclear where acts of sexualized violence cross over from being strategic to being the independent acts of an individual using the exigencies of a conflict to enact abuses. Viewing CRSV through the lens of its "strategicness"[112] may limit us from seeing the multifarious ways that sexualized harms may occur in a conflict, and the various ways it can be strategic. On the basis of the Northern Ireland example, it may be deduced that while there is little evidence that rape as a weapon of war took place in that conflict per the international definition, aspects of this form of violence are still prevalent in variant ways. Problematic are international legal and political norms that do not sufficiently categorize alternative forms and prevalence of sexualized violence as *political* violence.

Sexualized Reproductive Harms

The targeting of women's reproductive capacity within armed conflicts is becoming increasingly evidenced. It may be argued that these forms of harm could be

[110] Inger Skjelsbaek, "Sexual Violence and War: Mapping out a Complex Relationship," *European Journal of International Relations* 7, no. 2 (2001), p. 227.

[111] Gottschall, "Explaining Wartime Rape," p. 131.

[112] Maria Eriksson Baaz and Maria Stern, *Sexual Violence as a Weapon of War: Perceptions, Prescriptions, Problems in the Congo and Beyond* (London, New York: Zed Books, 2013), pp. 44–45.

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categorized as sexualized harm. I however give them distinctive analytical positioning because of the specificity with which women's reproductive capacity is targeted and the ways that women might experience harms such as rape *because of* their reproductive capacity. In addition, some of these acts are conflated within the documentation with wider harms and I have drawn them out for specific attention. Women's reproductive capacities were specifically targeted in all three conflicts. In Timor-Leste, the Indonesian "Family Planning Programme" involved forced sterilization of some women and girls,[113] which was described by one author as "population genocide."[114] In Timor-Leste and Liberia, women were raped while pregnant and lost babies;[115] others had their fetuses removed as part of assaults;[116] and, in Liberia, there is evidence that women were raped immediately after giving birth.[117] Fighters in Liberia also searched displacement camps for pregnant women, placed bets on the sex of the baby, and then cut open the womb to establish the sex and who had won the bet.[118] In Northern Ireland, there is evidence that, on occasion, women in detention were denied access to sanitary materials[119] or refused permission to change sanitary protection during menstruation;[120] were subjected to involuntary internal medical examinations while pregnant;[121] and some pregnant women who entered prison were

[113] Franks, p. 164. Noteworthy is that as part of a statement to the CAVR, Mr. John Fernandes, an Indonesian civil servant who promoted the family planning program during the Indonesian occupation, asserted that the program formed part of the Indonesian political strategy. It was used to stem the number of Timorese births, and often resulted in complications during pregnancy, such as defects, by those who became pregnant after sustained forced fertility control campaigns. He stated that the "programme was also indirectly aimed at murdering the indigenous people of Timor-Leste." The Commission for Reception, Truth and Reconciliation (CAVR). "Timor-Leste: Women and the Conflict" (Dili: Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR), 2005) pp. 32, 49.

[114] Ibid., p. 164.

[115] See generally Amnesty International, "Liberia: No Impunity for Rape – a Crime Against Humanity" (Amnesty International, 2004).

[116] UNIFEM, "Gender Profile of the Conflict in Timor-Leste," pp. 6, 7. Human Rights Watch, "Letter to the UN Security Council Regarding Deliberations on the Mano River Union" (USA: Human Rights Watch, July 17, 2002); Susan McKay, "Civil War's Painful Legacy for the Women of Liberia," *Irish Times* 2009.

[117] Amnesty International, "Liberia: No Impunity for Rape – a Crime Against Humanity," p. 8.

[118] Paraphrased from two citations from a Confidential Report of UNOMIL Chief of Security to UNOMIL Headquarters in Monrovia in May 1995 cited in Cain, "The Rape of Dinah."

[119] A 14-year-old girl was arrested and refused access to sanitary materials by an officer who stated: "Let it run down your f . . . . . legs, you are not going to get a sanitary towel." Taken from: McCafferty, *The Armagh Women*, p. 34.

[120] Amnesty International, "Report of an Amnesty International Mission to Northern Ireland (28th November–6th December 1977)," p. 13.

[121] An incident of the examination of a pregnant woman complaining of stomach pains by one male and two female examiners without consent and the insertion of a catheter without permission and in the presence of security forces has been recorded: McCafferty, *The Armagh Women*, pp. 35–36.

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given no prenatal care, were subjected to threats to the unborn child, and were declared "fit for punishment" by the prison doctor.[122]

"The sphere of personal, sexual, and reproductive life functions as a central focus of most cultures and a dominant theme in practices and rules"[123] from which violence may be derived. As "most cultures have as one of their principal aims the control of women by men"[124] it is pertinent to note that women's reproductive capacities became subject to violence across all sites. Despite the differences across the dynamics of these conflicts, these kinds of harm are a common factor. These harms occurred across conflicts with and without the presence of strategic rape and were acts on the part of the state, as well as non-state actors. Women's reproductive capacities may be targeted for both control and harm irrespective of the type of conflict taking place and whether or not strategic or mass rape is taking place.

Domestic Violence and Conflict

The Northern Ireland case study uniquely contributes evidence on how conflict impacts women's experiences of domestic violence in the home. There are some valuable academic resources exploring the relationships between conflict and violence in the home.[125] Research by Pamela Montgomery found that the conflict "influenced either their [intimate] relationship or the nature of the violence [women respondents] experienced, their use of the police, police procedures, and police attitudes."[126] Monica McWilliams has highlighted that domestic violence for some women became more extreme as a result of the availability of

[122] Women Against Imperialism, "Women Protest for Political Status in Armagh Gaol." The prison doctor had also refused smear tests to women, using a back-log of cases as an excuse: Brighton International Women's Day Delegation, "A Visit to Pauline Quinn in Maghaberry Prison," in *4 Days in Belfast and Derry: Impressions of Life in the North of Ireland* (Brighton: Brighton International Women's Day Delegation, 1988), p. 22.

[123] Susan Muller Okin, "Is Multiculturalism Bad for Women?," in *Is Multiculturalism Bad for Women?*, ed. Joshua Cohen, Matthew Howard, and Martha C. Nussbaum (Princeton: Princeton University Press, 1999), pp. 12–13.

[124] Ibid., p. 13.

[125] See, for example: Eileen Evason, *Hidden Violence: Battered Women in Northern Ireland* (Belfast: Farset Co-operative Press, 1982). Also, the most significant study on domestic violence that has taken place in Northern Ireland: M. McWilliams and J. McKiernan (1993). *Bringing It Out in the Open: Domestic Violence in Northern Ireland* (UK, HMSO Publications). There have been a number of follow-on key studies, however, that offer a picture of the ways in which what was termed "political violence" intersected with and influenced not only violence in the home and within relationships, but also the impact of that violence: Monica McWilliams, "Violence Against Women in Societies under Stress" in *Rethinking Violence Against Women*, ed. R. Emerson Dobash and Russell P. Dobash (Thousand Oaks, London, New Delhi: Sage Publications, 1998); Joan McKiernan and Monica McWilliams, "The Impact of Political Conflict on Domestic Violence in Northern Ireland," in *Gender Relations in Public and Private: New Research Perspectives*, ed. Lydia Morris and E. Stine Lyon (London: Macmillan Press Ltd., 1996).

[126] Pamela Montgomery, "Police Response to Wife Assault in Northern Ireland," *Violence and Victims* 6, no. 1 (1991), p. 51.

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weapons.[127] For example, firearms held by those involved in the conflict were used to threaten and control women through interpersonal violence.[128] Guns were also used in games such as "Russian roulette," where a single bullet was loaded and held to a woman's head, with the trigger pulled slowly and deliberately, the victim never sure which "click" would mean instant death.[129]

Sexualized violence and domestic abuse featured in the actions of those involved in the conflict. One case documented a Loyalist paramilitary member who beat and raped his wife as a way of "winding down" after a night of paramilitary violence and killing outside the home.[130] Men used their membership in paramilitary organizations to threaten female partners, e.g. using threats of violence from a group in order to control them.[131] Paramilitary control of communities and families meant that police assistance was not an option for many women.[132] In the early days of the conflict, Republican women's sexuality was also subject to the control of paramilitary groups. Women were "tarred and feathered" as punishment for associating or having relationships with British soldiers or other men associated with the British state.[133] Women were also punished for trying to end relationships with partners in prison or for having

[127] McWilliams, "Violence Against Women and Political Conflict: The Northern Ireland Experience," p. 83.

[128] Montgomery, "Police Response to Wife Assault in Northern Ireland," p. 52. And Fairweather, McDonough, and McFadyean, *Only the Rivers Run Free*, pp. 129–30.

[129] McKiernan and McWilliams, "The Impact of Political Conflict on Domestic Violence in Northern Ireland," p. 253. And McWilliams, "Violence Against Women and Political Conflict: The Northern Ireland Experience," p. 83.

[130] This woman's experiences (from a Loyalist background) demonstrate the range of abuses she endured and its intersection with the ongoing backdrop of conflict. She was subjected to psychological and emotional abuses from her husband who returned home from a night of paramilitary violence and forced her to listen to his recount of every last detail of the murders he had just carried out. She was forced to sit up every night and wait for his return and was beaten if she had slept. He also forced her to fire guns and to carry guns for operations, threatening to kill her if she didn't follow orders. He forced her to have sex, threatened and cut her with razor blades, and burned her with cigarettes. He shot at her in their back garden and "thought it was funny seeing the bullets skim my hair." She was raped repeatedly, and he broke her jaw once. Taken from: Fairweather, McDonough, and McFadyean, *Only the Rivers Run Free*, p. 130.

[131] Montgomery, "Police Response to Wife Assault in Northern Ireland," pp. 51–52.

[132] It has been widely documented that women's, particularly Republican women's, access to policing was restricted as a result of Republican communities' disassociation with policing as a symbol of the British state. As a result, women feared being labeled as an informer by paramilitary groups; or, indeed, for calling police into territories where police were not welcomed or may have found evidence of their partners' "involvement" or used the incident of domestic violence to get at partners suspected of conflict-related activities: McWilliams, "Violence Against Women and Political Conflict: The Northern Ireland Experience," p. 85.

[133] McGarry and O'Leary, *Explaining Northern Ireland*, p. 43. Niall Ó'Dochartaigh, *From Civil Rights to Armalites: Derry and the Birth of the Irish Troubles* (Basingstoke: Palgrave Macmillan, 2004), p. 244. In one case, on April 9, 1972, a pregnant 24-year-old woman was taken by six youths (the sex is not specified in this source) and beaten, then tied to a lamp post in a Loyalist area and covered with red paint and feathers: Janke, *Ulster: A Decade of Violence*, p. 15; McWilliams, "Violence Against Women and Political Conflict: The Northern Ireland Experience," p. 86.

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affairs with other men when partners were imprisoned for their paramilitary membership.[134]

Northern Ireland contributes a unique and nuanced picture of how ordinary violence is affected by wider political violence, data that is not available for the other two settings. Northern Ireland had a fully functional governance and rule of law during the time of the conflict, through which women's activists sought and secured attention to domestic violence during this time. The conflict presented multiple challenges, however: the prioritization of political violence by police services, a militarized police that required military back-up and sometimes helicopters to cover police call-outs, and estrangement of Republican communities from state structures meant that policing for domestic violence was limited. Nonetheless, during this time academics and activists forged ahead with documenting and responding to this violence. The absence of data in both Liberia and Timor-Leste does not mean that domestic violence did not occur during the conflicts. Rather, it underscores the absence of documentation and analysis on the potential presence of ordinary or additional forms of violence against women during conflict, how such violence might be affected by or interact with political violence, and a privileging of attention to mass sexualized harms by specific militarized actors.

WHO WINS IN THE "WORST VIOLENCE" CONTEST?

The summary of the documentation of harms across the three conflicts reveals not just patterns in harm, but also patterns in the kind of documentation that has taken place for each site. Similar to my discussion in Chapter 2, sexualized violence has become the most prominent harm for attention. This may reflect the reality of harms for women. It may also be influenced by the way that questions have been asked about gendered harms. For example, in Liberia, extreme prevalence of sexualized violence has represented the story of women's experiences there, while in Northern Ireland, domestic violence characterizes women's experiences. Yet in Liberia, there are concerns about whether existing data on sexualized violence represents the true picture of gendered harm, while it is not clear that any documentation was undertaken of domestic violence in the conflict. And in Northern Ireland, attention was directly given to domestic violence and even though there has been little by way of a "story" of CRSV emerging from that setting, there is actually evidence of pervasive state-perpetrated abuses of women in detention.

Drawing from this existing evidence, one can identify patterns in similar forms of violence across the three settings – this I have achieved to some degree by categorizing the data into three thematic areas of analysis in the previous section. These categories to some degree reflect the empirical data. They also however wholly

[134] Cathy Harkin and Avila Kilmurray, "Working with Women in Derry," in *Women and Community Work in Northern Ireland*, ed. Marie Abbott and Hugh Frazer (Belfast: Farset Co-operative Press, 1985).

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reflect the evidence available and the thematic picture that that allows me to create. Attention to the ways that data on violence is generated and presented is important in our assessment of it.

Across Liberia, Northern Ireland, and Timor-Leste are also very distinctive ranges of harms. Specifically, there is a very distinctive debate in the literature surrounding the form, function, and intensity of the violence that occurred in the Liberian civil war. A similar debate does not exist for the violence in either Northern Ireland or Timor-Leste. If I was to simply present Liberia's violence in the way I have found it in media and policy statements, it would stand out as very distinctive indeed and its inclusion in my thematic analysis above would have created a picture of Liberia as exceptional, and "different" from or not easily comparative across three sites. I offer a separate discussion here of specific forms of violence in that setting because however much one may try to contextualize the ways that perceptions of violence play a role in how it is seen and understood, it must also be noted that "not ... all wars are equally horrible."[135] Recognition is required of differences between conflicts in respect of violence. In providing such recognition, pitfalls also arise, particularly in presenting or inadvertently portraying violence in one setting as worse than the other. Rather, such recognition requires reflection on the nature of "extraordinary events,"[136] and how patterns of violence become materially and conceptually composed. I include a discussion of this specific dynamic in respect to Liberia so that the forms of violence that have elicited the strongest reaction among media and scholars is included in my assessment, and so that appropriate context is provided for my discussion of these forms of violence in later chapters. I also wish to ensure that sufficient attention is paid to the tension in comparatively assessing forms of violence that are presented and perceived in different ways by different audiences.

The Liberia conflict evokes some of the most disquieting images of violence among the three sites. Descriptions of the conflict depict violence perpetrated with abandonment – of soldiers purposefully hacking or sawing limbs off their victims, of raping then killing, of becoming tired of hacking and then shooting, of toying with their victims before finally killing them, and of erratic and unpredictable behavior, one minute conciliatory and the next murderous.[137] Research details how women were forced to watch, applaud, and laugh at the murder of their own and other people's children.[138] One incident depicts how women were forced to search for relatives among a wheelbarrow full of men's heads gathered by rebel forces. They

[135] Larry May, *Aggression and Crimes Against Peace* (Cambridge University Press, 2008), p. 223.

[136] Danny Hoffman and Stephen Lubkemann, "West-African Warscapes: Warscape Ethnography in West Africa and the Anthropology of 'Events'," *Anthropological Quarterly* 78, no. 2 (2005), p. 316.

[137] Huband, *The Liberian Civil War*. See accounts of violence through this publication as witnessed by the author, and especially chapter 13.

[138] One woman cited an incident where her two-month-old baby was hacked to pieces which were then placed in a bucket of water from which she was forced to bathe because she refused the fighters' sexual approaches. Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," p. 39.

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were beaten if they cried and were forced to laugh when they had retrieved a relative's severed head.[139]

Some acts, reported as "cannibalism" in the media, became synonymous with the conflict in Liberia. Women were forced to eat the flesh of their husbands and children. In one instance combatants made a woman watch as they slit her husband's throat and then cut open his torso and forced her to eat parts that they handed to her. They then took her only son away, whom she has not seen since.[140] Women also witnessed husbands being butchered and were forced to sell the body parts as food.[141] Women's bodies were also consumed. One documented case describes a woman whose breast was cut off, roasted, and then eaten while she was left to bleed to death.[142] Another incident was documented of a woman who had a stick inserted into her vagina and up through her mouth. Her body was publicly displayed until she died and her captors then made the watching village members eat her.[143] Journalistic and media writing posits the violence as "barbaric," the fighters as "freaks" as they dressed in masks and wigs as they performed their violence.[144] There is a widely held perception that the violence of the Liberian conflict was particularly "egregious" or "savage." While many African conflicts are described within post-colonial terms,[145] Liberia became an enigma, not only in the international and western media, but it has also oftentimes been referred to as "the African Other" within Africa itself.[146]

Attention to contextual factors, specifically the socio-cultural and historical context to this violence, is critical in an appraisal of what this violence represents. A pre-existing Liberian spiritual order and belief system provides significant meaning to this violence in context. Despite the diverse and distinct socio-cultural, linguistic, and traditional systems[147] that exist in Liberia, academics and anthropologists recognize the existence of a Liberian spiritual view in which an "invisible" world is inhabited by spirit. This spirit interacts with and influences the material and visible world of humans.[148] Within "secret

[139] Ibid., p. 40. [140] Ibid., p. 36. [141] Ibid., p. 37.

[142] Taken from a report by the Justice and Peace Commission of the National Catholic Secretariat of Liberia, Report on Fact-finding Mission to Gbaranga, 1994, p. 3, cited in Cain, "The Rape of Dinah."

[143] McKay, "Civil War's Painful Legacy for the Women of Liberia."

[144] Ellis, *The Mask of Anarchy*, pp. 17–22.

[145] Maria Stern and Maria Eriksson Baaz, "Making Sense of Violence: Voices of Soldiers in the Congo (DRC)," *Journal of Modern African Studies* 46, no. 1 (2008), p. 58.

[146] Utas, "Victimcy, Girlfriending, Soldiering," p. 404.

[147] See generally: Lawrence A. Marineli, *The New Liberia* (London: Pall Mall Press, 1964).

[148] Two types of marriage are considered to have existed, and continue to some degree to exist, in Liberia: "traditional," which is largely associated with the "indigenous women," and statutory which is more common among those who are considered to be from the Americo-Liberian populace. For wider explanation and discussion, see: Mary H. Moran, *Civilised Women: Gender and Prestige in Southeastern Liberia* (Ithaca and London: Cornell University Press, 1990); Merran Fraenkel, *Tribes and Class in Monrovia* (London: Oxford University Press, 1964); Ayodeji Olukoju, *Culture and Customs of Liberia* (Westport: Greenwood Press, 2006). Ellis, *The Mask of Anarchy*, p. 34.

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societies"[149] masked spiritual leaders conduct rituals and ceremonies in which sacrifice and consumption of flesh, symbolic or otherwise, features, and enables the spiritual realm to become visible in the physical realm, bestowing power on the performers.[150] In line with these practices, fighters during the conflict masked themselves in what was available (women's dresses and clothes, wigs, human bones, and shower caps) to alter their spiritual character.[151] Stephen Ellis posits that in line with secret society rituals, those in masks ate their victims' organs, drank their blood, and were re-born as powerful warriors.[152] Ayodeji Olukoju supports this theory and notes that the eating of the human heart became rife during the civil war as a way of taking that person's potency or power.[153] It was widely documented, for example, that Samuel Doe believed that drinking blood or eating the fetus from young pregnant girls enhanced his power. Many Liberians believed this, including his alleged ability to evade bullets as a result.[154] Mark Huband concurs, and notes that NPFL fighters descended into villages as "victors hiding behind their disguises – pink silk dresses, wigs drooping over their eyes, white paint, masks, ski goggles, sunglasses."[155] The

[149] The Poro and Sande are the most well-known of these societies and date from the seventeenth century. They function as initiation societies for men (Poro) and women (Sande). They are now referred to as "Bush Schools": Fraenkel, *Tribes and Class in Monrovia*, p. 172. One of the most important functions of the Poro society for boys/men is the communication of messages about "manhood" and one of its most significant features "violence": Ellis, "Liberia: 1989–1994: A Study of Ethnic and Spiritual Violence," p. 188.

[150] Those who wear masks become a direct manifestation of the spirit that resides in the bush and gives the wearer a role in control over communities: Ellis, *The Mask of Anarchy*, chapter 5. Anthropological work in the 1960s noted that rituals or classes for initiates commenced with a human sacrifice of one of the initiates, which has now moved onto the sacrifice of an animal: Marineli, *The New Liberia*, p. 21. The use of sacrifice has mean that, according to Ellis, Liberians "have in the past believed that it was morally acceptable to kill human beings in pursuit of power and wealth in certain circumstances": Ellis, *The Mask of Anarchy*, p. 24.

[151] Berkeley, "Liberia: Between Repression and Slaughter," p. 56, and Ellis, "Liberia: 1989–1994: A Study of Ethnic and Spiritual Violence," p. 194. Moran observed ritual dress in the 1980s that consisted of western commodities such as plastic Halloween masks, dolls, and beach balls: Mary H. Moran, *Liberia: The Violence of Democracy* (Philadelphia: University of Pennsylvania Press, 2006), p. 41.

[152] The consumption of the vital organs of victims is believed to instill great power, which is deemed to be rooted in these spiritual practices that carried over into the conflict: Ellis, "Liberia: 1989–1994: A Study of Ethnic and Spiritual Violence," p. 194.

[153] Olukoju, *Culture and Customs of Liberia*, p. 26.

[154] Bill Frank Enoanyi, *Behold Uncle Sam's Step-Child* (Sacramento: SanMar Publications, 1991), p. 36. These practices have their roots in historical practices of warfare in Liberia where power was obtained and vulnerability mitigated through the use of magical medicines: Mats Utas, "Malignant Organisms: Continuities of State-Run Violence in Rural Liberia," in *Crisis of the State: War and Social Upheaval*, ed. Bruce Kapfrer and Bjorn enge Bertelsen (New York, Oxford: Berghahn Books, 2009). Ellis's research has demonstrated that the NPFL situated "spiritual protection" as central to its military planning and employed spiritual leaders to enact rituals and instill protection and a belief in fighters that they were protected from bullets: Ellis, *The Mask of Anarchy*, p. 119.

[155] Huband also notes that these "costumes of war aimed at hiding the fighters from the reality of what they were doing, so that after the war they could say that it was somebody else who did those things": Huband, *The Liberian Civil War*, p. 109.

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LTRC's report also concluded that these spiritual practices formed a basis for this violence.[156] Similar beliefs were evident in conflicts in the region, such as in Sierra Leone[157] and the DRC, where "evil spirits" are said to allow the rape that occurs,[158] and consumption of human body parts are attributed to fighters' desire to "absorb the strength of the dead enemy."[159]

The violence of the Liberian conflict is thus explained as an outcome of the intersection of these rituals with the anarchy of a violence led by armed undisciplined fighters in search of heightened power. The link between these belief systems and particular gendered violence, such as forcing civilian raped women to sacrifice and consume husbands and children, is not explored in the literature discussing the anthropology of this violence nor in literature documenting women's experiences of the conflict. The theme and importance of eating is commonplace to Liberian belief systems. Cooking is used in one society as a metaphor for power. Cooked people are therefore those that are subject to ritual.[160] Given that women hold power in the home and community because they are responsible for domestic cooking, they may have been co-opted into these acts for this reason. Rape itself was also perceived to be a ritual representing power and virility.[161] Combined, these could represent powerful forces for any fighter. The symbolic idea of "woman as nation" explored by many feminist theorists may also be relevant here, where women are understood to embody the nation.[162] This spiritual empowerment of women's physical bodies and fighters' own attainment of more power through their violent access to women's sexed bodies may represent broader power and control over the feminized body of nation.

The global historical context is also relevant in questioning why and how the Liberia conflict assumed such notoriety. These kinds of abuses are known to have occurred elsewhere in times previous to "modern conflict"[163] and Liberia is thereby not a modern exception. As far back as the first century AD, during the

[156] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," pp. 254–55.

[157] During the conflict in Sierra Leone rebel factions directed a naked woman to walk backward into enemy lines (creating invisibility for her) to bury charms on the opposite side, increasing their chances of success: Robert D. Kaplan, "The Coming Anarchy," *The Atlantic Monthly* 273, no. 2 (1994), p. 46.

[158] Jocelyn Kelly, "Rape in War: Motives of Militia in DRC" (United States Institute for Peace, 2010), p. 8.

[159] United Nations Secretary General, "Letter Dated 25 June 2003 from the Secretary-General Addressed to the President of the Security Council" (United Nations Secretary General, July 2, 2003), p. 6.

[160] Moran, *Civilised Women: Gender and Prestige in Southeastern Liberia*.

[161] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," p. 52.

[162] Miranda H. Alison, *Women and Political Violence: Female Combatants in Ethno-National Conflict* (London, New York: Routledge, 2009), pp. 101–12; Davis Yuval, *Gender and Nation* (London: Sage Publications, 1997).

[163] Gottschall, "Explaining Wartime Rape," p. 130.

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Roman attack and occupation of England, it was found that "the most fearful bestiality was when they hung up naked the noblest and best-looking women. They cut off their breasts and stitched them to their mouths, so that the women seemed to be eating them, and after this they impaled them on sharp stakes run right up the body."[164] Documentation from World War I notes "few women [were] spared [from rape] in Serbia," committed in front of family members; attacks included physical beating and cutting with knives, and attacks in which a "woman [was] given up to an officer's dog."[165] Similar to modern-day Rwanda where HIV is known to have been deliberately spread through rape,[166] "[s]oldiers suffering from venereal disease [were] ordered to violate girls" during that war.[167] There is also a record of soldiers cutting off women's breasts; of women being stripped naked and nailed down; physical beating and torture of pregnant women; and "women in mourning forced to dance over a massacre site."[168] More recently in the former Yugoslavia, similar acts are known to have occurred, including an incident comparable to Liberia where a man was forced to eat the innards of his grandson impaled on a tree.[169] These are European contexts. Other African contexts also display similar violence. In Côte d'Ivoire and the DRC there is documentation of women being forced to consume human flesh.[170] In the Peruvian conflict, a "ritualistic aspect to gang rape" has been noted, as have practices where soldiers drank and bathed in the blood of the people they had killed.[171]

[164] Kevin Flude, "A Literary Companion to the Pre-History and Archaeology of London" (1992), p. 14.

[165] Carnegie Endowment for International Peace, "Violations of the Laws and Customs of War: Reports of Majority and Dissenting Reports of American and Japanese Members of the Commission of Responsibilities Conference of Paris," ed. Division of International Law Carnegie Endowment for International Peace, Pamphlet No. 32 (Oxford, London, Edinburgh, New York, Melbourne, Cape Town, Bombay: Clarendon Press, 1919), p. 34.

[166] Mary K. McCarthy, "Women's Participation in Peacebuilding: A Missing Piece of the Puzzle?," *College Undergraduate Research Electronic Journal* (2011), pp. 27, 61; Organization of African Unity, "Rwanda: The Preventable Genocide," in *Report of the International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events* (Organization of African Unity, 2000), paras 16, 19. Stefan Elbe, "HIV/AIDS and the Changing Landscape of War in Africa," *International Security* 27, no. 2 (2002), pp. 168–69.

[167] Women and girls were also sent for sexual slavery purposes to the countries of the authors of the violence, and captured women were forced to carry supplies for troops: Carnegie Endowment for International Peace, "Violations of the Laws and Customs of War: Reports of Majority and Dissenting Reports of American and Japanese Members of the Commission of Responsibilities Conference of Paris," pp. 34, 37.

[168] Ibid., p. 33.

[169] George Kassimeria, "The Barbarisation of Warfare: A User's Manual," in *The Barbarisation of Warfare*, ed. George Kassimeris (Washington Square, New York: New York University Press, 2006), p. 1.

[170] "'My Heart Is Cut': Sexual Violence by Rebels and Pro-Government Forces in Côte D'ivoire" (Human Rights Watch, 2007), p. 37.

[171] Kimberly Theidon, "Gender in Transition: Common Sense, Women and War," *Journal of Human Rights* 6 (2007), p. 471.

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Given the presence of this violence in multiple settings, why Liberia is thought to represent something "different" is not clear. For the purposes of my analysis of three settings, it is notable that when compared to Northern Ireland and Timor-Leste this "difference" could be posited as extreme. Such a standpoint would of course take debate backward and posit an African war as particularly barbaric rather than understanding war and violence as complex phenomena reflective of socio-cultural and socio-political systems.[172] How an analytical exploration of violence navigates political and context-blind representations of that violence matters and I engage with that here to ensure clarity in the analysis of violence that this book offers. It is noteworthy that "[w]idely different forms of violence routinely labeled as 'senseless' or 'irrational' are governed by rules, prescription, etiquette and protocol . . . If there are any goals involved, they can only be reached in a special, prescribed, expressive, indeed, *ritualised* way."[173] The ritual inherent to violence cannot be confined only to settings such as Liberia, nor can egregious violence be exceptional to one site. The label of such violence readily becomes attached to the Liberia context, however. Through employing that lens to other, including my own two other case study settings, what might be revealed?

The violence in Northern Ireland is considered by some authors to be "highly ritualised . . . the very forms it takes – riots, clashes with the police – seem to obey very ancient rules."[174] Additionally, there have been egregious violent events in the Northern Ireland and Timor-Leste conflicts. A small group of men involved in a killing campaign during the 1970s in Northern Ireland were nicknamed the "Shankill Butchers." The group targeted Catholics for particularly gruesome killings that involved torture, skinning bodies while still alive, and slitting throats.[175] In Timor-Leste, sexual abuses and torture considered "culturally repulsive" also occurred in public places.[176] Confining the concept of "ritual violence" as relative to only the Liberia setting is therefore problematic as ritualization "characterises any number of violent operations"[177] and "is no less prominent in 'everyday violence.'"[178]

Some of the everyday practices in these settings are indeed determined as "ritualized" or "traditional" in form and distinctive in the severity of harm on women. In some socio-cultural groups in Liberia, girls may be betrothed from

[172] I agree with Stephen Ellis, who presents similar views here: Ellis, *The Mask of Anarchy*, pp. 17–22.

[173] Anton Blok, "The Enigma of Senseless Violence," in *Meanings of Violence: A Cross Cultural Perspective*, ed. Göran Aijmer and Jon Abbink (Oxford, New York: Berg, 2000), p. 25.

[174] Michel Savaric, "'Conflicting Symbols, Symbols of Conflict and Symbolical Conflict – the Drumcree Crisis'," CAIN (Conflict Archive on the Internet) Website. Accessed June 27, 2011. http://cain.ulst.ac.uk/issues/parade/savaric98.htm

[175] Martin Dillon, *Shankill Butchers* (London: Hutchinson, 1989).

[176] The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR)." See Volume III, Part 7.7 Rape, Sexual Slavery and Other Forms of Sexual Violence, p. 203.

[177] Blok, "The Enigma of Senseless Violence," p. 24. [178] Ibid., p. 31.

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birth to older men.[179] Women are prohibited from inheriting property upon a husband's death, and, in some instances, she herself may be inherited by his brothers as a form of property.[180] Men hold full authority over children in Liberia,[181] and, in Timor-Leste, wives may be "returned" to families if children are not produced in the early years of marriage. Early and forced marriage in Liberia means that girls as young as thirteen years of age are withdrawn from school for marriage and experience associated pregnancy complications,[182] even though these marital practices are criminally sanctioned.[183] Female genital mutilation/cutting (FGM/C) is widely practiced among some socio-ethnic groups in Liberia.[184] The inclusion of data on these forms of violence for both Liberia and Timor-Leste highlights the relevance of how violence becomes framed and labeled when set against a site such as Northern Ireland. Because of practices such as these, contexts like Liberia and Timor-Leste are labeled as "patriarchal" societies, worse than those present in a western liberal democratic setting. It is instead however more important to underline "the degree of gender equality upheld by the [perceived] majority culture"[185] so that, despite the veneer of equality in a western democratic setting such as Northern Ireland, its patriarchy too is acknowledged. It is useful, for example, to consider that in Northern Ireland domestic abuse constitutes one-fifth of all recorded crime and is known to begin or escalate during pregnancy, and up to five women are murdered annually in domestic abuse incidents.[186] In Liberia, an estimated 35 percent of ever-married women have experienced physical violence by a current or most recent partner, and 36 percent have experienced emotional violence.[187] In Timor-Leste, domestic violence constituted between 50 and 67 percent of crimes reported to the police between 2000 and 2004,[188] and research in 2002 found that 51 percent of women

[179] Fraenkel, *Tribes and Class in Monrovia*, p. 112.

[180] Olukoju, *Culture and Customs of Liberia*. See particularly chapter 6; Marineli, *The New Liberia*, p. 15.

[181] Fraenkel, *Tribes and Class in Monrovia*, p. 27.

[182] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," p. 72.

[183] Ibid., p. 75. [184] Ibid., p. 62.

[185] Abdullahi An-Na'im, "Promises We Should All Keep in Common Cause," in *Is Multiculturalism Bad for Women?*, ed. Joshua Cohen, Matthew Howard, and Martha C. Nussbaum (Princeton: Princeton University Press, 1999), p. 61.

[186] Northern Ireland Office, "Tackling Violence at Home: A Strategy for Addressing Domestic Violence and Abuse in Northern Ireland" (Belfast: Department of Social Services and Public Safety, 2005), pp. 11–12; Northern Ireland Women's Aid Federation, "Northern Ireland Women's Aid's Response to Tackling Violence at Home: The Government's Proposals on Domestic Violence in Northern Ireland" (Belfast: Northern Ireland Women's Aid Federation, 2003), p. 9.

[187] Liberia Institute of Statistics and Geo-Information Services (LISGIS) [Liberia], Ministry of Health and Social Welfare [Liberia], National AIDS Control Program [Liberia], and Macro International Inc. *Liberia Demographic and Health Survey 2007*.

[188] UNFPA, "Gender-Based Violence in Timor-Leste: A Case Study" (United Nations Population Fund, 2005), pp. 9, 12; UNIFEM, p. 7.

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had felt unsafe in their relationship with their husband.[189] Each setting culturally tolerates the abuse of women in their own homes. And such abuses are not framed as ritualized or barbaric, or even political, despite the severity of their impact on the lives and freedoms of women and girls. That there is "cross-cultural variation from society to society, in the amount, frequency and severity of aggression against women, and in what is condoned or disapproved"[190] is recognized. That "barbaric" and ritualized violence was undertaken to differing degrees within each settings is also clear. The problem with generalized pronouncements on violence between settings is that the extremes of the violence in the Liberian conflict have their roots in practices that were subject to social regulation before the conflict. The accepted subordination of women is seen by the LTRC to have established a clear basis for the violations that women later experienced during the war.[191] The research undertaken by the CAVR in Timor-Leste also found that these specific violations were related to the low social status afforded to women and the sexual stereotypes that are perpetually imposed in Timorese societies.[192] Employing similar lenses to violence, to extrapolate what becomes framed as a peculiar kind of violence by whom and how, reveals the politics behind that framing and the perils that may exist in conceptualizing "difference" in ways that could fetishize violence.

Nonetheless, there is a "dramaturgical" quality to the war theater,[193] a drama that essentially draws me and others to examine the specificities of violence that may be enacted across different theaters of war. In examining the "violence of war," we have an opportunity to assess that violence in respect of the banal and its everyday roots, rather than characterizing it as "something else." It is relevant to ask of violence "Is it an event, an example, or an exception?"[194] while pertinent to bear in mind that "the 'event' for some categories of social actors may constitute a 'non-event' for others."[195]

In my work in war-affected settings, I have been challenged by others (particularly westerners) about the brutality of the Northern Ireland conflict and asked "but why do Irish people kill each other?" as if such acts were

[189] International Rescue Committee, "A Determination of the Prevalence of Gender Based Violence Among Conflict-Affected Populations in East Timor, Report of the Pilot Study."

[190] Judith K. Brown, "Introduction: Definitions, Assumptions, Themes and Issues," in *Sanctions and Sanctuary: Cultural Perspectives on the Beating of Wives*, ed. Dorothy Ayers Counts, Judith K. Brown, and Jacquelyn C. Campbell (Colorado, Oxford: Westview Press, 1992), p. 13. Also see: James E. Anderson et al., "Cross-Cultural Perspectives on Intimate Partner Violence," *Journal of the American Academy of Physician Assistants* 21, no. 4 (2008).

[191] The Advocates for Human Rights, "A House with Two Rooms: Final Report of the Truth and Reconciliation Commission of Liberia Diaspora Project" (St. Paul, Minnesota: The Advocates for Human Rights, 2009), p. 234.

[192] The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR)." See Volume III, Part 7.7 Rape, Sexual Slavery and Other Forms of Sexual Violence.

[193] Hoffman and Lubkemann, "West-African Warscapes: Warscape Ethnography in West Africa and the Anthropology of 'Events'," p. 319.

[194] Ibid., p. 316. [195] Ibid., p. 321.

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unusual to a western society and unique to the Irish setting, the people, and its conflict. Aside from being offensive, such views posit Northern Ireland as an enigma within Western Europe, in ways similar to those attached to Liberia. Such evaluations may position both these conflicts as exceptional to other contexts with similar violent episodes, an understanding that may be generally subsumed by researchers, analysts, and the media. Even when conducting the empirical work for this research, several interviewees in Northern Ireland, knowing my background of working in armed conflicts globally, felt the need to proclaim that "this is not Africa." One respondent underlined that acts of egregious sexualized violence are simply not part of Northern Ireland's culture.[196] Research has found that sexualized violence and rape do indeed vary cross-culturally.[197] There appeared to be particular sensitivity in Northern Ireland toward the idea that mass sexualized violence of this nature could be a product of their society, in comparison to its perceived prevalence in the other contexts that the respondents knew I was researching. The "othering" of violence in cultures which are perceived to have "worse" or extraordinary violence reflects a "western bias and indicate[s] how often cases of violence are divorced from their context."[198] It is relevant to reflect that "[w]hat is extraordinary is not only noteworthy but unusual, rare. But the rarity of a kind of deed is relative to its context … What is extraordinary is not the existence of evils but their recognition as evils by contemporaries."[199] The perception that one war is more barbaric than another may therefore have more to do with how wars are reported on and labeled than is readily admitted. This is not to take away from the horror and trauma that those exposed to egregious acts of violence may experience, and who may wish themselves to label this violence in this way. Rather, in attempting to understand CRVAW across multiple contexts, navigation is required of the ritual employment of colonial discourse through Western media and othering processes that "confirm us in our superior identity."[200]

This book, therefore, does not posit any of the case studies, and especially Liberia, as "different" or "worse" from the other. Nor does it apply differential treatment to each site. Instead, each is of equal interest and recognition is given to the need to circumnavigate Western and predominant judgments of acceptable and unacceptable forms of violence as critical to a comparative analysis of violence and violent conflicts. In employing such an awareness to the case studies, there is a further risk in

[196] Interview A_10.

[197] Peggy Reeves Sanday, "The Socio-Cultural Context of Rape: A Cross-Cultural Study," in *Confronting Rape and Sexual Assault*, ed. Jody Clay-Warner and Mary E. Odem (Oxford: SR Books/Rowman & Littlefield Publishers, 1998), p. 94.

[198] Blok, "The Enigma of Senseless Violence," p. 24.

[199] Claudia Card, *Confronting Evils: Terrorism, Torture, Genocide* (Cambridge: Cambridge University Press, 2010), p. 24.

[200] Dirka Grießhaber, "Challenging Perspectives: The Majority World on Irish Television" (Dublin: Comhlámh, 1997), p. 13.

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over-contextualizing the detail relevant to examining violence outside of the "drama." What may be lost and what may be gained in stripping back the story of the violence that women experience in such war-affected contexts? The activist perspective may wish to ensure that the worst about violence against women is known and is used to prompt action. Over-contextualizing such violence may remove the "drama" from the script. From a practitioner perspective, this impacts ploys for policy development, funding, and political action, which may rely on representing the extraordinariness of such violence. It may also detract from the simple "horror" and exceptional nature of some forms of violence that women are subjected to, violence that should be known, accounted for, and addressed. It is acknowledged here that there is a balance to be had in taking "thick" and "thin" approaches to investigating particular contexts or concepts that are at the heart of this book.[201]

CONCLUSION

Comparatively assessing violence and critiquing the assumptions that are made about what violence is and what it represents lifts the conversation about CRVAW out of a specific site or example to a much broader consideration of how the violence of conflicts should be approached for analysis. The three sites under discussion have experienced protracted conflicts, armed violence impacting civilians and those who are parties to the conflicts, and present differing forms, scopes, and complexities of violence as a result. Women experienced intense and broad-ranging forms of harm, and yet only two contexts are broadly assumed to have experienced the kinds of violence that reaches the threshold of being "conflict-related." What might be seen beyond strategic rape? How does the framing and labeling of violence impact on what is seen and known about violence? And what does this mean for the process of transition and transitional justice for women?

[201] See generally: Michael Coppedge, "Thickening Thin Concepts and Theories: Combining Large-N and Small in Comparative Politics," *Comparative Politics* 31, no. 4 (1999).

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PART III

Violence Against Women Before, During, and After Conflict

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4

Beyond Strategic Rape: Expanding Conflict-Related Violence Against Women

All our knowledge brings us nearer to our ignorance.[1]

INTRODUCTION

"[T]he label war is often one that conceals as much as it reveals."[2] So far, this book has demonstrated that assessing violence through the lens of warfare reveals that women have experienced gendered harms across historical and contemporary contexts of war, while strategic rape has become the war-related violence of primary interest to modern modes of formal accountability. The examination of the three case studies reveals that only two of the sites are assumed to have experienced "conflict-related" sexualized violence by the means judged in today's contemporary categorization of harm. What is concealed in the ways that the harms of war are understood through legal and political frameworks is now of specific interest. This chapter takes up the mantle identified in Chapter 2 – that there is a need to continue expanding the knowledge base of the ways that women experience gendered violence *during* conflict so that the more concealed aspects of harm are made visible. It responds to the question posed in Chapter 3 – *what might be seen beyond strategic rape?* – so that what has been concealed to date in the analysis of CRVAW may be revealed. Northern Ireland is the leading site in this chapter.

This chapter commences my empirically driven analysis of CRVAW – it focuses on the during conflict phase. The next chapter examines relations in violence across pre-, during-, and post-conflict contexts, and Chapter 6 examines the post-conflict phase. Three primary motivations underpin these chapters, and specifically relate to the lens of "looking beyond strategic rape" in this chapter. The first is to respond to

[1] T. S. Eliot, *Choruses from the Rock* (Faber & Faber, Limited, 1973 [1943]).

[2] David Keen, "Incentives and Disincentives for Violence," in *Greed and Grievance: Economic Agendas in Civil Wars*, ed. Mats Berdal and David M. Malone (Boulder and London: Lynne Rienner Publishers, 2000), p. 19.

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the prevailing critique of the predominant focus on strategic rape at global levels and in so doing, to make qualitatively visible, on the basis of empirics, a range of gendered harms that women experience in wartime alongside and outside of strategic rape. This addresses gaps in knowledge of conflict-time harms, and by including settings where strategic rape is and is not known to have occurred, demonstrates the range of harms that women will experience even without the presence of mass or strategic sexualized violence. The second motivation is to expose how those harms occur in ways related to the conflict, and to prompt debate on how and why violence may be deemed "conflict-related." By making the diversity of harms visible and mapping their relation to a conflict, a better understanding of women's experiences of conflict and better responses to that violence may be garnered.

In keeping with these intentions and in line with the work of Johan Galtung, I am more interested in pursuing the "effects" (i.e. types of violence that are occurring in a conflict) than in pin-pointing specific causes.[3] In so doing, one has nonetheless to identify the social issues, sources of power, and contributory factors that provide context to how and why violence occurs. In the next section I discuss six factors identified through my research that enable me to discuss the different forms of CRVAW that emerge. The discussion and framing of these factors are underpinned by my third motivation: to bring back the relevance of the concept of gender and of feminist approaches to the general examination of CRVAW.[4] As discussed in the previous chapter and further elaborated in the next section, the relevance of gender and social power relations to understanding conflict-time harm has somewhat dissolved in recent scholarship and policy on this issue. "A theory of violence should be victim-oriented, not method-oriented."[5] In this vein, through the lens of women's lives and experiences, this chapter, and the following chapter, identifies wide-ranging forms of harm, their relation to the conflict and the gendered contexts in which they occur. It purposely diverts from examining what is routinely considered to constitute CRVAW, i.e. patterns of systematic political sexualized violence by combatants set out as "public" harms under international law. The harms of this kind for each case study have already been documented and were presented in Chapter 3. This chapter instead empirically identifies a range of gendered harms that exist alongside or separate to strategic rape. The evidence draws from the archival and empirical work undertaken for the book, and the discussion aims to prompt reconsideration of what becomes defined as "conflict-related" harm for women.

[3] Johan Galtung, "On Violence in General and Terrorism in Particular," *Papers of Johan Galtung, Chair in Conflict and Peace Research, University of Oslo* (1978), p. 1.

[4] Sara E. Davies and Jacqui True, "Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In," *Security Dialogue* 46, no. 6 (2015).

[5] "I have found it more useful to start in the other end: not asking for causes, but asking for effects for types of violence. A theory of violence should be victim-oriented, not method-oriented," Galtung, "On Violence in General and Terrorism in Particular," p. 1.

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BEYOND ACTORS TO VIOLENCE IN CONTEXT

Looking beyond what is formally considered to be "conflict-related" violence requires looking beyond what might be defined as such. In today's wars, in which sexualized violence (of a particular form) has been recognized as severe enough to "warrant a separate naming,"[6] requires women to navigate what does and does not formally constitute conflict-related harm. The exceptionalism attributed to strategic rape has influenced how the everyday mundane and persistent ways that women experience sexualized and other "[r]ecurring harm . . . [has] become . . . the standard of normal."[7] Through its current framing, CRSV has "demarcated the boundary within which harm is, de facto, permitted."[8] In other words, CRSV of a particular caliber has come to reinforce the idea that what constitutes "harm is a deviation from what is considered ordinary."[9] Susan J. Levitt provides the helpful example of how: "Scientists tell us that there is a certain level of radiation that exists around us all of the time, and it is normal and tolerable. Levels within the background range, because they are considered normal, are presumptively not harmful. Only exposure to levels above the background range are potentially injurious. The higher above the normal range exposure goes, the more likely it is that harm will be presumed to have occurred. The scientific model of harm is duplicated in the legal world."[10] If "harm is not harm when it occurs frequently,"[11] then trying to reveal that which is concealed requires contesting these boundaries. By removing the lines, wider actions beyond those considered remarkable could become permissible for categorization as being "conflict-related." To begin expanding what is counted as CRVAW requires working from what is taken for granted as "known" about it.

It may be argued that a series of reductions have come to determine a specific way of "knowing" CRVAW when we see it. I draw on three reductive strategies that have been threaded through the discussion across the previous three chapters, as a critical basis for my later discussion. The first of these reductions, as identified in Chapter 2, is the way that violence experienced by women during conflict has become sexed over time. Women's experiences of war have become conflated with sexualized violence by armed combatants to the relative exclusion of the relevance of wider forms of harm.

The second reductive effect has been the ways that sexualized violence itself has come to fit specific normative frames and measures. As discussed in Chapter 1 and 2, forms of CRSV have been made "political" so they are palatable to the international political and legal system.[12] Politicized sexualized violence possesses allure, potency, and currency for a masculinist war-focused multilateral system, securitizing it per

[6] Kathryn Farr, "Extreme War Rape in Today's Civil-War-Torn States: A Contextual and Comparative Analysis," *Gender Issues* 26 (2009), p. 6.
[7] Susan J. Levitt, "Rethinking Harm: A Feminist Essay," *Washburn Law Journal* 34 (1995), p. 532.
[8] Ibid., p. 532. [9] Ibid., p. 532. [10] Ibid., pp. 531–32. [11] Ibid., p. 532.
[12] Sara Merger, "The Fetishization of Sexual Violence in International Security," *International Studies Quarterly* 60 (2016).

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the traditional security framework.[13] When other forms of violence that women name do not fit the political, securitized, and legalized codification of CRSV, it may not reach the threshold of security threat that requires state-based legal or political recognition. In a conflict, how can a harm that is not of measureable political, security, and legal value matter?

Third, related to the latter two motivations and of specific interest to this chapter, is the evaporation of gender as a means of understanding CRVAW and the increasing focus on the causal exploration of a singular composite relation of: violence (rape) – perpetrator (combatant) – causal-force (armed group dynamics and aims). Over the last three decades, more and more research on the causes of sexualized violence in war has emerged. Much of the early feminist scholarship on this issue focused on revealing how sexualized violence is used in achieving the goals of political violence, i.e. terrorization, displacement, and ethnic cleansing. The argument made was that its efficacy lies in targeting women because they are women, and, in so doing, breaches and exploits gendered and sexualized norms.[14] That body of work brought to the fore the necessary argument and understanding that rape occurs for strategic purposes in (some) war(s) because of its gendered hue. Strategic accounts of rape as a "weapon of war" are now predominantly propagated by international advocates in much more reductive ways, a formulation used "as a straight-forward explanation" for sexualized violence, and, for some, the singular explanation for why CRSV occurs.[15] Feminist scholars also developed expanded ideas outside of legal norms, arguing that a broader understanding of the context to what happens in war is needed. As discussed in Chapter 1, many feminist scholars assert that what happens in war is simply a reflection of what happens in peace time, and that the sexualized violence of war is a continuum of the gendered basis of harms for women across conflict and peace.[16]

[13] Sara Merger, "Rape in Contemporary Warfare: The Role of Globalization in Wartime Sexual Violence," *African Conflict and Peacebuilding Review* 1, no. 1 (2011); Merger, "The Fetishization of Sexual Violence in International Security," p. 153.

[14] Ruth Seifert, "War and Rape: A Preliminary Analysis," in *The War Against Women in Bosni-Herzegovina*, ed. Alexandra Stiglmayer (Lincoln, London: University of Nebraska Press, 1994); Cynthia Enloe, *Maneuvers: The International Politics of Militarizing Women's Lives* (Berkeley, California: University of California Press, 2000); Rhonda Copelon, "Surfacing Gender: Reconceptualising Crimes Against Women in Times of War," in *The War Against Women in Bosnia-Herzegovina*, ed. Stiglmayer.

[15] Merger, "The Fetishization of Sexual Violence in International Security," p. 150.

[16] Caroline O. Moser, "The Gendered Continuum of Violence and Conflict: An Operational Framework," in *Victims, Perpetrators or Actors? Gender, Armed Conflict and Political Violence*, ed. Caroline O. Moser and Fiona Clark (New York: Zed Books Ltd., 2001), 30–52; Cynthia Cockburn, "The Continuum of Violence: A Gender Perspective on War and Peace," in *Sites of Violence: Gender and Conflict Zones*, eds. Wenona Giles and Jennifer Hyndman (Berkeley and Los Angeles, University of California Press, 2004), 24–44; Liz Kelly, *Surviving Sexual Violence* (Cambridge, Polity Press, 1998); Liz Kelly and Jill Radford, "'Nothing Really Happened': The Invalidation of Women's Experiences of Sexual Violence," in *Women, Violence and Male Power: Feminist Activism, Research and Practice*, ed. Marianne Hester, Liz Kelly, and Jill Radford (Buckingham and Philadelphia: Open University Press, 1996), 19–33.

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More recent scholarship focusing on causality of CRSV has diverged from feminist approaches. It examines this form of violence but takes the armed group as its starting point and is a move that some scholars in this body of work estimate to be required given the deficiencies of "classic" (feminist?) explanations.[17] The work of Elisabeth J. Wood has been particularly compelling in solidifying understanding that sexualized violence by armed groups varies and that strategic rape does not occur in all conflicts.[18] On this basis, hierarchies and ideologies within armed entities (state and non-state) are found to be critical indicators of the level of institutional discipline that either enables or prevents sexualized violence.[19] Modes of group cohesion such as recruitment practices are estimated to play a role in the use and perpetration of sexualized violence by armed groups.[20] Some studies find that the conflict-type has no relation to the probability of strategic or mass sexualized violence.[21] The predominant argument underpinning this body of "causal analysis"[22] work is that organizations and institutions perpetrate this violence, and an "organization's sexual violence repertoire is thus a part of its overall repertoire."[23] The focus is on mass and strategic rape (with important work delineating conflations in terminologies used between "mass" and "strategic"[24]) and how it "varies sharply across armed actors."[25] As such, "not all armed organizations engage in rape."[26] There is a variation in the elective violence of *armed groups*, derived from an examination of the behavior and use of violence by armed groups and not the characteristics of violence itself.

Underlying this work is an important project of advancing understanding of armed group dynamics and "the practice" of sexualized violence formally and deliberately as well as on an opportunistic basis.[27] The lens that feminist approaches lend is however missing, even though there is complementarity between both approaches in attempting to advance understanding and response to CRSV.[28] Some of this work finds that gender inequalities, norms of discrimination, the idea of continuums of harm and other similar gendered factors play *no role* in the

[17] Elisabeth J. Wood, "Conflict-Related Sexual Violence and the Policy Implications of Recent Research," *International Review of the Red Cross* 96, no. 894 (2014), p. 466.

[18] Elisabeth Jean Wood, "Variation in Sexual Violence During War," *Politics and Society* 34, no. 3 (2006).

[19] Ibid.; Elisabeth Jean Wood, "Armed Groups and Sexual Violence: When Is Wartime Rape Rare?," *Politics and Society* 37, no. 1 (2009).

[20] Dara Kay Cohen, "Explaining Rape During Civil War: Cross-National Evidence (1980–2009)," *American Political Science Review* 107, no. 03 (2013).

[21] Wood, "Variation in Sexual Violence During War."

[22] Davies and True, "Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In," p. 496.

[23] Wood, "Conflict-Related Sexual Violence and the Policy Implications of Recent Research," p. 461.

[24] Wood, "Conflict-Related Sexual Violence and the Policy Implications of Recent Research," p. 470.

[25] Ibid., p. 459. [26] Ibid., p. 458.

[27] Wood, "Conflict-Related Sexual Violence and the Policy Implications of Recent Research," p. 470.

[28] Davies and True, "Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In," p. 497.

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perpetration of CRSV however.[29] In its interest in explaining variation across armed groups, that research has "assumed that because gender inequality is everywhere it cannot logically explain SGBV[30] anywhere."[31] Rather, "this scholarship has stressed understanding sexual violence as the product of individual and/or group perpetrator choices – particularly the behavior and social cohesion of rebels and soldiers in existing conflicts."[32]

Gender inequalities are indeed everywhere. So too are differing kinds of gendered harms that occur globally. Chapter 2 outlined the ways that endemic gendered harms vary globally in response to contextually variant norms of gender relations, gendered power and inequalities, and socio-cultural norms attached to women's bodies and sexualities. Sexualized violence is prevalent globally and in different ways, with and without armed conflict. "Far from being a deviation from the social order, [rape and sexual violence] is in a significant sense, an enforcement of it."[33] Causal analysis approaches do, to variant degrees, set CRSV apart, as a distinctive act, separate from other gendered forms of violence and gendered continuums of violence,[34] thereby specific to (some) armed groups. A critical argument in this regard is that a "continuums" approach, wherein gendered violence is understood to be ever-present and related across facets of women's lives, cannot account for the "innovations in sexual brutality that we observe"[35] in conflict; and correlative quantitative analysis argues that there is no relationship between the gendered nature of social institutions and CRSV.[36] It may be the case that CRSV is, or is experienced as, distinctive and particular – something I address in the next chapter. And there have indeed been specific innovations in CRVAW documented in contemporary conflicts. However, as argued in Chapter 2, there is relevance to understanding women's experiences of contemporary warfare in respect of its historic precedent. As evidenced in that chapter, similar to today's conflicts, specific brutal and egregious harms, including bodily mutilations, group-based sexualized assaults and reproductive destructions, are found in historic warscapes. It is not that the assaults on women in today's or historic

[29] Wood, "Variation in Sexual Violence During War"; Cohen, "Explaining Rape During Civil War"; Wood, "Conflict-Related Sexual Violence and the Policy Implications of Recent Research," pp. 463–64.

[30] SGBV: Sexual and Gender Based Violence (SGBV). This is another term used in scholarship and policy to capture broad-ranging forms of gendered harm.

[31] Davies and True, "Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In," p. 507.

[32] Davies and True, "Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In," p. 496. Wood, "Variation in Sexual Violence During War"; Christopher K. Butler and Tali Gluch, "Security Forces and Sexual Violence: A Cross-National Analysis of a Principal–Agent Argument," *Journal of Peace Research* 44, no. 6 (2007); Cohen, "Explaining Rape During Civil War."

[33] R. W. Connell, *Gender and Power: Society, the Person and Sexual Politics* (Stanford, Stanford University Press 2003), p. 107.

[34] Wood, "Conflict-Related Sexual Violence and the Policy Implications of Recent Research," pp. 463.

[35] Ibid., p. 464. [36] Ibid., p. 464, citing Cohen, "Explaining Rape During Civil War."

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periods of conflict are "different" from each other, rather and strikingly, they both demonstrate examples of sustained and innovative acts of brutalization of women's bodies. There remains need to acknowledge that while each woman's experience of harm should be recognized and responded to in unique ways, when it comes to understanding the what and why of CRSV today, the historic lineage of the violation of women's bodies within and outside of war matters.

Further, the reason that sexualized violence becomes an optional form of violence within armed groups' repertoire requires further exploration, particularly in respect to the gendered nature of the broader social structural order and the ways that gender inequalities do impact on women's experiences of harm.[37] There is an emerging body of evidence, for example, that shows that for armed actors there may exist multiple, intersecting, and parallel motivations for rape which confound the straight-forward idea that soldiers rape for militarized ends. While mass rape has been reported in the DRC for decades at this point, soldiers have recounted that their motivations for violence range from their own experiences of poverty and hunger and the utility of violence as a livelihood strategy; to rape as a response to frustration and stress in warfare; to the use of these harms as a response to sexual needs and the inability to perform masculine roles as provider to family.[38] "Scholars and practitioners now frequently represent conflict-related sexual violence as somehow independent from the relations of its production."[39] These very specific ways that attempt to explain sexualized violence are beginning to determine what we see and how we respond to it, and indeed what is now "known" about it. The training of militaries to prohibit sexualized violence is promoted, for example. While this approach is necessary, there remains need to also identify and address contextually specific factors and general root causes, such as the sustained historic and gendered basis of harm, that make sexualized forms of violence a strategic or an opportunistic option in a particular case in today's wars. A focus on training the armed group to end perpetration of CRVAW draws a clear line between what an individual soldier does when he has his uniform on and is acting in that capacity, and when he does not or is acting in a private capacity. It implies that prohibiting CRSV would remove such forms of violence from warscapes more broadly.

This body of work has been critical in evidencing that not all armed groups perpetrate strategic rape and that there is a need to learn more about and from this variation, and importantly, how to engage with armed groups and the crimes they commit. Broader than this body of work however, is the need for acknowledgment

[37] Davies and True, "Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In," p. 497.

[38] Maria Eriksson Baaz and Maria Stern, "Making Sense of Violence: Voices of Soldiers in the Congo (DRC)," *Journal of Modern African Studies* 46, no. 1 (2008); Maria Eriksson Baaz and Maria Stern, "Why Do Soldiers Rape? Masculinity, Violence and Sexuality in the Armed Forces in the Congo (DRC)," *International Studies Quarterly* 53 (2009).

[39] Merger, "The Fetishization of Sexual Violence in International Security," p. 151.

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that focusing only on the armed group runs the risk of assuming that women's experiences of harm in conflict derive only from armed actors; or that an absence of strategic rape by armed groups may be conflated with an absence of ordinary recurring or other extraordinary harms on women. Going forward, it is critical to understand what is offered across approaches that assess CRSV from the perspectives of the armed group: those that take violence itself as a starting point; feminist approaches that make visible the relevance of gender norms and power relations and those that map from the experiences of victims/survivors themselves as a lens through which to understand the impact, and thereby the efficacy, of that violence in context.

There is a critical difference between assessing variation in violence use by armed groups and variation in the type of violence present within and across particular armed conflicts, regardless of who is enacting it. I am interested in the latter, what is happening to women, their experiences of violence and where it is coming from. Violence does not of course operate by itself; rather, it requires an agent (whether armed actor or otherwise), a set of objects (in this case women and girls) and also a set of contextual factors that inform its prevalence, form, utility, meaning, and efficacy in respect of its own power and its place in broader social relations (gender norms, power sources, normative expectations of violence thresholds). Setting CRSV apart from the wider social context in which violence occurs negates the context of its gendered utility in war. It ignores the ways that gender and violence intersect, and what may occur when armed conflict is added to that nexus. Rather, understanding what violence, where and how, and whether and how it occurs in relation to the dynamics of a conflict and the social gendered order, enables a comprehensive examination of the landscape of violence that women and girls may be experiencing in one context of conflict, as well as across conflicts.

VIOLENCE IN CONTEXT: MULTIPLICITOUS CONFLICT-RELATED VIOLENCE AGAINST WOMEN

Driven by the empirical findings, the discussion that follows examines experiences of violence identified in each of the three conflicts. The Northern Ireland context features heavily as it offers distinct deviation from contexts where strategic rape is estimated to have occurred and enables this chapter to tackle assumptions which equate a lack of strategic sexualized violence with an absence of conflict-related gendered harms altogether. It specifically demonstrates that there is a need to recognize *variation* in CRVAW globally. The concept of variation in the work of Elisabeth J. Wood acknowledges the prevalence of individual violence on the part of combatants during conflict.[40] While I draw from the advances this body of work has offered in respect of the idea of variations, I discuss CRVAW in respect of variations

[40] Wood, "Variation in Sexual Violence During War," p. 308.

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in *violence forms*, and the social context and factors, gendered in their utility, that influence violence. My discussion in the following sections refers frequently to the structural gendered order that I assume to influence violence against women. By this I mean the pre-existing gender norms, gender power relations and the patriarchal structural order of our societies that determine the ways that women are subject to gendered harms. My understanding is drawn from decades of feminist work and the evolution of the concept of gender as a means for explaining the violence in women's lives, which I outlined in Chapter 2.

In order to analytically organize and discuss the findings, the six factors I have identified as influencing violence are framed by a meta level analysis of their alignment with the macro, meso, micro tripartite framework.[41] This broader framework is useful in making visible the social structure that gives order to social power relations that form the bedrock on which violence occurs. It is also a framework that has informed models of prevention and response to violence against women within and outside of conflict contexts and is useful in ensuring this research speaks to the policy and practice of addressing harm in women's lives.[42] This broader framework and enabling social order is set out as follows: 1) the structural order, i.e. the ways that social relations of power and institutional infrastructures at the macro level provide order and may inhibit or enable how violence plays out; 2) the systemic order, i.e. how systems-based dynamics offer order to how violence is resourced and used at meso levels; and 3) the individual level, i.e. where micro-level dynamics will inform personal interests through violence. This multi-level approach enables discussion of how violence is influenced from the structural to the micro levels, as well as enabling later discussion across the book of how each level is connected and interacts with the other.

1 *Structural: Factors Operating at a Structural Level to Enable Violence*

By structural factors or the structural order, I mean those factors that arise because of "the intractability of the social world."[43] These are the set of macro-level social forces and institutions, such as governance, law, politics and the media, intrinsic to the broader social and gendered order, that structure relationships, patterns of power and that permit and/or constrain agency and social freedoms.[44] It is within this order

[41] For an overview of academic and interdisciplinary debates on this theoretical frame see: Li, Bucong, "From a Micro–Macro Framework to a Micro–Meso–Macro Framework." In *Engineering, Development and Philosophy, American, Chinese and European Perspectives*, ed. by Style Hyldgaard Christensen, Carl Mitcham, Bocong Li, and Yanming An, 23–36. Dordrecht, Heidelberg, London, New York: Springer, 2012.

[42] Lori L. Heise, *What Works to Prevent Partner Violence? An Evidence Overview*, Working Paper (version 2.0), December 2011; Lori L. Heise. "Violence Against Women: An Integrated, Ecological Framework," *Violence Against Women*, 4, 3 (1998): 262–90.

[43] Connell, *Gender and Power*.

[44] For a general and brief synopsis of the sociological concept of "social structure" and the multi-level framework of structural (macro), systemic (meso), and individual (micro) that I draw from here,

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that I identify (a) "opportunity" as a factor that enables harm and that arises because of the wider structural social order in which harms are enacted. In this case, I refer to the "structuring forces"[45] of the legal and militaristic order of state forces, non-state actors, the formal and informal implicit powers that institutions operate under, as well as how these map out and regulate privilege and access to laws and protections for wider society members. In my discussion here, the broader structural order is shown to relate to the *opportunity* for violence and to influence forms of violence by multiple actors within and across the three case studies.

(a) Opportunity

For the purposes of my discussion, opportunistic violence includes acts that are neither part of military orders nor enacted to fulfill collective objectives of the armed unit, but arise on an individualistic and private advantage-basis in the context of conflict because of the broader structural power afforded to these institutions and associated actors. I explore and use the idea of *increased opportunity for gendered violence as a result of conflict* to identify three ways in which conflict and the institutions that sustain conflict, may act as a structural force to enable non-strategic CRVAW and abuse to manifest:

OPPORTUNITY FOR VIOLENCE BETWEEN STATE AGENTS AND CIVILIANS

Political and legal structures continued to hold authority and operate in Northern Ireland during the "Troubles" and provided the framework for relationships between sets of militarized actors, and between militarized and civilian actors. The installment of emergency legislation gave specific powers to the state, directly shaping the way the conflict played out and how it was responded to.[46] Militarization of the police, deployment of armed forces to the streets, juryless courts, and stop-and-search powers arguably structured patterns of behaviors and, as will be revealed here, even the ways that abuses could play out. The British government's approach to security in the earlier periods of the conflict in Northern Ireland meant that contact between civilians and security actors was enacted through strict and often aggressive means to access, intimidate, and control the population. House searches by police and military actors, checkpoints and security barriers through which community members had to pass to enter and exit their communities, and enhanced powers of arrest meant that British security

please see Ashley Crossman, "Social Structure Defined," March 2, 2017, www.thoughtco.com/social-structure-defined-3026594. Accessed March 30, 2017.

[45] Ibid.

[46] Christine Bell, "Dealing with the Past in Northern Ireland," *Fordham International Law Journal*, 26, 4 (2003); Fionnuala Ní Aoláin, *The Politics of the Force: Conflict Management and State Violence in Northern Ireland* (Belfast: Blackstaff Press, 2000).

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personnel were frequently in contact with civilians.[47] This contact at times resulted in sexually abusive behaviors:

> the first time it happened, you're thinking "well, it was in broad daylight." I always remember it happening because it didn't feel right and . . . but you don't know as a child, as a young teenager, and it was broad daylight and it was in front of people, nobody knew their rights, nobody knew their rights! It was a Saturday, and I remember this, and a soldier standing and searching me, I'd to open my coat while he searched me physically on the body and made me take my shoes off, that's how I remember the first time, and searched my feet. Felt along my socks, just humiliation. But I remember thinking at that time, and I was on my own "Jesus Christ, is this right?" . . . in the broad daylight, a Saturday . . . and nobody knew . . . nobody knew . . . that happened . . . that's sexual harassment and sexual assault and they knew damn well what they were doing. They must've been trained, they were just taking advantage of a situation where nobody knew what their rights were.[48]

This respondent felt that these soldiers "must've been trained" to operate under regulations that would prohibit such acts, and she surmised that despite this, their behavior was their own, not a course of action sanctioned or commissioned by the British army.[49] Her experience and subsequent view suggests that individual soldiers themselves may have been acting of their own volition, taking the opportunity to sexually harass. There is documentation to support this view. In the earlier periods of the conflict, the sexual harassment of women by the British army at checkpoints and through stop-and-search strategies is known to have taken place.[50] Some women described these incidents "in terms of sexualized psychological abuse";[51] one woman described abusive comments and "vulgar stuff" every time she passed an outpost near her home.[52] Research conducted in 2001 found that, for at least one woman, these forms of harassment did not happen when she

[47] "In 1971 there were 17,262 house searches. By 1973, this had risen to 75,000, one fifth of all houses in Northern Ireland": John Darby, *Northern Ireland: The Background to the Conflict* (Belfast: Appletree Press, 1983), pp. 40, 41. Inevitably, raids on the domain of the home affect women primarily because of their gendered placement in the home, and that space is repeatedly violated through repeated house searches. Women from Republican backgrounds were disproportionately affected by this form of invasion due to the tensions between Republicans and the security forces and the disproportionate number of raids on Republican homes. Raids were conducted in the middle of the night and large numbers of security forces violently entered homes. One woman describes how she woke up to find fifteen soldiers searching her house in the middle of the night: Nell McCafferty, *The Armagh Women* (Dublin: Focus Ireland, 1981), p. 71.

[48] Interview A_7. [49] Interview A_7.

[50] Based on stop-and-search powers under the Civil Authorities Special Powers Acts and Northern Ireland Emergency Provisions Acts, the British Army regularly stopped people on the streets and at checkpoints.

[51] Colm Campbell and Ita Connolly, "A Deadly Complexity: Law, Social Movements and Political Violence," *Minnesota Journal of International Law* 16, no. 2 (2007), p. 285.

[52] Ibid., p. 285.

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was accompanied by a male,[53] underlining that it may have been less of a policy and more of an individual action.

Opportunistic abuses by men with military status also occurred in Timor-Leste. Militia "drank and were drunk and went out into the streets" and frequently sexually assaulted women; as one respondent described it, "when we were in the market, when we were out walking you had to be careful."[54] While this form of sexual harassment ordinarily takes place in women's lives without conflict, i.e. harassment experienced in public spaces and on public transport, that these were members of militia and it was taking place against the backdrop of a conflict, gives additional texture to that violence. The acceptable recurring harms and harassment take on an added dimension with the addition of political power to those actors' identities. There is a differentiation made by respondents between this kind of abuse and abuses perpetrated by other militia because they "thought you were not in support of the Indonesians," drawing a distinction between the perceived opportunistic nature of this violence and that which clearly derived from military orders.[55] Opportunities taken to enact personally motivated, opportunistic violence blur the lines between sanctioned militarized political abuse, the private abuse of militarized actors, and the recurring harms that are ordinarily expected. The lines between these three become particularly distorted when it is not clear how the perpetrators themselves would make categorical or legal distinctions between their actions.

OPPORTUNITY EXPLOITED BY NON-STATE ACTORS IN THEIR OWN COMMUNITIES

In Northern Ireland, male paramilitary group members also enacted violence on women in their personal capacities rather than in any formal or official exercise associated with their membership. For many communities, paramilitary organizations became the new structural order, establishing quasi-systems of governance, policing, and hierarchies of social power and relationships regulated by militarized leadership. While sectarian or ethnic-based rapes across political identities were considered to be rare, the abuse of women in their own homes and communities did occur, as demonstrated here:

> Every year from when I have started in this center we have heard at least 2 or 3 gang paramilitary rapes and that has stayed consistent right through and it is still happening, it's still happening today. Now, I need to say this, that, you know, although these are men from an armed organization, these acts are not, I'll put it like this, they are not approved by the organization, and I think an important thing to say as well that in our experience sectarian rape is really really rare. An extremely rare thing, and women are generally raped or abused by men in their own communities. So, sectarian rapes are extremely rare.[56]

[53] Helen Harris and Eileen Healy, *"Strong About It All . . ." Rural and Urban Women's Experiences of the Security Forces in Northern Ireland* (Derry: North West Women's/Human Rights Project Publications, 2001), p. 85.

[54] Interview C_19. [55] Interview C_19. [56] Interview A_10.

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This view is corroborated by additional stories of rape perpetrated by paramilitary members. One respondent related the story of a young woman who was gang raped in a housing complex by a group of men from a local paramilitary organization. The residents of the complex could hear what was happening but did not act due to their own fears of the paramilitary status of the group.[57] This story is also elaborated on the Rape Crisis & Sexual Abuse Centre's website.[58] A service provider recounted the many such incidents reported to her service: "there are many rapes, certainly in terms of gang rapes there would be an equal amount from both sides [of the conflict]."[59] Additionally, "before the so-called 'peace' came, they had had women, young women, drugged and video-taping them and sex . . . and houses . . . and that was then put on the internet."[60] These comments derive from service providers working directly with women in conflict-affected communities and are substantiated by reports from a small number of organizations (explored further in the next sub-section). They are also substantiated by numerous media articles and popular books detailing paramilitary members' sexual violation of women from their own communities (within both sides of the conflict). While media articles may sensationalize such incidents, particularly where local outlets can advance their own political leanings through "tell-all stories," some of these stories correspond with what I was told in interviews. In some instances, the only difference between the news articles and what I was told in my interviews is the sensationalist style of reporting. For example, numerous respondents mentioned speaking to a woman who had been repeatedly sexually assaulted by a member of the PIRA when she was sixteen.[61] During the period that I was conducting research for this study (early 2010), the woman in question, Maria Cahill, went public with her story in local newspapers.[62] Because the accused was an ex-prisoner and a leading member of the PIRA's punishment squad, she had been too frightened to report what was happening at the time of the abuse (1997). In many communities, particularly Republican communities, paramilitaries, such as the PIRA, effectively became a de facto policing service.[63] Part of the Republican strategy was to delegitimize the British state, and Republican communities were largely required to detach from association with the organs of the state. This meant that problems within the community, social deviance, and crime were often reported to, controlled by, and disciplined by PIRA structures. Cahill eventually reported the rapes to a female PIRA member in 1998. She was then forced to meet with the accused, subjected to scrutiny

[57] Interview A_7.

[58] RC & SAC, "Specific Problems Faced by Survivors of Sexual Assault in Northern Ireland," Rape Crisis & Sexual Abuse Centre Northern Ireland, www.rapecrisisni.com/reports/surviving.php. Accessed June 10, 2010.

[59] Interview A_10. [60] Interview A_5. [61] Interview A_2; Interview A_10; Interview A_16.

[62] Suzanne Breen, "Grand-Niece of Provo Legend Endured Horrific Sexual Abuse," *Sunday Tribune*, January 17, 2010.

[63] Joan McKiernan and Monica McWilliams, "The Impact of Political Conflict on Domestic Violence in Northern Ireland," in *Gender Relations in Public and Private: New Research Perspectives*, ed. Lydia Morris and E. Stine Lyon (London: Macmillan Press Ltd., 1996), p. 256.

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by PIRA members, asked to retract her statement, and pointed toward a PIRA in-house counselor rather than going to the Rape Crisis Centre, an official recognized but non-governmental service, as she had preferred. She also believes the PIRA facilitated the perpetrator's relocation across the border to the Republic of Ireland in order for him to avoid prosecution.[64] In October 2014, following the failures of criminal charges associated with her case, Cahill went public with her case to critique the criminal justice system's handling of her complaint.[65] The publicity of her case generated layers of public and online abuse, threats, and discrediting of her story.[66] An investigation by the Department of Public Prosecutions found that the system had indeed failed Cahill and two other (anonymous) women who filed charges against the same member of the PIRA.[67] In May 2015, Paudie McGahon went public with allegations that he had been raped at age 17 by a high-ranking member of the PIRA.[68] Similarly, when he reported the abuse to the PIRA in 2002, he was subjected to what is referred to as a "kangaroo court" adjudicated by alleged PIRA members. He was informed that the accused was "in custody" with the PIRA and had admitted to his abuse and the abuse of other people.[69] Sinn Féin has stated that PIRA members acted in the best interests of the victims at the time.[70] Media reporting indicates that Sinn Féin conducted an internal inquiry of up to forty allegations of sexual abuse by PIRA members in 2006.[71]

Additional revelations have emerged through the media. It is observable that the media both provides an outlet for reports of abuse, as well as acts as a social force, structuring how these stories are portrayed for the first time in society, determining credibility of those who report and in many cases establishing social debate on the patterns of harm that surface. Emerging reporting includes the story of one woman who, as a child, experienced abuse during the 1970s and 1980s by a PIRA member who "locked her in an attic and also a dog kennel for days, forced her to use a bucket rather than the toilet, beat her mercilessly, held her head under water until she lost

64 S. Breen (January 17, 2010): "Adams was Told About what X Had done to Me," *Sunday Tribune*, Dublin.

65 "A Woman Alone with the IRA," in *BBC Spotlight Series* (UK, October 13, 2014). BBC News Northern Ireland, "Máiría Cahill: Timeline of 'IRA Rape' Allegations" (November 24, 2014).

66 Henry McDonald, "They May Smear Me as a Traitor. But the IRA Will Never Stop Me Telling of How I Was Raped at 16," *The Guardian*, November 15, 2014.

67 Katherine O'Byrne and Keir Starmer, "Independent Review of the Prosecution of Related Sexual Abuse and Terrorism Cases" (May 6, 2015). Henry McDonald, "Prosecution Service Failed Alleged IRA Rape Victims, Says Keir Starmer Report," *The Guardian*, May 22, 2015. Gerry Moriarty, "Sir Keir Starmer Report Is a Vindication of Máiría Cahill," *The Irish Times*, May 23, 2015.

68 Jennifer O'Leary BBC News, "Second 'IRA Rape Victim' Speaks Out," March 10, 2015. Gerry Moriarty, "Louth Man Claims He Was Raped by IRA Member," *The Irish Times*, March 10, 2015.

69 Paul Williams, Maeve Sheehan, and Michael Browne, "Paudie McGahon's IRA Abuser Raped Boy in Dublin," *Irish Independent*, November 19, 2015.

70 Henry MacDonald, "Second IRA Rape Victim Accuses Sinn Féin of Abuse Cover-Up," *The Guardian*, March 10, 2015. BBC News, "Paudie McGahon: Gerry Adams Says He Believes 'IRA Rape Victim'," March 11, 2015.

71 Paul Williams, Maeve Sheehan, and Michael Browne, "Paudie McGahon's IRA Abuser Raped Boy in Dublin," *Irish Indepdendent*, November 19, 2015.

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consciousness, and sexually abused her."[72] Another woman brought charges against a PIRA member who subjected her to sexual abuse as a child.[73] Similar allegations have simultaneously emerged relating to Loyalist paramilitary members.[74] One woman's story was printed in a tabloid newspaper, and the accused is alleged to have a record of assaulting women.[75] While these are largely media stories, they constitute some of the first public revelations of sexual abuse by paramilitary members in the history of the conflict. And some of these women deliberately selected the media as the vehicle through which to tell their stories. Additionally, as part of a theater production in 2010 which brought ordinary women together to "perform" their experiences of the conflict, a former female PIRA member publicly described how she was raped by her commander.[76]

Additional media reports of such abuses are available, which, when taken together, provide an indication of the degree of abuses that may have been committed by non-state actors. For example, a news article from 1994 details the violation and murder of a woman by a paramilitary group;[77] another details a victim of rape refusing to seek legal redress because of the alleged perpetrator's paramilitary status.[78] A former PIRA member's tell-all publication notes that "some guys joined the 'RA to get off with women and never did ops," implying that there were motivations other than "the Irish cause" for which men joined the PIRA – namely, the status and benefits PIRA membership afforded in interactions with women.[79] Such encounters may have been consensual or otherwise. The Rape Crisis & Sexual Abuse Centre in Belfast has accused PIRA members of "cleaning up" rape scenes, including an incident of gang rape in 2005.[80] Its (former) website underscores the intersection of the conflict with sexual violence by highlighting that a "higher proportion of adult women [have been] raped at gunpoint in Northern Ireland than in the rest of Ireland or the UK."[81]

[72] Suzanne Breen, "Adams Was Told About What X Had Done to Me," *Sunday Tribune*, January 17, 2010.

[73] Valerie Robinson (February 19, 2010) "IRA arsonist faces prison for raping 9-year-old girl," *The Irish News*. Belfast.

[74] John Cassidy, "Sis-in-Law Accuses UVF Chief of Rape," *Sunday World*, January 24, 2010.

[75] Ibid.

[76] Ann Walker's story in: Theatre of Witness Programme, *I Once Knew a Girl . . . Unheard Stories of Women, Theatre of Witness Programme* (Derry/Londonderry: Theatre of Witness Programme, 2010).

[77] David McKittrick, "Loyalist Gang Linked to 'Horrific' Party Killing: Belfast Woman Beaten and Shot," *The Independent*, April 7, 1994.

[78] Paula Mackin, "Rebel Rapist Death Threat," *The Sunday World*, March 6, 2011.

[79] Gerry Bradley and Brian Feeney, *Insider: Gerry Bradley's Life in the IRA* (Dublin: O'Brien Press, 2009), p. 270.

[80] Suzanne Breen, "Known IRA Men Cleared up Gangrape Scene Claims Rape Crisis Chief," *Sunday Tribune*, November 13, 2005; Breen, "IRA in New Crime Scene Cover-up Controversy: Provos Linked with Community Scheme Accused of Rape Clean-Up," *Sunday Tribune*, November 13, 2005.

[81] Rape Crisis & Sexual Abuse Centre Northern Ireland, "Specific Problems Faced By Survivors Of Sexual Assault In Northern Ireland": www.rapecrisisni.com/reports/surviving.php, accessed March 4, 2011. Exact statistics on numbers are not available from this site.

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There are increasing references to members of paramilitary groups as pedophiles in popular books and newspaper articles. An ex-member of the PIRA noted in 2009 that "[s]ome guys joined for opportunistic reasons, to enjoy the protection of being in the 'RA. Yes, some paedophiles joined for that reason," and also cited reference to members of Loyalist paramilitary groups as pedophiles.[82] The perpetration of child sexual abuse by paramilitary members on both sides of the conflict is gaining more attention and public traction through media articles and the work of two NGOs.[83] Stories of the sexual abuse of children by PIRA members are increasingly emerging, as is the alleged cover-up by senior officials.[84] The most common conflict-related abuses that many organizations deal with are adults reporting childhood sexual abuse by a paramilitary group member.[85] Further news stories document child pornography in the possession of members of paramilitary groups and sexual assault of children perpetrated by paramilitary members.[86] The director of Kincora Boys Home in Belfast, who was concurrently serving as the leader of a Loyalist paramilitary organization "Tara" and as a British MI5 intelligence agent, was found guilty of "acts of gross indecency" against the resident boys in 1982.[87] There are allegations that additional security and civil service staff were involved and the abuse was covered up by the British state.[88]

These kinds of abuses may take place with or without the exigencies of a conflict. However, although these incidents were not perpetrated for strategic purposes, they were, in multiple ways, related to the context of the conflict. The ties between these abuses and those directly involved in armed groups requires more attention if a fuller and more nuanced picture of gendered violence during conflict is to be made visible. An important observation here is that the Northern Ireland context provides

[82] Bradley and Feeney, *Insider*, p. 270.

[83] These are "Relatives for Justice," whose work is explored in the next section, and The Rape Crisis & Sexual Abuse Centre of Northern Ireland, whose work is used in this section.

[84] Robinson, "IRA Arsonist Faces Prison for Raping 9-Year-Old Girl," *The Irish News*, February 19, 2010; S. Breen (January 17, 2010). Breen, "Adams was Told About what X Had done to Me," *Sunday Tribune*; Breen, "We Received No Support from Gerry: He Didn't Even Send a Birthday Card," *The Belfast Telegraph* January 26, 2010; John Cassidy, "Orangeman Had Topless Pics of Girl, 13, on His Mobile Phone," *The Sunday World*, March 6, 2011; Eilis O'Hanlon, "How Republican 'Myths' Are Laid Bare by Abuse Claims," *Belfast Telegraph*, January 26, 2010; Breen, "Known IRA Men Cleared up Gangrape Scene Claims Rape Crisis Chief"; "IRA in New Crime Scene Cover-up Controversy: Provos Linked with Community Scheme Accused of Rape Clean-Up."

[85] Rape Crisis & Sexual Abuse Centre Northern Ireland, "Application for Funding from the Rape Crisis & Sexual Abuse Centre NI to the OFMDFM Victims Unit" (Belfast: Rape Crisis & Sexual Abuse Centre, 2009).

[86] Cassidy, "Orangeman Had Topless Pics of Girl, 13, on His Mobile Phone"; Robinson, "IRA Arsonist Faces Prison for Raping 9-Year-Old Girl"; Breen, "Grand-Niece of Provo Legend Endured Horrific Sexual Abuse"; Donna Carton, "Perv Orangeman on Jail Death List; Loyalist Boss Orders Attack," *Sunday Mirror*, July 1, 2001; David McKittrick, "The Secret Shame at the Heart of the Adam's Family," *The Independent*, December 22, 2009.

[87] "Cain Website: A Chronology of the Conflict, 1982," http://cain.ulst.ac.uk/othelem/chron/ch82.htm.

[88] Chris Moore, *The Kincora Scandal: Political Cover-up and Intrigue in Northern Ireland* (Dublin: Marino Books 1996).

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evidence contrary to current estimates that armed actors are more likely to perpetrate sexualized harm because they are away from their normal setting. In the Northern Ireland context, non-state actors were embedded in their own community settings. Their operative modalities, such as hiding weapon caches and members who were wanted by the state in individual homes, or facilitating "on the run" members to move between communities around the region, relied on the support they received from their own communities. The implicit social and militarized power of these organizations was critical to establishing a structure in which they could operate as well as establishing the ways and means of relationships with their broader community base. This structured order located these actors directly within their own communities, and this organizing principle in itself was clearly critical to enabling their perpetration of abuse on community and family members. To a large degree, these were not "stranger" incidents of violence, but acts committed by known men – members of family, community, and paramilitary groups – whose perceived purpose was to protect their own community members from the external opposing conflict actors.

The variation in violence across the three case studies demonstrate that there is a strong argument for including the conflict itself, as well as the structural order in how the conflict takes place, as a factor in enabling these kinds of abuses to occur. This reality questions the contemporary argument that home-based social norms constrain aberrant violent behavior, such as sexualized violence by fighters, and that such violence is more likely to occur when fighters are displaced and home-based social norms are disrupted.[89] Rather, in the Northern Ireland case, members of paramilitary groups conducted abuses despite, or because of, the social ordering of their activities, i.e. being embedded in their homes and communities. Situated within small-knit communities, a key characteristic of the way the Northern Ireland conflict played out, may, in fact, have been a key contextual factor in enhancing opportunity by armed group members for this kind of gendered violence and abuse.

OPPORTUNITY WITHIN INTERNAL CIVILIAN COMMUNITIES

There is evidence from Northern Ireland that men who already have a propensity toward rape, or other forms of sexualized abuse, will commit these acts given the increased opportunity presented by conflict. According to respondents, there were incidents where lone female parents (widows or women whose partners were in prison as a result of the conflict) were preyed on for private sexual abuse, which targeted both the women themselves and their children:

> They [women] were on prescription drugs or they were addicted to alcohol and they were traumatized and they were just trying to get their day in and they were preyed

[89] Wood, "Armed Groups and Sexual Violence: When Is Wartime Rape Rare?" p. 142; Eriksson Baaz and Stern, "Why do Soldiers Rape?"

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> on. And undoubtedly they were preyed on by pedophiles and we are now seeing that there were a number of pedophiles that went from those homes to another home. They were seen as supporting those families, they were seen as befriending the woman and giving her support during that time. She may even have had more children with that person and they were preying on the children in that home that were left … It comes to light contemporaneously, it's absolutely horrendous, because that woman never knew, she's certainly saying that she never knew, she's saying that her children who she already feels guilty about because she recognizes that she was "absent" from the home after the trauma and that she spent a number of years in a very, in just a terrible darkness, realizes how her children were being treated during that time and it's horrendous.[90]

The data here is reinforced by public statements by two NGOs, a former PIRA member, and numerous media sources. The NGO Relatives for Justice has stated that "Peadophiles are predatory and in a conflict situation of silence, trauma and fear they could prey on all of that. It is also true that abuses of power and silence were possible within communities who had no other recourse. Abuse could flourish if unchecked. The possible extent and depth of this is as yet unknown."[91] Individuals affiliated with paramilitary organizations, as well as non-affiliated individuals, may take the opportunity to perpetrate "private" abuses. While such abuse is inevitably present in all societies, these kinds of abuses could flourish in communities affected by conflict:

> I think pedophiles that exist in every part of society were able to operate here with impunity. And I think that that's what it is. And I don't think conflict creates pedophiles, and so I think that would be a wrong analysis of it. I think pedophiles are in society and where there is impunity, where there is cover up, where there is silence, all of those things, it will happen . . . and it happened in communities that were disproportionately affected by the conflict.[92]

The appearance of these reports, and the prospect of additional stories emerging through a potential truth mechanism or in another manner, prompts consideration of whether such incidents will ever be included in the still-evolving narrative of the Northern Ireland conflict, or whether they will be positioned elsewhere, such as sensationalist stories in local newspapers, or simply defined as ordinary private violence.

The sexual abuse of adult women (outside of strategic rape) may also be undertaken with the opportunity offered by the cover of conflict. In Liberia, women who fled to displacement centers were subject to opportunistic abuses by non-armed men. This included from intimate partners where women had little choice:

[90] Interview A_13.
[91] Andrée Murphy, "An Argument for a Gender Focus in the Transitional Debate" (Belfast: Relatives for Justice, 2010), p. 4.
[92] Interview A_13.

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> Women explained that while they were in such situations and in some crowded up places their partners still wanted to have sex with them. They didn't want it, they were ashamed but the partners still wanted to have sex with them and they had to agree and a lot of them got children out of that, a lot of them are not planning to have children any more . . . there were no contraceptives around and the husband always wanted . . . her as a wife and . . . there were no condoms around . . . Yes, [it took place] while other people are there.[93]

It also included abuses by strangers:

> It was happening between partners and it was happening even from strangers . . . men who were strangers because people were all crowded all in one place, they just took advantage of other people . . . the stadium that had over 70,000 IDPs . . . we started to give awareness to them, they said "yes, this is happening, we go to bed the room is dark there is no light, the room is dark and you would just feel someone crawling over you, or over your children."[94]

The report of the LTRC echoes these descriptions and cites anecdotal reports of sexual abuse in the Samuel Kanyon Doe Sports Complex in Monrovia, which housed those fleeing from the fighting. These abuses constituted one-third of violations reported to the Truth Commission, demonstrating that women associated them directly with their experiences of the conflict.[95]

In the examples of abuse cited here, civilians exploited the absence of functioning social, political, and legal orders and protection to sexually prey on those who became even more vulnerable as a result of the conditions induced by conflict. It must be noted that, distinctly, Northern Ireland continued to have a functioning macro governance system.

However, as discussed, paramilitaries, particularly in Republican communities, established alternate orders that worked to both inhibit and enable abuses. In all cases, ordinary social and gendered advantage is further enabled by the impunity available as a result of the conflict (the ways that impunity supports structural opportunity is set out below). It is not clear, however, whether all of these abuses were carried out by those previously disposed to abuse, or whether the perpetrators became abusive as a result of the opportunistic conditions of conflict, or both. It does point toward conflict as an enabling condition for individual, opportunistic, private violence – a different form of violence than that which is captured within international legal norms. As Jaya Ramji-Nogales highlights, international criminal law "does not appear to encompass opportunistic violence," such as the types just described, in many cases leaving a vacuum of accountability.[96]

[93] Interview B_18. [94] Interview B_18.

[95] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict" (Monrovia, 2009), pp. 33–34.

[96] Jaya Ramji-Nogales, "Questioning Hierarchies of Harm: Women, Forced Migration and International Criminal Law," *International Criminal Law Review* 11, no. 3 (2011), pp. 6–9.

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2 Systemic: Factors Operating at Systemic Levels to Enable Violence

By systemic factors, I mean social (e.g. social networks and memberships, institutionalized relationships) and material (e.g. resources, goods, wealth) factors that present a set of ideas that are embedded in and hold value in the social and capital world. Their operation through socio-cultural, political, legal, and economic systems and social networks bestow leverage on one's status, on social acts and, in this case, to acts of harm. Such factors regulate the relative distribution of power socially or materially conferred. They establish relational connections between the structural order and its conferral of power and the individual level where personal interests determine the use of violence (which follows). It is within this frame that I identify (b) Impunity (explicitly in the legal and criminal justice chain, as well as implicitly through the aforementioned makeup and operation of military actors), (c) Sanctions (the ability of the social network to sanction members), and (d) Access to Resources (membership of social networks in conflict enable access to resources, elevating power and ability to enact abuses) as critical factors that influence the appearance of forms of gendered violence. In my discussion here, a set of social and practical resources available to actors and the value placed on violence by social systems become enabling of violence that is conflict-related.

(b) Impunity

Drawing from the analysis in the previous section, impunity is set out as a factor in and of itself. Impunity is a concept inextricably linked with the law (structural) and its failure to either act as a regulating force or (at a systems level), to hold those responsible to account for abuses, whether under domestic or international law. I propose that the conditions of some conflicts may provide a layer of impunity or cover for harms or crimes perpetrated by parties to the conflict or by private individuals. Scholarly debate acknowledges that the rule of law generally, and the substantive law specifically, has many contradictory qualities – one of which is its role in supporting or enabling the perpetration of violent acts (by the state or others).[97] "Law is implicated in a complex process of messaging within state structures (visible and covert) and also involving challenger organizations and affected communities."[98] In relation to the discussion here, it is relevant to note that the law, or indeed impunity, may take on a Janus-like quality[99] where state or non-state actors may utilize the law, or its absence, to their own

[97] Philip M. Nichols, "Constraining or Perpetrating State Violence through International Rule of Law," in "*Constraining or Perpetrating State Violence Through International Rule of Law," Fourth Annual Conference, Law, Evil and the State – Issues in State Power and Violence* (Conference location: Salzburg, Austria, 2010; paper on file with author). See section 3: "Defining the Rule of Law." And Colm Campbell, "Law, Terror and Social Movements: The Repression-Mobilisation Nexus," in *Emergencies and the Limits of Legality*, ed. Victor V. Ramraj (New York: Cambridge University Press, 2008).

[98] Colm Campbell, "Law, Terror and Social Movements: The Repression-Mobilisation Nexus," p. 182.

[99] Ibid., p. 180.

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benefit. Impunity is understood in relation to the discussion that follows in two ways: 1) as tangible or actual impunity – in terms of an actual vacuum in legal accountability through systems responsible for criminal regulation during conflict, and 2) as implicit – where an individual's membership of a social network, socio-political role and resulting status privileges a degree of implied impunity at systemic levels. It will be demonstrated that both state and non-state actors may use these forms of impunity to enable the performance of violence.

IMPUNITY AS A RESULT OF LACK OF ACCESS TO THE CRIMINAL JUSTICE SYSTEM

Access to, and the presence of, a functioning legal and policing system is often impossible during times of conflict. In Northern Ireland, while a functioning criminal legal and policing system existed, access to the police for ordinary crime was difficult. There were two primary reasons for this. First, the policing service was preoccupied with pursuing the political violence of the conflict, whereas "ordinary" crimes, such as domestic violence, were given little attention.[100] Second, as explained before, specifically for members of Republican communities, access to representatives of the British state, including the policing system, was more often than not prohibited. As a result, many women in "the Nationalist community . . . couldn't call for help."[101] In Liberia, there had been a complete breakdown of statutory institutions and little by way of a police service. As noted by one respondent, fighters were "law and gospel,"[102] and, as such, populations under the control of different fighting factions could not access the services of the state. Abuses by the Liberian police during the conflict were also identified in the report of its truth commission,[103] a factor which would deter its use by those subject to wider abuses, such as women. Accessing police services may not have been an option for many Liberian women wishing to deal with either conflict-related political abuses or private abuses occurring in the home. The case was similar in Timor-Leste, particularly where abuses against women were being undertaken by police officers who were implementing the policies of the Indonesian regime.[104]

[100] Monica McWilliams, "Violence Against Women and Political Conflict: The Northern Ireland Experience," *Critical Criminology* 8, no. 1 (1997), p. 82, and McKiernan and McWilliams, "The Impact of Political Conflict on Domestic Violence in Northern Ireland."

[101] Interview A_14. [102] Interview B_9.

[103] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume II: Consolidated Final Report" (Monrovia: Liberia Truth and Reconciliation Commission).

[104] The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) "Chega! The Final Report of the Commission for Reception, Truth and Reconciliation (CAVR) Volume I, II, III and IV" (Dili: The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR), 2006). See Volume III, Part 7.7 Rape, Sexual Slavery and Other Forms of Sexual Violence. Interview C_9 – this respondent also indicated that women were afraid of reporting abuse and preferred to seek redress through traditional justice systems.

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Additionally, the police services did not prioritize domestic violence, a trend common to all three case studies.[105] There was no room for private violence on an agenda occupied by the politics of a conflict. Women had little by way of redress for private or conflict-influenced criminality and abuse. Penny Green and Tony Ward have pointed out that in today's wars "the distinction between 'war' and 'crime' becomes increasingly blurred."[106] This is particularly true where "the motives of the participants in some cases appear little different from those of criminal gangs."[107] The nature of conflict-influenced violence may traverse both the public and private categories. Further still, it implies a nexus between conflict and some forms of violence which remains little understood and barely captured by international legal frameworks. As noted by Fionnuala Ní Aoláin, in "the tense boundaries between the legitimate use of violence (defined as political violence) versus criminal terrorist, or morally impermissible violence, gendered harms will struggle to find a space and ... the view of political violence as public ... in the narrowest sense will continue to triumph."[108] The majority of the stories of rape and domestic abuse in Northern Ireland described so far in this chapter took place in women's own homes and communities – crimes which could, and should, be referred to domestic criminal legal processes. Its absence meant a vacuum in which violence could be performed with little fear of accountability, and, as such, law could not act as deterrent.

IMPLICIT IMPUNITY DERIVED FROM ASSOCIATION WITH THE CONFLICT

The lack of formal accountability described above left a wide vacuum which was easily filled by a range of abuses, some of which have been described already. This is where impunity at systemic levels intersects and works with opportunity caused by the structural order to enable particular forms of abuse to flourish. As noted in Northern Ireland, "in a culture of impunity there is going to be abuse and that is what happened."[109] Additionally, one respondent had the opinion that,

> Rapists here were much less frightened of being reported or getting caught because of the power that they knew they had, they were able to, you know, carry it out without any kind of reproach, whereas had they lived in a more normal society they may have had to consider their actions more carefully, that there was no cover-up. There's many of them that couldn't have got away with what they did had they not have been members of either the security forces or paramilitary organizations.[110]

[105] Interview C_22.
[106] Penny Green and Tony Ward, "The Transformation of Violence in Iraq," *British Journal of Criminology* 1 (2009), p. 2.
[107] Ibid., p. 2.
[108] Fionnuala Ní Aoláin, "Political Violence and Gender During Times of Transition," *Colombia Journal of Gender and Law* 15, no. 1 (2006), p. 836.
[109] Interview A_1. [110] Interview A_10.

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While this is circumspective, it suggests that membership in official security forces offered implicit impunity. The power of ones gendered status intersects with the status afforded through the authority of a formal role, working in opposition for women and girls subject to the authority of male security actors. In some instances, those with authority, both state and non-state, would collude. State forces would act to protect perpetrators of abuse where their role in addressing conflict was more important than holding them to account for private sphere violence. Abuses by soldiers stationed in Northern Ireland have been documented. As one respondent put it,

> [sexual abuse] was not something that was sanctioned by the British army [but] . . . certainly we had that, many women raped by soldiers, usually Protestant girls attending dances at barracks. You know, they don't do this when they are out on patrol . . . we had one of our clients that was raped by a soldier . . . it was put to him in the court that he was in the custody of the British army . . . basically they were taking responsibility for him so this man who had been formally charged with rape was walking around with a gun in his hand on the streets.[111]

The frequency of soldiers' rotation in and out of Northern Ireland also meant that the potential to hold individuals to account, or to meet evidentiary requirements, was constrained. On a number of occasions, the wives of soldiers stationed in Northern Ireland sought refuge from domestic violence through response services. As one refuge worker pointed out, "[t]he number one priority of the army was to keep the soldiers here on duty, they even had a house on camp that women could go to."[112] At one time, the wife of a PIRA member, the wife of a UVF member, and the wife of a British Special Air Services member all took refuge from violence at a women's shelter in Northern Ireland.[113] As surmised by one respondent referring to that period of the conflict, "it was who the state values more in a sense and if it's a police officer, a UDR man and he's beating his wife, the woman is not going to find support, they are more concerned about protecting him."[114] Domestic violence by members of state forces acting in a private capacity may occur in the absence of a conflict. The expected obstacles to women's reporting of domestic violence may also be present. The conflict, however, may add an additional layer of obstacles and complexity. The exigencies of the conflict may have reinforced the potential for impunity and acted as a variable in the use of violence.

As noted earlier, and worth repeating here, where reports of violence had been made or stories leaked to the press, paramilitary organizations worked to protect their members. "[T]here have been cover-ups of rapes . . . they do the pretence of saying 'we are the protectors of the community, we will investigate this' and [then] take a young woman out of her house every night for a year and question

[111] Interview A_10. [112] Interview A_6. [113] McCafferty, *The Armagh Women*, p. 80.
[114] Interview A_1.

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her and try to get her to take back her story."[115] Cultures of secrecy and control in organizations and social networks may be based on, and use, impunity to further their own self-interest. As surmised by one respondent:

> there was certainly an extra layer of culture of impunity, definitely there was, but whether or not . . . they didn't use it as a weapon of war, it wasn't used like that there it's just that the opportunity was there for them to do it and like anybody that is going to be abusive if they operate in a culture that allows that then it is going to attract, so that happens.[116]

Membership in a paramilitary organization offered status and power, and "[i]ndividual IRA members knew that they were the agents of that power and used it ruthlessly."[117] Together with the taken-for-granted structural order that informs the recurring harms that are expected in women's lives, this power will inevitably extend to additional layers of power over women in the home and community. It may be deduced that membership of paramilitary organizations provided protection and cover for some men who not only acted upon pedophilic tendencies (as described earlier), but also perpetrated similar sexual harms targeted at adult women.

The knowledge that during, and as a result of, conflict there may exist "the impossibility, de jure or de facto, of bringing the perpetrators of human rights violations to account – whether in criminal, civil, administrative, or disciplinary proceedings"[118] may act to enable the use of violence. International standards require that states ensure impunity is countered, not only in the interests of upholding the rule of law,[119] but also in the interests of justice and redress.[120] The international *Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity* has noted the need to "pay particular attention to violations of the basic rights of women" within efforts to combat impunity from legal sanction.[121] The nuances of actual and implied impunity require further understanding – not only in terms of law's failure to attain accountability, but also in how it may enable abuse.

(c) Selective Sanctioning

While it has been documented that strategic and wider forms of sexualized violence do not appear in all armed conflicts, or can sometimes appear on a limited scale,[122]

[115] This statement refers to one of the cases discussed under the "Opportunity" variable above. Interview A_10.

[116] Interview A_1. [117] Bradley and Feeney, *Insider*, p. 266.

[118] United Nations Economic and Social Council, "Question of the Impunity of Perpetrators of Human Rights Violations (Civil and Political): Revised Final Report Prepared by Mr. Joinet Pursuant to Sub-Commission Decision 1996/119" (United Nations Economic and Social Council, October 2, 1997).

[119] United Nations, "Vienna Declaration and Programme of Action" (paper presented at the World Conference on Human Rights, Vienna, June 25, 1993). Para 60.

[120] United Nations Economic and Social Council. "Question of the Impunity of Perpetrators."

[121] Ibid. Annex II, Principle 7 (e).

[122] Wood cites locations such as the conflicts in Israel/Palestine and Peru where there has been limited sexual violence as part of the conflict: Wood, "Variation in Sexual Violence During War," pp. 314, 317.

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the reasons why it may be limited in some locations are still being explored.[123] I engage current thinking on this issue and propose ways in which sanctions may be selectively applied within a conflict, such as in Northern Ireland. Wood and others have proposed that, in some cases, at the level of the armed group, sanctions against sexualized violence may be implemented in a bid to uphold the image of the organization and maintain its support from local constituencies and international actors.[124] This may also be a relevant argument for the limitations to this violence in Northern Ireland. Research by Colm Campbell and Ita Connolly in Northern Ireland found that, at least in relation to the PIRA, support for the organization waxed and waned according to levels of state repression in the community (increased support for the PIRA) and of civilian casualties as a result of PIRA tactics (decreased support).[125] Thus, ethnic-based and public abuses by its members, such as cross-ethnic sexualized abuse, would have been detrimental to garnering the support the organization needed within their own communities.[126] Additional factors would combine with this argument: for example, a state's (at least overt) alignment with its own legal democratic regime, and a response by armed actors that was contained within that social order (structural level), which thereby contained the possibility of broader "warfare" on the streets, may mean that in a context such as Northern Ireland, sexualized violence on a mass public scale may not have been a politically acceptable use of violence at community and social systems levels.

My research for this book found that sanctions on this kind of public violence did not, however, prevent *other* forms of sexualized and physical harms from being perpetrated against women (and children) by members of paramilitary organizations. We need to pay attention to what we understand sanctions to be, what kinds of violence sanctions are and are not applied to, and whether and how sanctions are effective in preventing violence occurring within or outside of a context of conflict. The prohibition of sexualized assault by members of a military unit may or may not inhibit actions by that unit on a collective basis; and in particular, even when the unit complies with sanctions and does not collectively enact harm, there remains possibility and opportunity (because of the broader structural order) for members to do so on an individual basis. Acute attention is required to the efficacy of sanctions in respect of the impunity available to armed and non-armed actors. If impunity is available to members of an armed group because of their status, or

[123] Wood, "Armed Groups and Sexual Violence: When Is Wartime Rape Rare?"; Elisabeth J. Wood, "Rape During War Is Not Inevitable: Variation in Wartime Sexual Violence," in *Understanding and Proving International Sex Crimes*, ed. Morten Bergsmo, Alf Butenschøn Skre, and Elisabeth J. Wood (Beijing: Torkel Opsahl Academic EPublisher, 2012).

[124] Wood, "Variation in Sexual Violence During War," pp. 328–30. Jonathan Gottschall, "Explaining Wartime Rape," *The Journal of Sex Research* 41, no. 2 (2004).

[125] Campbell, "Law, Terror and Social Movements," p. 184. Colm Campbell and Ita Connolly, "Making War on Terror? Global Lessons from Northern Ireland," *The Modern Law Review* 69, no. 6 (2006), p. 953.

[126] A former PIRA member for example describes a "Green Book" that set out the rules and regulations for protecting the group: Bradley and Feeney, *Insider*, p. 269.

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because of a lack of a functioning criminal justice system, then the efficacy of sanctions will be countered by the impunity that may be on offer. Impunity and sanctions work at varying levels.

In the Northern Ireland context, where paramilitary organizations were acting in a policing function, certain acts were prohibited and regulated, yet the mode of regulation did little to tackle the root causes of the harms committed (gender norms and perceived powers of armed actors) or prevent them from occurring again. For example, the PIRA had its own sanctioning mechanism to regulate its communities' "anti-social behaviors," including incidents such as child abuse,[127] which was described under "(a) Opportunity" above and has been referenced in wider research.[128] Some community members (not paramilitary members) found to have abused children were physically punished in public, such as through knee-capping, and some were exiled from communities by the PIRA.[129] One respondent described how a man who raped a woman in her community was banished by the PIRA to a community on the other side of the city. However, he then set up his own taxi service, whereby he would have frequently come into contact with women.[130] In both the Cahill and McGahon cases mentioned earlier, the PIRA allegedly banished the accused to other jurisdictions. In his contemporary response to these allegations, the Irish Prime Minister has raised alarm about the relocation of these PIRA members to the Republic of Ireland, citing further risk to women and children in that jurisdiction.[131] These punishments and banishments obviously did not constitute an acceptable standard of remedy commensurate with the democratic regime in which the conflict was taking place. It did, however, correspond with the ways in which, at systems levels, some communities were socially regulated by paramilitary operators during the conflict. It demonstrates how paramilitary organizations, generally run by men, make decisions for and about women's safety on the basis of upholding their own macro and meso level order of power, ignoring the broader gendered order in which women will be generally vulnerable to violence across social contexts.

Some respondents noted that not all forms of violence received this kind of attention and punishment. As previously mentioned, some privileged members of paramilitary organizations were afforded protection; incidents that became public knowledge, such as rape by a member, would be "dealt with" and made invisible by the organization. Academic research has found that paramilitary groups "adopted a method for deciding what constitutes acceptable and unacceptable forms of

[127] Peter Janke, *Ulster: A Decade of Violence*, vol. 108, Conflict Studies (1979), p. 15. Liam Kennedy, "They Shoot Children, Don't They? An Analysis of the Age and Gender of Victims of Paramilitary 'Punishments' in Northern Ireland" (Belfast: Queens University Belfast, August 2001). John McGarry and Brendan O'Leary, *Explaining Northern Ireland* (Oxford: Blackwell Publishers, 1995).

[128] McWilliams, "Violence Against Women and Political Conflict," p. 86.

[129] Interview A_9, Interview A_13. [130] Interview A_7.

[131] *The Journal*, "'Gerry Adams Needs to Get Real': Enda and Joan Pile Pressure on Sinn Féin President" (March 11, 2015).

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behavior . . . within the family, child abuse . . . received a more immediate response than domestic violence."[132] Some members took the attitude that private violence in the home was not within the remit of the regulatory role these organizations played in their communities.[133] Domestic violence appears to have been dealt with on a case-by-case basis, depending on who was involved.

It is important to note that in many cases, only some forms of private violence were officially prohibited and punished. Consequently, only some perpetrators of abuse appear to have been subject to sanction. In relation to the PIRA, an effective propaganda machine informed the kinds of sanctions to which particular violence and particular perpetrators were subject – effectively delineating which behaviors were and were not lawful according to its own systems of self-interest. A "moral code" overrode any ideas of wrongdoing by this group or its members, which one respondent claimed should be referred to as,

> an "immoral code," they put it out to the public that there was a moral code and that the IRA lived by this very strict moral code, didn't drink, didn't do that . . . but with the stories that are coming out it is showing a very different picture . . . it was a secret organization, obviously it is going to become corrupt to the heart of it and everybody wasn't going to be treated equally so this moral code did not apply to everyone, it applied to those whom the leadership felt they could use.[134]

While private abuses did occur, there appears to have been a distinct effort to keep some of these incidents behind closed doors and "privatize" them (i.e. the social network works to contain them in the interests of that network). "Exposing a war hero to the police is not acceptable"[135] and, similar to mass public abuses, would have tarnished the image of the group.

This was also a message with which some women victim/survivors may have identified. Despite socio-cultural assumptions and stereotypes that women are apolitical non-actors in a broader political order, many women of course have their own beliefs in the political cause at stake. As a result, and similar to the tensions embedded in dealing with violence in intimate relationships absent of the political backdrop to the context and to the perpetrator in question, women may not have wanted to make their experiences known because of the potential negative effect on the perpetrator's and the organization's status. This is a characteristic found in other contexts, such as that of South Africa.[136] As Campbell and Connolly note,

[132] McWilliams, "Violence Against Women and Political Conflict," p. 87.
[133] Monica McWilliams and Joan McKiernan, *Bringing It Out in the Open: Domestic Violence in Northern Ireland* (UK: HMSO Publications, 1993), p. 56.
[134] Interview A_1.
[135] McKiernan and McWilliams, "The Impact of Political Conflict on Domestic Violence in Northern Ireland," p. 257.
[136] See, for example: Bett Goldblatt and Sheila Meintjes, "South African Women Demand the Truth," in *What Women Do in Wartime*, ed. Meredeth Turshen and Clotilde Twagiramariya (London: Zed Books, 1998).

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"the IRA's employment of repression-based 'injustice-frames', appeared, in social movement terms, to have 'salience' and 'resonance' with the communities they relied on for support and continued mobilisation."[137] It may have been that "a lot of the women . . . felt a loyalty there, no matter what perspective you were coming from, the women may have felt well I can't say anything about it because 'I am being disloyal to the cause' as it were."[138] Additionally, one respondent described how, "sometimes their husbands and boyfriends are heroes in their local community and they themselves maybe suffered a lot, spent a long time in prison or were injured . . . then they don't really want to go and talk about the domestic violence because . . . they do consider these men to be heroes in some ways so to mention this seems a bit . . . " Another respondent supplemented: "Doesn't fit the image, you know."[139]

Thus, while certain social behaviors were to some degree sanctioned by some paramilitary groups, and while not all military actors engaged in sexualized violence, it did occur. It is clear that only certain forms of this violence become subject to official punishment in a conflict such as that in Northern Ireland. The selective attribution of sanctions may privilege some forms of violence over others, and such selectivity in practice is enabled by the broader social constructs within which a conflict takes place and norms of violence against women and children are determined.

(d) Access to Resources

Feminist scholarship has historically identified violence against women as "a reflection of the wider unequal power relationship of men and women in society."[140] These dynamics may be enhanced with the power acquired through the "balance of advantage or an inequality of resources in a workplace, a household or a larger institution."[141] In my interviews, respondents identified certain resources that, when accessed, granted enhanced power, tipping the balance of structural power further, factors which respondents felt where critical in determining violence. Through membership of armed groups, key resources associated with the conflict were accessible such as obtaining guns and securing affiliation with a party to the conflict, and were identified as contributing to the power to enact violence.

In this regard, respondents spoke about how the use of armed weapons can instill fear and be used to coerce compliance with abusive behaviors. In Liberia, a respondent noted that "violence during the war was something common, common, common. It was practiced almost by everyone that had arms at the time."[142] Another respondent noted that "during the war, everything is out, nobody has a right, most of the fighters did not even know their commanders, they didn't even know their

[137] Campbell, "Law, Terror and Social Movements," p. 184. [138] Interview A_4.
[139] Interview A_11. [140] McWilliams and McKiernan, *Bringing It Out in the Open*, p. 22.
[141] Connell, *Gender and Power*. [142] Interview B_3.

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leaders, so anybody could do anything."[143] A key question is whether the fighters enacted rape and violence because they identified as a fighter with a political mission or because they now had elevated power?

As noted before, large-scale, organized violence directed toward strategic goals often coexists with opportunistic criminal violence.[144] Stephen Ellis notes that in Liberia "[a]dolescents under little authority, whose guns give them a sense of power for the first time in their lives . . . are unpredictable."[145] Women "were forced, it was not something that they agreed upon. And because they had the guns in their hands, you had to go."[146] While this may allude to strategic violence, it may also correspond with personal motives (discussed further in the next section). As identified by Utas in Liberia, the gun was perceived as a tool through which fighters could secure "girlfriends."[147] Due to the possession of weapons and associated practical and symbolic power, women who before the conflict had not been available to these men suddenly became accessible.

The power derived from a gun, and from affiliation with the social network and status of an armed faction, may also place men who do not have access to resources, or do not wish to have access to guns, in a vulnerable position.

> [Violence] was mainly perpetrated by people carrying arms because everyone was like pretty much vulnerable then so if you didn't have an arm, even if you were a man for example, you were still vulnerable, you were afraid to do something and be queried by armed men . . . So the bulk of the violence was perpetrated by people in arms because they had the power then, they were feared most.[148]

In Liberia, men with guns became more powerful than ordinary men, and certainly more than women. The use of weapons enabled systemic power to work with structural gendered orders of masculinities. This was less about violence as a tactic of the conflict than it was an issue of structural opportunity together with the exertion of systemic levels of power over women and other males. In Northern Ireland, guns were also used to perpetrate domestic and sexual abuse, including in this case cited by a service provider: "Women who were tortured and gang raped by six and seven men in balaclavas holding guns to a girl whose father was a member of the security forces and shot her dog with his personal weapon as a threat to not tell anyone 'next time it'll be your mother or next time it'll be you'."[149] As one respondent noted "guns increase his power and increases her fear."[150] In Northern Ireland, some guns were brought into the home and used as part of domestic abuse, underscoring his power and

[143] Interview B_17. [144] Green and Ward, "The Transformation of Violence in Iraq," p. 3.
[145] Stephen Ellis, *The Mask of Anarchy* (Malaysia: C. Hurst & Co., 2001), p. 118.
[146] Interview B_11.
[147] Mats Utas, "Victimcy, Girlfriending, Soldiering: Tactic Agency in a Young Woman's Social Navigation of the Liberian Warzone," *Anthropological Quarterly* 78, no. 2 (2005), p. 415.
[148] Interview B_3. [149] Interview A_10, and also see SAC. [150] Interview A_15.

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heightening her fears.[151] The example that follows, while highlighted by respondents as quite rare, demonstrates the intersection between conflict violence and the resources and power that could be derived from the conflict: "For many women I have spoken to, the sexual abuse has been more of that, it has been part of the abuse. It has been the use of weapons on women . . . Like, they'd be masturbating with guns and things like that, and that was almost a stroke of power, look what I can do to you."[152] Accessing membership in a paramilitary organization in Northern Ireland may have been pursued for personal purposes and, ultimately, became a resource. "[F]or young men that join those organizations their first thought is the power that they will have with women and girls in the area."[153] Affiliation with an armed group, even if not real, may be used as a resource or a form of power for exerting control and abuse. One woman who was experiencing domestic abuse was deliberately deceived by her husband when he claimed that he was a member of a local paramilitary organization and that his fellow members were spying on her wherever she went.[154]

The violence against women who joined fighting forces, as opposed to those abducted for the purposes of sexual and other forms of slavery, is given little attention – unless they have been forcibly recruited as sex slaves, which is a category set out under the Rome Statute.[155] Despite much feminist scholarship on the complexities and paradoxes surrounding the status and role of women as combatants in non-statutory armed groups,[156] they remain largely invisible, and their experience of gendered violence within their armed group is particularly invisible. Yet it does map onto the way that joining armed groups, whether for political or other motivations, might act as a protection resource for women, resulting in violence, but curtailing the degree to which that violence would otherwise be experienced.

In Liberia, research has found that women elected to join fighting factions for the purposes of supporting families with the loot available through membership in such groups, for revenge, and for protection.[157] The notion of protection for women within contexts where sexualized violence and slavery are taking place is a

[151] Monica McWilliams, "Violence Against Women in Societies Under Stress," in *Rethinking Violence against Women*, ed. R. Emerson Dobash and Russell P. Dobash (Thousand Oaks, London, New Delhi: Sage Publications, 1998), p. 131.

[152] Interview A_3. [153] Interview A_10. [154] Interview A_11.

[155] United Nations, "Rome Statute of the International Criminal Court," United Nations Treaty Series, vol. 2187, No. 38544 (United Nations, International Criminal Court, July 17, 1998). Article 7, 1 (g); Article 82, 2 (xxii).

[156] Miranda H. Alison, *Women and Political Violence: Female Combatants in Ethno-National Conflict* (London, New York: Routledge, 2009); Meredeth Turshen and Clotilde Twagiramariya, eds., *What Women Do in Wartime* (London: Zed Books, 1998).

[157] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," p. 44; Olivia Bennett, Jo Bexley, and Kitty Warnock, "Liberia," in *Arms to Fight, Arms to Protect: Women Speak out About Conflict*, ed. Olivia Bennett, Jo Bexley, and Kitty Warnock (London: Panos, 1995).

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curious one. Protection appears to have many degrees in the context of this conflict. According to some women, electing to join the factions meant that they could avoid the ongoing and violent rape and gang rape to which they were vulnerable from the multiple fighting factions in their immediate environments.[158] Evidence shows, however, that many women and girls were raped upon recruitment (forced or otherwise) and assigned as a "wife" to fighters.[159] Of ultimate advantage, perhaps, was that once assigned to a senior fighter as a "wife," the risk of rape by multiple attackers was reduced.[160] Additionally, women adopted tactics of protection once inside the armed group. Some female fighters are known to have captured other women and girls during attacks to provide them to male fighters, protecting themselves from abuse.[161] Thus, while systematic violence could be avoided by joining the armed groups, some violence was expected, and it could be managed with sufficient power and status within the group. Other women accessed membership in these factions through a relationship with a "boyfriend" – which Mats Utas describes as a tactic of "social navigation," where gaining access to men at high levels meant that women could protect themselves and their families and get access to the spoils of looting.[162] How this sexual interaction is categorized in terms of consent requires further analysis and debate, particularly in light of the presence of conflict, which many feminist scholars argue negates the notion of consent.[163] Utas notes that these women moved between positions of agency to victimization.[164] However, neither their agency nor victimization, or the fact that women have to constantly negotiate these roles during a conflict, has been recognized as a type of violence that women experience.

3 *Individual: Factors Operating at Individual Levels to Enable Violence*

By individual factors, I mean factors that arise at a micro level in respect of the individual person (needs, interest, attitudes, behaviors) or community (social norms,

[158] "How to Fight, How to Kill: Child Soldiers in Liberia" (Human Rights Watch, 2004), pp. 11, 29–31.

[159] Ibid., p. 29. A survey among ex-combatants in 2008 found that 42.3 percent of adult female former combatants experienced sexual violence at some point in their lifetime (while 9.2 percent of non-combatants reported the same): Kirsten Johnson et al., "Association of Combatant Status and Sexual Violence with Health and Mental Health Outcomes in Postconflict Liberia," *Journal of American Medical Association* 300, no. 6 (2008), p. 683.

[160] "How to Fight, How to Kill: Child Soldiers in Liberia," pp. 29–30.

[161] Ibid., pp. 29–30.

[162] Utas, "Victimcy, Girlfriending," pp. 416, 426.

[163] Gay J. McDougall, "Contemporary Forms of Slavery: Systematic Rape, Sexual Slavery and Slavery-Like Practices During Armed Conflict; Final Report Submitted by Ms. Gay J. Mcdougall, Special Rapporteur, *E/CN.4/Sub.2/1998/13*" (Geneva: United Nations Commission on Human Rights, 1998), para 2. For an overview of the debate relative to international criminal law, see: Catherine A. MacKinnon, "Defining Rape Internationally: A Comment on Akayesu," *Columbia Journal of Transnational Law* 44 (2006); Wolfgang Schomberg and Ines Peterson, "Genuine Consent to Sexual Violence Under International Law," *The American Journal of International Law* 101 (2007).

[164] Utas, "Victimcy, Girlfriending."

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mores, and relationships and how they operate under macro and meso structures). These are factors that present at the operative level of the everyday, in the household and intimate relationships, through identities and their social function, that may influence and give rise on a micro basis to forms of violence. At this level, individual and group-based operatives are navigating the effects of structural and systems level orders. Here, I identify the presence of (e) Incentives (personal investments in violence) and the (f) Instrumental utility of violence (advantages to be gained) to the individual or their placement relative to their social networks and broader social context. In my discussion here, forms of violence against women taking place in a conflict are discussed in respect of the incentives and utility of violence to agents of that violence.

(e) Incentive

A common factor across those interviewed for this research, was that "incentives" played a role in the use of violence. The micro-level incentives within a particular context are directly connected to the macro-level structural order in which gendered violence finds purchase and meaning. The incentive to advance personal interest and socio-economic and sexual gains intersects with the opportunities presented by conflict, thus motivating the use of violence as follows:

INCENTIVE TO PLUNDER WOMEN AS WEALTH AND REWARD

As recounted in Chapter 3, sexualized violence in Liberia often accompanied looting by members of fighting factions.[165] Fighters or armed civilians were not paid and were expected to reap their rewards from the success of their attacks.[166] Feminist scholars have found that historically women have lacked legal, socio-political, and economic status and "are treated as economic commodities"[167] – a dynamic which could play out more aggressively and violently in the opportunity presented through the context of an armed conflict.[168] Incentives to access sex as a

[165] Human Rights Watch, "Liberia: Greater Protection Required for Civilians at Risk" (USA: Human Rights Watch, 2003), pp. 2–3.

[166] Charles Taylor informed one journalist that the majority of fighters "are not paid. They get what they want with their guns." Taken from: Bill Berkeley, "Liberia: Between Repression and Slaughter," *The Atlantic* 270 (1992), p. 52. Mark Osiel discusses the implications of "The Responsibility of Superiors" for international criminal law in respect of war crimes and crimes against humanity perpetrated in times of conflict: Mark Osiel, *Making Sense of Mass Atrocity* (New York: Cambridge University Press, 2009), Chapter 2.

[167] Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester: Manchester University Press, 2000), p. 11.

[168] The idea that women and women's reproduction and sexualities are subject to patriarchal controls rather than individual social and legal autonomy is still played out in many cultures which was briefly discussed in Chapter 3. Practices such as "bride price," play a role in many societies globally, which will be discussed in Chapter 5. For an historical overview of the concept see for example: Simone de Beauvoir, *The Second Sex* (Vintage 1949 & 1997), part II, chapter 1.

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commodity, the accumulation of women as personal "wealth," and free access to women and sex may incentivize armed men to gather women for sexual purposes. One respondent underlined that some of the violence in the Liberia conflict was not about the strategy of warfare, but rather was rooted in men's status as fighters, which allowed them to have any woman that they wanted, even other men's women:

> In Liberia, I'm not sure that it was a tactic of the war but it was more about power, it was about exerting power. It was a selfish inner greed. Under normal circumstances these men would not have had such free access to women. They were just stopping women at the checkpoints, and there were women from all classes from all places and so now with this power they had free access to any women from everywhere and from all classes who were going through the check-points. They could have sex with any women that they wanted.[169]

As a result of the conflict, these men could acquire goods to which they otherwise would never have had access. This is supported by evidence that the war in Liberia was not simply a clear-cut case of one side against another. The continuous splintering of factions meant that fighters did not compose a distinct demographic or political grouping; rather, many Liberians participated in fighting at different times out of force, necessity, or election, which somewhat influences where violence came from.[170] During this period, "violence had become divorced from politics in any normal definition of the word."[171]

In this case, several complexities arise. If such violence is not performed for political ends, can it then be labeled as "political" violence simply because it involves an armed individual who may or may not be affiliated with an armed faction? The idea that a "practice" of sexualized violence may emerge among armed unit members when it is not beneficial or strategic (in other words, ordered), as well as when it is, has been proposed by scholars.[172] Thus, an armed group will adopt a practice of violence outside of, or tolerated within, its parameters of operation. This idea captures some of what has just been described. It does not, however, capture the kinds of violence committed by, for example, individuals who do not identify as part of a specific armed group, who may oscillate between combatant and non-combatant status, and who may not receive or hear any orders that enable or constrain such acts. Whether as a practice or on the basis of individual incentives, this variant form of violence – which may not constitute political strategy, is of a more indiscriminate character, and is prevalent outside of, and yet linked to, strategic political violence – presents regulatory challenges.

[169] Interview B_4. [170] Ellis, *The Mask of Anarchy*, p. 134.
[171] Ellis, "Liberia: 1989–1994: A Study of Ethnic and Spiritual Violence," *African Affairs* 94 (1995), p. 184.
[172] Wood, "Conflict-Related Sexual Violence and the Policy Implications of Recent Research."

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INCENTIVE ARISING FROM WOMEN'S INCREASED VULNERABILITY

As documented by Ramji-Nogales, women may experience harms as a result of vulnerabilities caused by displacement and economic deprivations.[173] A connection appears between these heightened vulnerabilities and incentivized exploitative practices by more powerful actors. It is the social context that creates degrees of vulnerability on the one hand for (some) women, while on the other, stimulating advantage for (some) men (depending on their status relative to the available social networks) at individual levels. In Liberia, for example, humanitarian workers perpetrated exploitative abuses against women in displacement and refugee camps and who were reliant on them for food.[174] Also, fighters who turned civilian – for the purposes of accessing the resources in the camps – continued to abuse women in their civilian capacity:

> the fighters [were] coming in and ... they got through the registration. Maybe somebody was armed at the time you were in your community and then they would find that person on the registration team [in the refugee camps]. Because that person needs something from you they will pretend that they register you. After when they come around to call the names ... you would find that your name is not there and you would think "what happened, my name is not on the list?" ... they would have to sleep with them to get the ticket.[175]

These kinds of abuses also occurred while women remained in their communities. Women were forced to exchange sex for basic commodities in rural areas, exploitation that was felt to increase during the conflict.[176] In Timor-Leste, while in refugee camps in 1999, "many women were sexually abused, sexually violated ... the places they slept were not secure, and the washing facilities were also not secure."[177] Similar incidents occurred in internally displaced camps established during the 2006 political crisis where "there were shared toilet and washing facilities. When women went to wash, men also went to spy on them. It became a form of sexual harassment."[178]

This type of sexual exploitation and abuse of women has been noted elsewhere.[179] The LTRC found that women in Liberia fled from sexualized violence at the hands of fighters to sexually exploitative abuses in camps.[180] The increased vulnerability of women as an incentive for those with more power to prey on their vulnerabilities requires further recognition. In many cases, exploitative abuses in camp and displacement situations are attributed to the breakdown of social norms and the impact of displacement.[181] However, where opportunity combines with impunity and

[173] Ramji-Nogales, "Questioning Hierarchies of Harm." [174] Interview B_13.
[175] Interview B_13. [176] Interview B_13. [177] Interview C_3. [178] Interview C_9.
[179] See, generally, Ramji-Nogales, "Questioning Hierarchies of Harm."
[180] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," p. 44.
[181] Ramji-Nogales, "Questioning Hierarchies of Harm."

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incentive, structural- to individual-level factors means that violence becomes an enforcer of a social gendered order.

(f) Instrumental

As discussed in the earlier chapters of this book, sexualized violence has been identified in some conflicts as an instrument or tactic of military groups. Given my goal of drawing attention to wider forms of gendered violence, I explore an alternative view of the instrumental use of violence. As discussed in Chapter 3, the Liberia context presents forms of egregious violence that enable analysis of a ritualistic meaning or function to violence.[182] This violence is explored here in terms of how it features in women's experiences of conflict-related violence and how it becomes instrumental at the personal and individual level to the perceived veracity and power of fighters.

VIOLENCE AS INSTRUMENTAL TO THE PERFORMANCE OF FIGHTERS

It is difficult to untangle the complexities of ritualistic or barbaric violence such as anthropophagy, mutilations, and other forms of violence that accompany, or are perpetrated outside of, strategic and other forms of gendered harms against women. It is here that the lines between political and private violence, and the distinctions between sexualized and other forms of violence, become blurred. It is also a space in which the gendered structural order may be identified as giving meaning to the violence that is enacted on women's social bodies. One way of constructing the meaning of this violence may be to relate it back to its base – in other words, violence, as was discussed in Chapter 2, may be instrumental in and of itself and therefore is used to serve a particular function.[183] Many scholars have argued that describing violence as "senseless" divorces it from the contextual factors which influence its manifestation.[184] It also removes the derivative meaning and function of the violence from a narrative on its causality. It may be that the perceived instrumentality of violence in and of itself will determine whether violence appears – not only for militaristic strategy, but also for additional personal gain.

As discussed in Chapter 3, the consumption of body parts was believed by some fighters in Liberia to instill great power,[185] with the rape of women also believed to

[182] Ellis, *The Mask of Anarchy*, pp. 190–94, and see generally Mary Moran, "Warriors or Soldiers? Masculinity and Ritual Transvestism in the Liberian Civil War," in *Situated Lives: Gender and Culture in Everyday Life*, ed. L. Lamphere, H. Ragone, and P. Zavella (New York: Routledge, 1995).

[183] R. Emerson Dobash and Russell P. Dobash, ed. *Rethinking Violence Against Women* (Thousand Oaks, London, New Delhi: Sage Publications, 1998), pp. 141, 193.

[184] Joanna Bourke, "Barbarisation versus Civilisation in Time of War," in *The Barbarization of Warfare*, ed. George Kassimeris (Washington Square, New York: New York University Press, 2006), p. 27.

[185] Ellis, "Liberia: 1989–1994: A Study of Ethnic and Spiritual Violence," p. 190.

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enhance power and virility for men.[186] While sexualized violence was instrumental to military strategy in some cases, this ritualistic violence that occurred alongside and separately may primarily have been instrumental in increasing the perception of self-power for the individual. This violence appeared in the Liberia conflict because it was already used, symbolically, before the war as a means to enhance individual powers.[187] As described by respondents to this research, women were "forced to be a part of it, the cooking, human beings given to you, you have to eat it, you have to drink human blood, you have to eat human heart and all of that took place."[188] Also, "some of the fighters believed in traditional medicine for powers so young girls were the ones who were carrying those traditional pots with the blessings so they had to be in front of the fighters and carrying them, giving them courage, giving them the zeal to fight."[189] This aspect of the violence is not essential to the fulfillment of political or military strategy, even when enacted by a group. Yet it sometimes accompanied this violence or took place outside of it. The link between these beliefs and social systems at personal levels, and particular gendered violence, such as forcing raped civilian women to consume the body parts of husbands and children, is not explored in the literature that discusses the anthropology of this violence or that which documents women's experiences of the conflict.

The theme and importance of eating is commonplace to Liberian belief systems. Mary Moran has identified how cooking was used in one society as a metaphor for power. Cooked people are therefore those that are subject to ritual.[190] Given that women hold power in the home and community because they are responsible for the cooking, they may have been co-opted into these acts for this reason. Rape itself was also perceived to be a ritual representing power and virility.[191] Combined, these could represent powerful forces for any fighter. Feminist theorists have proposed that women play a distinctive symbolic role in concepts of nationhood. The idea of "woman as nation," where women are seen to embody the nation, has been used to explain the role that women and motherhood have in reproducing the nation.[192] While my thinking here requires much more inquiry and empirical research, I tentatively propose that there may be linkages to be explored between these fighters' use of women's actual sexual bodies and the spiritual empowerment offered through the symbolism of women's bodies to bolster their own identities, notions of power, and, ultimately, control of the feminized body of the nation. This is where the

[186] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," p. 52.
[187] Ayodeji Olukoju, *Culture and Customs of Liberia* (Westport: Greenwood Press, 2006), p. 27.
[188] Interview B_10. [189] Interview B_18.
[190] Mary H. Moran, *Civilised Women: Gender and Prestige in Southeastern Liberia* (Ithaca and London: Cornell University Press, 1990).
[191] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict" (Monrovia, 2009), p. 52.
[192] Alison, *Women and Political Violence*, pp. 101–12. Davis Yuval, *Gender and Nation* (London: Sage Publications, 1997).

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individual-level incentives to violence derive from and connect directly to the structural order in which that violence takes place, creating meaning and opportunity for specific harms directed toward women because they are women. This violence is not about military strategy but directs back to the individual fighter himself, making clear that there is need to see and acknowledge the harms that take places on this individual basis against women. Charles Tilly has noted that "a group inflicts violence, in accordance with a socially recognized script, on its own members or on others, for the purposes of increasing its prestige in the eyes of an audience that is distinct from the targets of violence."[193] Women's subjection to gendered violence was commonplace before the conflict (see next chapter) and was therefore a familiar practice during conflict. In this case, the fighters' audience may be themselves and their opponents in the conflict – exhibiting enhanced power in the face of the enemy. However, the audience might also be the women subjected to this violence, highlighting for them an inescapable fact – increased male power equates with increased control of, and violence toward, women. In the Liberia case, the use of ritualistic violence to generate more power actually augmented the range of harms to which women were subjected. This, in turn, inevitably prompts more violence against these same and other women.

As I discussed in Chapter 3, ritual and "cannibalism" were a historic and symbolic feature of social practices for some communities in Liberia and this violence has been explained as an outcome of the intersection of these rituals with the anarchy that was a feature of the conflict. This violence appears to have been instrumental in enhancing the perceived power of fighters and their role and status during the conflict. It was used by all three major faction leaders (Master-Sergeant General Samuel Doe, Prince Johnson, and Charles Taylor) as a means to motivate and lead their fighters.[194] The LTRC report states that "[w]hile oftentimes people have resorted to cannibalism due to hunger, there are also known cases of the victor eating the heart of the vanquished as a show of power. In Liberia both these reasons

[193] Green and Ward, "The Transformation of Violence in Iraq," p. 5, citing Charles Tilly, *The Politics of Collective Violence* (Cambridge: Cambridge University Press, 2003).

[194] Doe promoted what has been referred to by Sawyer as a "magico-super naturalism" based on a spiritual power base he claimed came directly from God, which his followers also believed. Doe's AFL soldiers were seen to be adopting the dress used by the other fighters and associated with spiritual practices: Amos Sawyer, "Effective Immediately: Dictatorship in Liberia 1980–6: a personal perspective," Liberia Working Group Paper No. 5, Bremen 1987, cited in Ellis, *The Mask of Anarchy*, p. 119. Johnson filmed the torture of Doe after capturing him, including the severing and consumption of Doe's ears: Mark Huband, *The Liberian Civil War* (London, Portland: Frank Cass, 1999), pp. 191–93. Taylor's NPFL has been described as having situated "spiritual protection" as central to its military planning. It wanted the fighters to believe that they were protected from bullets and brought in external Zoes (spiritual leaders) to enact rituals and instill this protection: Ellis, *The Mask of Anarchy*, p. 119. Evidence of the employment of rituals and supernaturalism by fighting factions is also found in research with child soldiers by Human Rights Watch: "How to Fight, How to Kill: Child Soldiers in Liberia," p. 415.

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existed."[195] The appearance of such violence in the Liberian context may therefore be a function of personal or collective agendas, or both. It may also be a combination of the two, wherein the perceived instrumental role of such violence in advancing military as well as personal strategy fueled its proliferation.

EXPANDING CONFLICT-RELATED VIOLENCE AGAINST WOMEN

The analysis of variant forms of violence identified in the three case study contexts demonstrates that a critical aspect of understanding violence is through "attending closely to given instances of violence in their political and social contexts."[196] In a conflict there may be expected forms of harm, as well as those that are occurring in hidden spaces and places because of multi-level enabling factors. These may dictate the way that "traditional patterns [of violence] articulate with new forms, de-stabilising the one and creating uncertain outcomes in the other."[197] A conflict context becomes a landscape in which there is a multiplicity of violence occurring, as well as a multiplicity of factors that not only operate themselves, but also intersect and rely on the other for efficacy. Opportunity and incentive may combine and intersect with impunity factors and availability of resources to create the ideal conditions for coercive, exploitative, individualistic, and instrumental violence. The efficacy of sanctions would then be called into question. As demonstrated by the Northern Ireland example, where strategic, political sexualized violence does not feature and where forms of abuse are officially not tolerated by parties to the conflict, abuses related to the conflict still occur. The Northern Ireland context effectively demonstrates that while there is little evidence of strategic rape across ethno-national lines by armed groups, the assumption that first, members of state and non-state armed groups did not enact abusive behaviors on women, and second, that women did not experience forms of conflict-related violence, can be countered. The instances of violence cited here prompt further examination of how these variant forms of violence might relate to the contemporary overarching discourse on sexualized violence, which conflates wartime gendered violence with strategic rape.

The variations identified may be categorized as variations in violence *across* the three case studies as well as *within* each site. I assess these two categories of variations in violence relative to how conflict-related violence against women becomes

[195] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict," p. 36.

[196] Margaret Urban Walker, "Gender and Violence in Focus: A Background for Gender Justice in Reparations," in *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations*, ed. Ruth Rubio-Marín (New York: Cambridge University Press, International Centre for Transitional Justice, 2009), p. 21.

[197] R. Emerson Dobash and Russell P. Dobash, "Cross Border Encounters: Challenges and Opportunities," in *Rethinking Violence Against Women*, ed. R. Emerson Dobash and Russell P. Dobash (Thousand Oaks, London, New Delhi: Sage Publications, 1998), pp. 12–13, citing: D. C. Counts, J. K. Brown, and J. C. Campbell, eds., *Sanctions and Sanctuary: Cultural Perspectives on the Beating of Wives* (Boulder: Westview, 1992).

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categorized formally and informally and what that means for how we come to understand and "know" what CRVAW is (and is not).

Variations Across the Sites

There are clearly variations *across* the three sites. While there are variations in the patterns of violence between Liberia and Timor-Leste, the Northern Ireland context presents a very distinct variation on many fronts that deserves some exploration. As outlined in Chapter 3, CRVAW in Northern Ireland is documented to have taken place within institutions controlled by the state, such as the strip-searching of women in prisons.[198] These abuses have not been categorized as state-led strategic violence in the discourse of the Northern Ireland conflict. One respondent in my research felt that the nature of the conflict did matter in this respect. As she put it, "while it was continuing it was a very hidden conflict and so I mean the conflict here took place within very much a western democratic framework and I think that is one of the big contrasts whenever you look at conflicts internationally."[199]

The discourse on the conflict in Northern Ireland makes little reference to the presence of gendered violence as part of the conflict or to its relevance for the overall analysis of the events associated with the conflict.[200] The violence documented in this chapter questions whether these forms of violence are, or should be, relevant to first, the discourse on the conflict in Northern Ireland, and second, the global legal and policy discourse on violence against women related to armed conflict. The contextual differences on the status and dynamic of this conflict may go some way toward explaining the variation in the way that violence played out and how this violence was understood and labeled. Direct links between the conflict itself and the conflict-related violence previously identified may not have been made, as demonstrated by the following comment by a service provider in Northern Ireland:

> I don't think we made specific links, this was just the society in which we lived and the Troubles seemed a normal back drop, so they were, what we would have seen as "normal" cases, but when we look at it from the outside point of view they weren't normal at all because I had women who were frightened to report because the offenders were the UVF, the IRA, or the security forces and that kind of thing.[201]

Is it the variation in the violence itself at stake here, or the variation in the ways that these abuses have been categorized and labeled in the past, or both? The "appearance" of violence, or the consideration of certain forms of violence as present in any one conflict, may not just depend on whether or not violence actually takes

[198] McCafferty, *The Armagh Women*. [199] Interview A_12.

[200] See: Catherine O'Rourke, "Socio-Economic Issues and the Absence of the Gender Dimension," in *Reflecting on the Report of the Consultative Group on the Past, Seminar Report, 14th and 15th May, 2009* (Belfast, Committee on the Administration of Justice). The process is further discussed in Chapter 7.

[201] Interview A_10.

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place. It also may depend first on *whether the violence is reported and made visible*, and second, on *whether it is counted and labeled as conflict-related or not* within the conflict's official discourse. Structural and systemic factors for example, such as whether and how, within the legal, political and social systems and cultures in which it appears, violence is attributed value across the continuum of crime to ordinary recurring harm, matters. Feminist scholars have highlighted the methodological flaws in the ways in which crime is counted and violence defined – a legal structure and justice system that may ultimately occlude and exclude women's experiences of gendered harms because of how violence is formulated and defined.[202] This will also apply in respect of whether that violence is understood or nominated as related to the conflict. Given the distinctiveness of the Northern Ireland conflict, it is relevant to consider why and how the violence women experienced was not mapped onto the conflict or nominated as conflict-related. While the era of the conflict and of these harms precedes the modern-day hyper-visibility and politicization of CRSV discussed in earlier chapters, the relatedness to the conflict requires further elucidation.

The first consideration in this regard is to understand that gendered violence in any context (without conflict) is silenced and hidden, and there exist practical and strategic barriers to women's reporting. In Northern Ireland, the harms that I have mapped out above were not public mass harms. Ironically, the mass and public nature of harms in situations such as Liberia and Timor-Leste mean that such harms become "known" as part of the conflict, even though socio-cultural norms make it difficult for women to come forward to report and seek treatment. When harms take place in private spaces, by actors known to women, i.e. not "stranger" violence, and are enabled because they are taking place among community and family, the same dynamics against reporting apply, compounded by the factors documented earlier: the social network/paramilitary membership status of the perpetrator, the threat of that wider membership and of guns, and the need to protect the local hero from a blemished reputation. The "silencing" that occurs on this violence is clearly articulated by this respondent:

> It is difficult for a woman to report rape in any country but when, you know, the men that have raped you are capable of murder you might even know who they have murdered or have suspected of murdering and obviously that's terrifying not just for yourself but for your family, for... because while it would never be politically acceptable to shoot a woman who wasn't a combatant in the war, they would get to you through your brothers or son or your father or whatever, you know. You just

[202] Liz Kelly, *Surviving Sexual Violence* (Minneapolis: University of Minnesota, 1998); Jill Radford and Elizabeth A. Stanko, "Violence Against Women and Children: The Contradictions of Crime Control Under Patriarchy," in *Women, Violence and Male Power: Feminist Activism, Research and Practice*, ed. Marianne Hester, Liz Kelly, and Jill Radford (Buckingham and Philadelphia: Open University Press, 1996).

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> have to take her son and knee-cap him which to a woman is going to be much more upsetting than if they did it to her.[203]

A limit on the *reporting* of abuses may have kept violence hidden. Women "were threatened that 'I'll say you were involved' if you, you know, take this forward."[204] These kinds of threats prevented women from reporting and may have hidden a range of violent acts, some of which are just emerging, as evidenced by the recent media stories cited earlier. Where women may find it difficult to report "ordinary" violence in "ordinary" times,[205] this trend may be compounded by the circumstances of a conflict so that reporting becomes even more restricted and may even be prohibited.

The direction of reporting may also matter. In Republican communities in Northern Ireland, women are known to have approached local paramilitary powers for help with issues such as domestic violence. Even though the evidence above highlighted that issues such as domestic violence were not given sufficient or appropriate attention by paramilitary organizations, they were women's only option in the absence of access to state policing structures. In their role as a de facto policing service, paramilitaries' potential control over these reports is a significant consideration. As discussed earlier, in Republican communities, paramilitary actors are known to have banished pedophiles,[206] making issues such as this disappear (at least from that particular community and from public discourse). Such incidents of violence, therefore, do not become a public issue or a public crime. Stories such as the Kincora Boys Home scandal underline the extent to which the British security apparatus may have also exploited both the abuser and the abused in exchange for information and protection, effectively "disappearing" the abuse.[207]

Further, the way that violence is handled by alternate actors will matter. A worker at a women's shelter during the Troubles in Northern Ireland recounts how stories related to violence by those involved in hostilities were sometimes handled:

> I remember women coming in here and we actually, well I personally, had to stop them, because initially when they came in they would have been so angry with what was happening they started to tell you all this and a lot of stuff was around paramilitaries and you were "don't tell me anymore, or I am going to have to take this somewhere" and then the next day when women calmed down and they weren't as angry they would be really sorry that they had told you maybe, or he had guns hidden in the back-garden or something like that, and you're like "ooohh, please don't tell me that" because you obviously had a responsibility to report that.[208]

[203] Interview A_10. [204] Interview A_2.

[205] Liz Kelly and Jill Radford, "'Nothing Really Happened': The Invalidation of Women's Experiences of Sexual Violence," in *Women, Violence and Male Power: Feminist Activism, Research and Practice*, ed. Marianne Hester, Liz Kelly, and Jill Radford (Buckingham and Philadelphia: Open University Press, 1996).

[206] Interview A_9. [207] Moore, *The Kincora Scandal*. [208] Interview A_3.

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This statement is very revealing. If the support services to which women turned for help with violence during the conflict were encouraging women to remain silent about any links her perpetrator had with the conflict, then there was little chance that the abuse would be documented or recorded as conflict-related. However, this was also a necessary strategy, as legally workers were obliged to report any involvement with the conflict. Women's organizations in Northern Ireland faced many challenges working with, and around, the divisive politics of the conflict.[209] Shelters were successful in ensuring the provision of service to women from both sides of the community.[210] While women's collective organizing is recognized as succeeding in overcoming divisive politics, there has also been criticism of the lack of collective political campaigning on what some would perceive as key conflict-related feminist issues, such as the treatment of female prisoners (discussed in Chapter 3).[211] As a result of the conflict, it was necessary to delineate clearly between the personal and political. In the case illustrated in the quotation above, the necessity for services to remain confidential and apolitical may, at times, have contributed to thickening this delineation and inadvertently resulted in the silencing of the nexus between the political context and women's experiences, and in this case, the silencing of conflict-related abuses.

The silencing of this aspect of the abuse may also have contributed to its exclusion from the overall structural ordering attributed to dealing with the conflict in Northern Ireland. A perusal of government policy documents, such as strategies to deal with domestic violence, reveals that they refer little, if at all, to the exigencies of the conflict. The need to engage with the additional layer of complexity that the conflict presents is not evident in official policy and discourse at structural levels. This may be because of the ongoing dispute over the status of the Troubles at official governmental levels, as noted in Chapter 3.[212] There is, however, increasing recognition of the conflict's relevance to women's experiences of violence in the post-conflict context. The ongoing and contemporary impact of dissident armed groups on women's ability to report domestic violence in some communities has been raised by women's organizations.[213]

[209] Monica McWilliams, "Struggling for Peace and Justice: Reflections on Women's Activism in Northern Ireland," *Journal of Women's History* 6/7, no. 1 (1995); Jacqueline Nolan-Hanley and Bronagh Hinds, "Problem-Solving Negotiation: Northern Ireland's Experience with the Women's Coalition," *Journal of Dispute Resolution* 2 (2003).

[210] McWilliams, "Struggling for Peace and Justice: Reflections on Women's Activism in Northern Ireland," p. 30.

[211] Ibid., pp. 26–27.

[212] See, for example, Northern Ireland Office, "Tackling Domestic Violence: A Policy for Northern Ireland" (Belfast: Department of Health and Social Services and Northern Ireland Office, 1995); "Tackling Violence at Home: A Strategy for Addressing Domestic Violence and Abuse in Northern Ireland" (Belfast: Department of Social Services and Public Safety, 2005); "Tackling Violence at Home, Action Plan: April 2009 to September 2010" (Belfast: Department of Health, Social Services and Public Safety, 2009).

[213] Women's Aid, National Women's Council of Ireland, "The Other Violence": The Impact of Conflict on Women; Irish Peace Centres conference – The Development of a North/South Strategy (Derry/Londonderry, December 2010).

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Additionally, at the systems level, the methodology of policing during the conflict entrenched the dichotomy between public and private abuses relative to the conflict.[214] Those murders not related to the conflict were labeled "ordinary decent murders," and between 1991 and 1994 25 percent of these were related to domestic violence.[215] The ways that the conflict had an impact on this domestic violence are neglected when the official system distinguishes between "political terrorism" and "domestic terrorism"[216] and cannot see the possibility of any linkages between the two. The variations that occur in domestic violence as a result of armed conflict are not named and are rarely visible as a result.

The methods of silencing gendered violence in non-conflict contexts is amplified in conflict contexts such as this where security actors actively operated to occlude, negate, or silence this violence in order to prioritize broader and "real" security concerns. Such a dynamic may foster the perception that violence is not occurring while also allowing state and non-state actors to declare the absence of strategic sexualized violence or broader harms impacting women within their territories. Such pronouncements can hide a multitude of militarized sexualized abuses taking place in their state facilities as well as in the homes of their soldiers.[217] Compared to contexts such as Liberia and Timor-Leste, a context such as Northern Ireland would become classified as a conflict in which no conflict-related gendered violence took place.

Variations Within Sites

The variations in violence *within* each site are apparent, yet remain ambiguous on many levels when examined in detail. It can be difficult, for example, to differentiate between categories of violence, particularly when different forms of violence may co-exist and/or may be enacted by the same men. It is relevant to consider "[w]hen does the victim perceive sexual violence as a weapon of war – must the perpetrator wear a uniform, speak a different language, or be part of a group?"[218] This consideration is particularly relevant for a context such as Liberia, where at the operative levels, ordinary men obtained and possessed guns, whether they were affiliated with an armed movement or not.[219] How to define the violence perpetrated outside the armed group's functions but on the basis of the power (resource) derived from his membership status is even more problematic. The categories of political/public or endemic/private do not constitute a satisfactory framework within which to legally assess or classify this violence, particularly given the need to acknowledge fluidity

[214] McWilliams, "Violence Against Women and Political Conflict: The Northern Ireland Experience," pp. 81–82.
[215] Ibid., p. 82. [216] Ibid., p. 82.
[217] Malathi de Alwis. "Don't Ignore Militarised Sexual Violence," London, October 12, 2009.
[218] Inger SkjelsbAek, "Sexual Violence and War: Mapping out a Complex Relationship," *European Journal of International Relations* 7, no. 2 (2001), p. 227.
[219] As discussed in Chapter 3.

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between these spheres.[220] If the harms documented in this chapter are not strategic conflict abuses, yet are somewhat different from ordinary, private abuses, what do they represent? Are they a mutated form of public, political conflict abuse or a mutated form of private abuses? Where do they fit within the international normative and legal paradigms on conflict-related gendered violence?

As noted earlier, Green and Ward offer a helpful framework in their assessment of violence in Iraq. They demonstrate that there may be "dual-purpose" violence, or violence that meets both political organizational goals as well as personal goals.[221] The connections between organized political violence and decentralized individual violence negate attempts to draw a clear distinction between the two.[222] This neatly draws together the tension identified earlier, where the categorization of political violence may exclude or make invisible other forms of violence, regardless of whether they may have a nexus to the conflict. This chapter evidences forms of violence that, on a continuum of "political public violence" to "endemic private violence," may sit somewhere in between. Violence becomes a tractable and pliant commodity for its user, enabling it to simultaneously embody both tactical and non-tactical properties at once. How may this in-between violence be understood? If law provides the categories in which violence should fit, what consideration is, or should be, given to, the conflict-related and private violence nexus evident here? The abuses discussed above may be evident on a lesser scale or considered limited in comparison to systematic or patterned abuses. However, does this mean that they simply do not count when compiling a picture of violence against women during conflict?

Under international law, there is little clarity on the accountability for such abuses:[223] "there is no distinct offence of sexual violence . . . [r]ather if the requisite elements are met, then sexual violence can be prosecuted as a criminal violation of international humanitarian law."[224] International law "does not appear to encompass opportunistic violence" or private violence that appears as a result of the conflict.[225] Private violence is often viewed as unpatterned behavior and remains outside the purview of international legal categories such as crimes against humanity. Private violence, and the in-between violence identified in this research, may in fact be functional and intentional, and indeed patterned, even when there are sanctions or limitations placed on group violence. The patterning in endemic violence is evident in research demonstrating the rates at which women experience

[220] Doris Buss, "Austerlitz and International Law: A Feminist Reading at the Boundaries," in *International Law: Modern Feminist Approaches*, ed. Doris Buss and Ambreena Manji (Portland: Hart Publishing, 2005), p. 95.

[221] Green and Ward, "The Transformation of Violence in Iraq," p. 1. [222] Ibid., p. 1.

[223] See, for an exploration of similar thesis, Ramji-Nogales, "Questioning Hierarchies of Harm."

[224] Kristen Campbell, "The Gender of Transitional Justice: Law, Sexual Violence and the International Criminal Tribunal for the Former Yugoslavia," *The International Journal of Transitional Justice* 1 (2007), pp. 413–14.

[225] Ramji-Nogales, "Questioning Hierarchies of Harm," p. 6.

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domestic violence within and across countries.[226] The "homogenizing narrative" on sexual violence emerging from the application of international law serves to make this "in-between" violence even more invisible.[227] The architecture of international law does not do enough to extend international law's remit beyond the kinds of violence for which states currently hold each other accountable.[228] The work of Doris Buss is instructive here in her assessment of law's "inclusion/exclusion" binary and the need for further assessment to "examine the trouble of boundaries."[229] These boundaries mean that even where the use of sexualized violence as a weapon is recognized, wider variations in violence may not be.

CONCLUSION: SEEING MULTIPLICITY AND OVERCOMING HIERARCHY

Feminist scholars have used the concept of *hierarchies of violence* to explain the problematic positioning of gendered harms and where they sit relative to the harms that primarily impact men and are captured within international frameworks.[230] This concept is useful in illuminating the vacuum that exists in terms of how many forms of CRVAW, including the in-between, conflict-time violence identified in this research, may be understood and responded to. In addition, however, now that the harms that exist beyond strategic rape are made visible, there arises the problem of navigating the ways that experiences of harm may be comparatively assessed. As the discourse of rape as "the worst harm" has emerged, it becomes difficult for women who have not experienced the worst harm, but have experienced other harms, to come forward and have that harm count in the catalogue of CRVAW. In this regard, I make the following observations relating to how hierarchies in violence impact the visibility and general understanding of what is happening with respect to gendered harms in a context of conflict.

Hierarchies *may operate to minimize women's own conceptualization of their experiences of violence*. Women's own perceptions of violence are inevitably influenced by the omnipotent ideologies of patriarchy in which structural

[226] United Nations World Health Organization, "WHO Multi-Country Study on Women's Health and Domestic Violence Against Women" (Geneva: United Nations World Health Organization, 2005); United Nations World Health Organization, "Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence" (Geneva: United Nations World Health Organization, 2013).

[227] Buss, "Rethinking 'Rape as a Weapon of War'," p. 160.

[228] "Austerlitz and International Law: A Feminist Reading at the Boundaries," p. 99.

[229] Ibid., pp. 100–02.

[230] See, for example: Liz Kelly and Jill Radford, "Sexual Violence Against Women and Girls. An Approach to an International Overview," in *Rethinking Violence Against Women*, ed. R. Emerson Dobash and Russell P. Dobash (Thousand Oaks, London, New Delhi: Sage Publications, 1998), pp. 56, 57; Ramji-Nogales, "Questioning Hierarchies of Harm"; Carolyn Nordstrom, *Shadows of War: Violence, Power, and International Profiteering in the Twenty-First Century* (Berkeley, Los Angeles and London: University of California Press, 2004); McGarry and O'Leary, *Explaining Northern Ireland*.

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discrimination, including violence, are inherited by women as the norm.[231] A respondent from Northern Ireland met women from Liberia and Timor-Leste in a conference setting during the time of this research and commented: "When I listened to women in Timor-Leste and Liberia, compared to them, you would think we had bother?"[232] This respondent felt that their situation paled in comparison to that of women in Liberia and Timor-Leste. This is echoed by the experiences of other women from Northern Ireland, who felt that "what was happening to them in their home wasn't considered by the community or by the family as important as the big issue, which was the Troubles."[233] This has since been reinforced by more recent conversations in Northern Ireland about making the violence of the conflict visible. It is evident that there are perceptions among women that the gendered violence of Northern Ireland's conflict does not live-up to the international norm. How, then, can women frame their experiences as "conflict-related" if they do not relate in any way with the version of CRSV that has come to define women's conflict-time harms at global levels?

Hierarchies *may also operate to delegitimize different forms of gendered harms*. Private violence inside the home is often relegated to least priority in comparison to the violence associated with conflict, despite evidence that conflict may "add other dimensions to it."[234] This was reflected in Timor-Leste, where "a lot of the violations that occurred against women were violations that happened within the family. This was never viewed as an issue of importance. Everything was focused on the violence carried out by the TNI [Indonesian military] ... situations where a husband beat his wife, it wasn't of interest."[235] Hierarchies will elevate some forms of violence for attention over others, *with consequences for the over-emphasis on rape as a tactic of conflict*. For example, this respondent uses the term "rape" as a weapon of war in an overly encompassing way: "during the conflict people used rape as one of the weapons of war, they used rape to capture people, they used rape to get a sexual desire accomplished."[236] This has two outcomes. First, the overuse or inappropriate use of the term has caused it to be applied in an unconsidered way within discourse. This respondent refers to rape as a "weapon of war," yet does not link this to a political strategy on the part of armed groups, but instead to an individual fighter's "sexual desire." Second, the term simply may not suit all circumstances where sexualized violence might feature heavily during the war, but is not officially employed in a strategic manner. The violence that does not "fit" this terminology and threshold may therefore not count as being conflict-related. The predominance of this term in the lexicon of international discourse and policy on conflict and its incorrect use (from a legal perspective) may make it impossible to name other

[231] Catherine A. MacKinnon, "Feminism, Marxism, Method and the State: Toward Feminist Jurisprudence," *Signs: Journal of Women in Culture and Society* 8, no. 4 (1983).
[232] Interview A_8. [233] Interview A_11.
[234] McWilliams, "Violence Against Women and Political Conflict," p. 119. [235] Interview C_15.
[236] Interview B_12.

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harms. It may represent the peak or epitome of violence against which all gendered violence is measured, and, in so doing, will occlude the space for other harms to receive attention and similar traction.

One of the reasons why in-between violence remains less visible may be because these forms of violence have not been named as categories of harm that may appear in conflict. Where violence is named, it may become part of the conflict and post-conflict discourse. This is certainly true for a context such as Northern Ireland, where violence may not be seen as part of the conflict and is not named as such:

> Because the police didn't police it, the judiciary didn't have to attend to it, and although we do know it was part of the story of the conflict, it was seen as very peripheral. Whereas in other countries those rapes were mass rapes and they were seen as serious violations because of the extent of them, so they do get referred to, whereas ours would have been seen as just a pattern of everyday behavior and so it wasn't singled out for attention.[237]

There is a need to deepen this debate and propose a new way of looking at violence against women in war. This may be about developing an understanding of several layers of violence within one conflict and across conflicts, and the intersection of multiple factors in context. The public/private divide offers a starting point for revealing this violence and from this, analysis that draws out the intersection or nexus between the appearance of conflict and the mutation of private violence into several co-existing forms is required. The multi-level framework is helpful in parsing out approaches to understanding, as well as then creating responses to hierarchies in CRVAW. Within the structural order, at both global and national levels, more is required to make visible the compilation of harms that women experience. This includes making effort to document the domain of influence that conflict has over where and in what way conflict-related violence may be experienced. This will help reveal more about what is happening at the experiential and individual level. It is not only that dual-purpose violence is occurring, but that there exist a range of personal motives, incentives, and interests to enact violence during times of conflict. Recognition is required that violence is employed by individuals for both personal gain, as well by individuals and groups to sustain a "natural" structural ordering that frames women's gendered positioning.

Different types and layers of assessment should be brought together. These could include assessments of how variation may occur in the acts of armed groups; a complementary analysis of violence itself from the perspective of women, including the in-between violence they experience; an assessment of wholly private abuses unassociated with conflict actors that may endure and be compounded by the lack of services during conflict; and identification of relevant contextual factors and their

[237] Interview A_16.

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significant influence. In examining the variations in violence against women during armed conflict, we may need to assess where the potential sites and sources of violence may be – in the public realm, in the private realm, and in the potential for something in between. In order to deepen our analysis, our examination and discussion of these issues should focus on "violences" against women rather than "violence" as a solitary, isolated, and static phenomenon.

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5

Connections and Distinctions: Ambulant Violence Across Pre-, During-, and Post-Conflict Contexts

[W]here the power lies . . . was where the violence was perpetrated.[1]

INTRODUCTION

There remains the question of whether the harms that occur in war are exceptional in respect of the violent act – i.e. is the kind of violence that happens in war "different" from that which occurs outside of war? Further scrutiny is required of the special place that is reserved for CRVAW within the landscape of knowledge and response to global patterns of gendered violence. Growing and dynamic debate advances this scrutiny. On the one hand, as noted in Chapters 1 and 4, the idea of "continuums" of violence has been espoused by feminist scholars to explain the persistency of violence in women's lives due to gender inequalities and relations, providing placement and context to how and why women experience violence in conflict.[2] On the other hand, propagated by the focus on strategic sexualized violence and armed actors, there has been growing argument that what happens in war is different in respect of its scale and form and thereby needs a differential response and understanding. From the legal accountability perspective, there is arguably a need to regulate wartime actors and their actions through specific and legally accountable means. That aside, scholars have also argued that what occurs in warfare in respect of the scale and nature of violence is irregular. As discussed in Chapter 4, some argue that rather than reflecting a continuum, there are "innovations in sexual brutality that we observe on the part of some armed

[1] Interview B_3.

[2] Caroline O. Moser, "The Gendered Continuum of Violence and Conflict: An Operational Framework," in *Victims, Perpetrators or Actors? Gender, Armed Conflict and Political Violence*, ed. Caroline O. Moser and Fiona Clark (New York: Zed Books Ltd., 2001), 30–52; Cynthia Cockburn, "The Continuum of Violence: A Gender Perspective on War and Peace," in *Sites of Violence: Gender and Conflict Zones*, ed. Wenona Giles and Jennifer Hyndman (University of California Press, 2004); Liz Kelly, *Surviving Sexual Violence* (Cambridge: Polity Press); Liz Kelly and Jill Radford, "Sexual Violence Against Women and Girls. An Approach to an International Overview," in *Rethinking Violence Against Women*, ed. Rebecca Emerson Dobash and Russell P. Dobash (Thousand Oaks, London, New Delhi: Sage Publications, 1998).

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organizations (e.g. rape with guns, sexual mutilation etc.), innovations that would appear to have little precedent in peacetime."[3]

It remains unclear whether this is an either/or scenario. Can violence be exceptional in prevalence and form in warfare, while at the same time be related to the mundane ways of violence outside of warfare? Or is conflict-time violence different and separate from the ordinary human practice of violence prior to or outside of conflict, whether against women or men? In my experience of working with victims/survivors of gendered violence and researching this issue within and outside of armed conflict, I have heard and documented egregious forms of violence across conflict, as well as non-conflict spheres. In conflict contexts, this has included acts that may be considered innovative or exceptional: mass-scale sexualized violence, acts of gang rape to death, the use of implements of incredible imagination in rape, and physical and sexual mutilations of women's bodies. In non-conflict contexts, I have also encountered violence that includes acts that are at least similar in form, pattern, and effect, even if they are not presented to the world in a public time-bound and concentrated manner akin to an armed conflict. For example, collective acts of sexualized violence do occur outside of conflict. These include what are now very public accounts of collective rapes by young men on college campuses and sports teams in the United States and elsewhere,[4] and countless incidents of collective rape in countries across the world,[5] including acts of multiple perpetrator rape which are proudly videoed and shared publicly.[6] That almost 20 percent of women in a country such as the United States have ever experienced rape in their lifetime challenges the notion that the sexualized assault of women only occurs on a mass scale in armed conflicts.[7] Does "mass" only imply violence occurring within a short and

[3] Elisabeth J. Wood, "Conflict-Related Sexual Violence and the Policy Implications of Recent Research," *International Review of the Red Cross* 96, no. 894 (2014), p. 464.

[4] There are multiple examples, including: "Vanderbilt rape trial: Vanderbilt football player passed out condoms to teammates ahead of rape, prosecutors say," *The New York Times*, April 14, 2016: http://nytlive.nytimes.com/womenintheworld/2016/06/14/vanderbilt-football-player-passed-out-condoms-to-teammates-ahead-of-rape-prosecutors-say/, accessed September 1, 2016; The Steubenville case: Richard A. Oppel Jr., "Ohio Teenagers Guilty in Rape That Social Media Brought to Light," *New York Times*, March 27, 2013, www.nytimes.com/2013/03/18/us/teenagers-found-guilty-in-rape-in-steubenville-ohio.html?_r=0, accessed September 1, 2016; And in the United Kingdom: "Student rowers 'put rape pictures online'," *The Times*, June 29, 2016, www.thetimes.co.uk/article/student-rowers-put-rape-pictures-online-k9stttwjs, accessed September 1, 2016.

[5] For example see: Lisa Vetten, Haffejee, Sadiyya, "A Study in Inner-City Johannesburg," *South Africa Crime Quarterly* 12 (2005). And a summary of recent collective rapes in the United States: Rebecca Solnit, "A Rape a Minute, A Thousand Corpses a Year: Hate crimes in America – and elsewhere – add up to the world's longest war," *The Nation*, January 24, 2013, www.thenation.com/article/rape-minute-thousand-corpses-year/. Accessed September 1, 2016.

[6] An example is a case in Brazil where an unconscious woman was reportedly raped by up to 33 men: Cleuci de Oliveira, "Gang Rape Posted To Social Media Is Forcing Brazil To Confront Violence Against Women," *Huffington Post*, May 27, 2016, www.huffingtonpost.com/entry/report-of-gang-rape-surfaced-on-social-media-shocks-brazil_us_57489146e4b03ede4414c68a, accessed September 1, 2016.

[7] Matthew J. Breiding, "Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization – National Intimate Partner and Sexual Violence Survey, United

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concentrated period on the part of coordinated armed actors? It is curious to note that rape estimates specific to the temporal period of the Liberia conflict for example range from between 10 and 20 percent.[8] I am not arguing that these are comparable contexts, comparable data sets and rates of violence, or comparable in experience or form of violence. Rather, when we argue that something is exceptional or distinctive, we need to consider what the context of that comparison is. In what ways and how is CRSV different? Why and on what basis? In Chapters 2 and 3 I argued that the egregious forms of CRSV evident in historic warfare is relevant to contemporary estimations of the uniqueness of harm in present-day warfare. Here, I prompt us to consider the relevance of egregious harms that also take place in the period right before, outside of, and parallel to conflict in peacetime contexts globally. Further data from the United States for example finds that 4.8 percent of men have been forced to penetrate someone else, an act that has also been documented as forced on men during armed conflicts, but is presented as an anomaly, as something reserved for the conflict-time setting.[9] The physical harm to women's bodies and the use of implements in sexualized assault are also not reserved for the armed conflict sphere, even if they may take place on a more intensive scale or by militarised (rather than known) actors in a conflict. I have heard of incidents where, through online grooming and other modes of abuse, young women have been coerced into inserting large household objects into their bodies or it has been done to them in acts of assault. Globally, there are numerous accounts of men kidnapping women and holding them for the purposes of sexual abuse and trafficking. Women's shelter workers in Northern Ireland described violence in the home where women were forced to replicate the behavior of dogs, move around the home on all fours, beg for food, are locked up in kennels, and denied food, water, and basic necessities; also, incidents where men forced children to physically assault their mothers, causing untold psychological harms to all involved. Are these harms "less worse" or less innovative than those we have documented in conflict? Even though these acts may differ from the dynamic of a conflict, there is clearly egregious content and intent to these acts and the efficacy of these harms runs very deep. There are of course also accounts of egregious physical harms by men on their wives and families outside of conflict, including cases where men have hacked their wives and children to death.[10] And of course, as noted in Chapter 2, homicides of women are largely at the hands of intimate partners. The gendered violence that occurs outside of armed conflict is

States, 2011. Surveillance Summaries" *Morbidity and Mortality Weekly Report (MMWR)* 63 (SS08) (September 5, 2014).

8 See: Dara Kay Cohen and Amelia Hoover- Green, "Dueling Incentives: Sexual Violence in the Liberian Civil War and the Politics of Human Rights Advocacy," *Journal of Peace Research* 49, no. 3 (2012), p. 450.

9 United States Center for Disease Control, "Sexual Violence: Facts at a Glance" (United States Center for Disease Control, 2012), www.cdc.gov/violenceprevention/pdf/sv-datasheet-a.pdf.

10 Henry McDonald, "Reporting of Man who Killed his Family too Sympathetic, say Women's Groups," *The Guardian*, September 2, 2016, www.theguardian.com/world/2016/sep/02/reporting-alan-hawe-murder-suicide-family-sympathetic-say-womens-groups-wife-children, accessed September 2, 2016.

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endemic and systemic. That it can be organized is most evident if we take the example of trafficking in women and girls, the sexualized assault of women in detention, and the systematic discrimination that is evident in how sexual assault is treated within the justice chain in countries globally.[11]

Doubtless, there is plenty of the innovative and the extraordinary to be found in ordinary violence in ordinary times. I stress that I do not wish to conflate the egregious harms that occur in conflict with those outside of conflict, nor to suggest that violence across time and people is, or should be, understood as approximate or symmetric. Each victim/survivor that I have worked with experiences that harm in her own individual and systemic way. Rather, I cite these accounts of violence outside of conflict primarily to evidence the necessity for further scrutiny of the boundaries that are imposed between conflict and peacetime violence. I also include them here to prompt consideration of the assumptions that are made about the uniqueness of conflict-time harm when egregious harms take place all around us all the time, just in hidden ways or that are perceived to be normative. Here, we need to reconsider Susan J. Levitt's proposal that the "certain level of radiation that exists around us all of the time, and [how it is understood to be] normal and tolerable"[12] tells us something about how the private sphere gendered violence in our societies and it inherent innovation influences how we see conflict-time public harms.

In the interests of continuing to expand understanding of CRVAW, this chapter examines the connectedness and disconnectedness of CRVAW to pre-existing and co-existing forms of violence. Drawing from the findings on violence for the three cases study sites discussed in Chapters 3 and 4, this chapter establishes an analytical framework for assessing CRVAW across pre-, during-, and post-conflict contexts. The discussion in this chapter is deliberately structured to encompass and emphasize this approach. The Liberia case study is most prominent in this chapter as it provides some of the more illustrative and interconnected examples of violence across the three phases.

MAPPING TEMPORALITY: A PRE-, DURING-, AND POST-CONFLICT VIOLENCE FRAMEWORK OF ANALYSIS

To examine gendered violence across conflict and non-conflict in respect of precedent, patterns, and possible relational linkages, I mapped forms of violence within and across a framework that examines violence distinctive to each of the temporal phases of the pre-conflict phase, the during-conflict phase and the post-conflict phase. This approach almost works against my very argument – that there are challenges to our understanding of CRVAW because of such imposed boundaries. However, this approach was adopted to allow for the development of both a disaggregated as well as an

[11] Chiseche Salome Mibenge, Sex and International Tribunals: The Erasure of Gender from the War Narrative (Philadelphia, University of Pennsylvania Press, 2013), p. 13.

[12] Susan J. Levitt, "Rethinking Harm: A Feminist Essay," *Washburn Law Journal* 34 (1995), p. 532.

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aggregated analysis, facilitating an in-depth examination of conflict to peacetime violence. As I employ this method, I acknowledge that imposing lines of demarcation between conflict and non-conflict imposes artificial and arbitrary boundaries on temporal phases that do not necessarily have clear stop-and-start moments. Such an approach also dismisses the way that armed violence can be fluid as well as sporadic in its coverage and outbreak. Taken in its strictest sense, a pre-, during-, and post-conflict framework will not provide a true picture of the conflict–violence nexus and there are good reasons not to break up cycles of war and peace into discretely labeled chunks.

However, to capitalize on the potential that a partitioned framework offers, as well as to counter these inherent drawbacks, a dual approach to analysis is employed. First, the disaggregated approach reflecting the pre-, during, and post- framework is deliberately used to allow for an in-depth, drill-down examination of violence in each distinct phase along the (so-called) peace to conflict to peace continuum. This facilitates the comprehensive identification of multiple forms of harm and inequalities present within and distinct to each phase. This disaggregated approach ensures that any analysis of violence within and *across* the conflict to peace phases is based on the exhaustive documentation for each distinctive phase. Second, in order to engage with the idea of inter-relational connections between violence, I undertake an aggregated assessment of the identified violence for each phase, effectively stitching the distinctive phases back together through qualitative analysis. By drawing lines and taking a disaggregated approach this framework enables an exploration of the distinctive characteristics of violence in each phase. At the same time, lifting out and erasing those lines through a complementary aggregated assessment enables exploration of patterns and connections across the phases. I believe this contributes a new way to document, analyze, and produce empirically driven theory exploring the connections and distinctions in gendered violence across conflict-time and peacetime. It provides empirical and theoretical evidence that allows critical examination of assumptions about ideas of connections as well as assumptions that set conflict-time violence apart. In the next sections, the disaggregated assessment of violence is first mapped across each temporal phase; this is then followed by an aggregated analytical discussion of the trends revealed by the disaggregated framework.

A DISAGGREGATED ASSESSMENT: PRE-, DURING-, AND POST-CONFLICT VIOLENCE AGAINST WOMEN IN LIBERIA, NORTHERN IRELAND, AND TIMOR-LESTE

This sections presents and analytically discusses forms of violence present in each disaggregated phase of 1) pre-conflict; 2) during conflict; and 3) post-conflict.

Pre-conflict Liberia, Northern Ireland, and Timor-Leste

A starting point for an analysis that ambitiously aims to identify and map forms of violence from pre-conflict to its aftermath, and across a diverse range of countries, is

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to set out a number of assumptions that underpin and guide the use of this framework. First, on the basis of discussions of global violence earlier in this chapter and in Chapter 2, I work from the assumption that the prevalence and form of violence against women varies across different contexts during times of peace.[13] A second and related assumption is that the variation in socio-cultural norms and practices across societies plays a role in the manifest form of gendered violence per context. And third, all three case studies have socio-cultural norms and patterns that uphold and tolerate women's subordination to varying degrees, with evolving adoption of legal frameworks that attempt to mitigate such control and regulate the use of violence.

"Cultural beliefs about the role of women in society can … accelerate or moderate the levels of violence used against women as well as its impact."[14] While engaging with "culture" as a frame for examining violence teeters on the edge of stereotyping particular forms of violence to particular cultures, the "cross-cultural variation from society to society, in the amount, frequency and severity of aggression against women, and in what is condoned or disapproved" is considered relevant.[15] The pitfalls that present when examining violence across differing cultural contexts, particularly violence that is deemed to be "cultural" or "ritualized" was discussed in Chapter 3, and provides basis for the discussion here. There is a need to view "violence as a cultural form or construction"[16] while at the same time acknowledging that "entire cultures can hardly be classified as violent" in comparison to others.[17] The differing social locations of gendered men and women, in terms of class, race, ethnicity and other social identity characteristics will contribute to individual or group-based access to power and privilege.[18] So, too, the opportunity for violence as a mode of power, dominance, and control emerges, appearing on a variant basis within and across cultural contexts (see also previous chapter). Prior to a conflict, "the pre-existing

[13] See, for example, prevalence studies that clearly demonstrate this variation: United Nations World Health Organization, "Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence" (Geneva: United Nations World Health Organization, 2013); United Nations World Health Organization, "WHO Multi-Country Study on Women's Health and Domestic Violence Against Women" (Geneva: United Nations World Health Organization, 2005).

[14] Monica McWilliams, "Violence Against Women in Societies Under Stress," in *Rethinking Violence Against Women*, ed. R. Emerson Dobash and Russell P. Dobash (Thousand Oaks, London, New Delhi: Sage Publications, 1998), p. 117.

[15] Judith K. Brown, "Introduction: Definitions, Assumptions, Themes and Issues," in *Sanctions and Sanctuary: Cultural Perspectives on the Beating of Wives*, ed. Dorothy Ayers Counts, Judith K. Brown, and Jacquelyn C. Campbell (Colorado, Oxford: Westview Press, 1992), p. 13. Also see: James E. Anderson et al., "Cross-Cultural Perspectives on Intimate Partner Violence," *Journal of the American Academy of Physician Assistants* 21, no. 4 (2008).

[16] Anton Blok, "The Enigma of Senseless Violence," in *Meanings of Violence: A Cross Cultural Perspective*, ed. Göran Aijmer and Jon Abbink (Oxford, New York: Berg, 2000), p. 27.

[17] Johan Galtung, "Cutural Violence," *Journal of Peace Research* 27, no. 3 (1990), p. 291.

[18] Margaret Urban Walker, "Gender and Violence in Focus: A Background for Gender Justice in Reparations," in *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations*, ed. Ruth Rubio-Marín (New York: Cambridge University Press, International Centre for Transitional Justice, 2009), p. 26.

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socio-economic and legal status and the cultural meanings surrounding the construction of the male and female in patriarchal societies may cause different ensuing harms for men and women."[19] As such, it is taken that the gender inequalities and the subordination of women constitutes culture and cultural practices in different ways across all three settings and has relational cause to women's experiences of harm. Where differing feminist stand-points will account for violence and its variation in divergent ways, in my discussion here, there is need to traverse tensions that normalize patriarchy, cultural gendered norms, and related violence across differing socio-cultural spaces.[20]

Underpinning all of this is the tension between global and local assumptions that determine whether and how acts are defined as violence – certain actions may be regarded as constituting violence by one spectator and as something entirely different by another.[21] Whether an act constitutes violence may depend on who gets to determine what a given act means in context.[22] It is debatable where the law intervenes and has a role in determining what does and does not constitute violence or even crime.[23] Law's role in transcending the cultural legitimization of what may otherwise be defined as violence is contested, especially when it comes to particular forms of harm. For example, international policy, laws in some countries, and the advocacy work of many women's organizations determine a range of what are defined as "harmful traditional practices," that include acts such as FGM/C and polygamy as "violence against women."[24] These acts are perceived to be a form of "violence" and to derive from cultural practices that function to subjugate and control women, their sexuality, and reproduction. A body of academic critique has proposed that the tendency in global policy definitions to categorize these non-Western practices as "violence" stems from a Western moral authority and a colonial hangover preoccupied with a

[19] Rashida Manjoo, "Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequence, Rashida Manjoo " (UN Human Rights Council, April 23, 2010), p. 11.

[20] Robert Post, "Between Norms and Choices," in *Is Multiculturalism Bad for Women?*, ed. Joshua Cohen, Matthew Howard, and Martha C. Nussbaum (Princeton: Princeton University Press, 1999), p. 66.

[21] The problems with language employed to define and determine the meaning of violence within and across different cultures has been examined elsewhere, such as: David Riches, "The Phenomenon of Violence," in *The Anthropology of Violence*, ed. David Riches (Oxford, New York: Basil Blackwell, 1986), pp. 1–2.

[22] Ibid., pp. 2, 4.

[23] Bhikhu Parekh, "A Varied Moral World," in *Is Multiculturalism Bad for Women?*, ed. Joshua Cohen, Matthew Howard, and Martha C. Nussbaum (Princeton: Princeton University Press, 1999), p. 70.

[24] See following websites for examples: "Violence Against Women Information/Female Genital Mutilation," www.amnestyusa.org/our-work/issues/women-s-rights/violence-against-women/violence-against-women-information, accessed July 8, 2011; "Violence Is Not Our Culture: Global Campaign to Stop Violence Against Women in the Name of Culture," www.violenceisnotourculture.org/taxonomy/term/162, July 8, 2011; Rebecca J. Cook, Bernard Dickens, and Mahmoud Fathalla, "Female Genital Cutting (Mutilation/Circumcision): Ethical and Legal Dimensions," *International Journal of Gynecology and Obstetrics* 79 (2002).

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fetishized understanding of the need to protect "other" women.[25] A tension lies, on the one hand, in the need to name post-colonial pronouncements about the global south where they arise; and, on the other, to identify where academic pronouncements and acts in defense of culture by cultural elites serve to "condone acts of inhumanity and oppression."[26] I include data on these forms of violence in Liberia and Timor-Leste that have been labeled by much of the literature and international policy as "cultural" or "traditional," even though I do not necessarily frame them as such. Rather, per my preceding discussion, I understand gendered violence as a whole to be tolerated culturally across the world, its cultural placement delineating what is normative about it. Bringing together examples of "cultural" violence in both those contexts, with a locale such as Northern Ireland that does not evidence these forms of "cultural" harms, indicates the need for caution in proclaiming the presence or absence of cultural violences. I note this here, just as I did in Chapter 3, as a precursor to my comparative analysis of violence across these diverse cultural contexts. I contend that rather than naming one violence as "cultural" of "traditional" compared to the other, it is instead more important to see violence in its socio-cultural context and the variant ways that gender inequalities appear across these contexts. It is useful, for example, to consider that education for women in all three sites was limited before each of the conflicts. While in Northern Ireland girls attended schools, further education was somewhat less expected than in modern times. In Liberia in the 1960s, a study found that only 30 percent of children attending school were girls,[27] and, consistent with the current situation, many girls dropped out of school early for marriage, pregnancy, or due to chores expected in the household.[28] Structural inequality is a pervasive factor that affects women across the three sites and that can manifest in socio-cultural and contextually specific harms.

On the basis of the foregoing framing, I now discuss forms of violence against women in the pre-conflict period in each site with regard to two sub-themes: (i) peacetime violence against women, and (ii) cycles of conflict prior to the contemporary periods of conflict selected for this study.

(i) Peacetime Violence Against Women

This section discusses violence per categories of harm and indicators of women's gendered status prior to conflict that appeared through archival and empirical research.

[25] See, for example: Peggy Levitt and Sally Engle Merry, "Making Women's Human Rights in the Vernacular: Navigating the Culture/Rights Divide," in *Gender and Culture at the Limit of Rights*, ed. Dorothy L. Hodgson (Philadelphia: University of Pennsylvania Press, 2011).

[26] Parekh, "A Varied Moral World," p. 70.

[27] Merran Fraenkel, *Tribes and Class in Monrovia* (London: Oxford University Press, 1964), p. 64.

[28] Ibid., p. 218.

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VIOLENCE IN THE HOME

Domestic violence, including physical, sexual, and psychological abuse, as well as economic deprivation, were the most common forms of violence cited by interview respondents as prevalent prior to the conflicts in each setting.[29] "Violence in the home would have been accepted"[30] in Northern Ireland and was "an accepted norm"[31] in Liberia. The physical violence between husband and wife was normalized in Timor-Leste through its description as the natural clash between the fork and spoon on the plate in the daily meal.[32] I could not find any statistics or studies on gendered violence prior to the conflicts in each setting. These conflicts pre-date contemporary recognition of domestic violence as a crime, as well as recent moves by the United Nations to standardize states' data collection on domestic violence.[33] Literature and interviews pointed toward a perceived inevitability and tolerance of home-based abuses of women, which featured in all three settings.

HARM OSTENSIBLY LINKED TO "TRADITION"

In both Liberia and Timor-Leste, interview respondents listed examples of violence specific to their locales, which they euphemistically referred to as "traditional" harms that existed prior to the conflicts. In both settings, forced and early marriage,[34] polygamy,[35] and son-preference (for inheritance purposes)[36] were mentioned as prevalent. In Liberian and Timorese societies, women were customarily perceived to play significant roles in the exchange of fertility, which, in contemporary assessments, positions women as "chattel" or the possessions in exchanges between men. In some Liberian socio-cultural groups, for example, girls were betrothed to older men from birth,[37] women were prohibited from inheriting property upon a husband's death, and, in some instances, levirate marriage was practiced.[38] Men held sole authority over children in Liberia,[39] and, in some socio-linguistic groups in Timor-Leste, wives could be "returned" to families if children were not produced in the early years of marriage. Early and forced marriage meant that in Liberia girls as young as thirteen years of age were withdrawn from school for marriage and

[29] From Interview A_7, Interview B_12, Interview B_9, Interview B_7, Interview C_9.

[30] Interview A_7. [31] Interview A_7.

[32] UNFPA, "Just as a Spoon and Fork Always Touch Each Other: Domestic Violence in East Timor (An Assessment Tool for the First Roundtable Meeting for the Drafting of Legislation for Domestic Violence, June 2001)" (Dili: United Nations Fund for Population Activities, 2001). Interview C_9, Interview C_22.

[33] UN Women, "Violence Against Women Prevalence Data: Surveys by Country" (2015). United Nations, "Guidelines for Producing Statistics on Violence Against Women, ST/ESA/STAT/SER.F/110" (New York: United Nations Department of Economic and Social Affairs Statistics Division, 2014).

[34] Interview B_12, Interview B_10, Interview C_8, Interview B_15; Patsy Thatcher, "Thesis: The Role of Women in East Timorese Society" (Monash University, Department of Anthropology, 1988), p. 74.

[35] Interview B_10. [36] Interview B_15, Interview B_18, Interview B_10.

[37] Fraenkel, *Tribes and Class in Monrovia*, p. 112.

[38] Ayodeji Olukoju, *Culture and Customs of Liberia* (Westport: Greenwood Press, 2006). See Chapter 6. Lawrence A. Marineli, *The New Liberia* (London: Pall Mall Press, 1964), p. 15.

[39] Fraenkel, *Tribes and Class in Monrovia*, p. 27.

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experienced associated pregnancy complications.[40] In Liberia specifically, respondents noted FGM/C as being widely practiced by the majority of socio-cultural groups (excluding those who would identify as Americo-Liberian).[41] Through "bush schools," girls are taught specific gendered roles associated with marriage, maintaining a home, and conservative notions of women's sexual and reproductive roles.[42] Practices such as these are perceived to facilitate ongoing and accepted notions of the subordinate status of women, which the LTRC argued established a clear basis for the violations that women later experienced during the war.[43]

Liberian respondents noted that, "you also have ritualistic killings … bodies of women found with parts missing, mostly sometimes the breast, you know, their private parts, that was it before the war."[44] In Chapters 3 and 4, I explored the prevalence of these practices during the conflict. Empirical and secondary findings here evidence that women's bodies were also co-opted into these practices prior to the conflict.[45] Their presence in this point of time is notable in respect of both historical precedent to conflict-time violence (per my argument in Chapters 2 and 4), as well as precedent provided by harms occurring outside of conflict, that become classified as exceptional or innovative harms when occurring during conflict. As discussed in Chapter 3, the acts of ritualized violence during conflict were the harms that were considered innovative and exceptional and prompted the most media outcry during the war.

In Timor-Leste, anthropological analysis found that girls were not allowed outside the home unaccompanied; that mothers were blamed if a girl was raped as "the girl should not have been in a position where rape was possible";[46] and, in practices called "soft-pillow," young girls were given as gifts to visiting dignitaries for their overnight stay in the community.[47] In Timor-Leste, the practice of "barlake" or bride-price was (and continues to be) used in marriage arrangements. An amount of money or goods are agreed between two families for the exchange of the daughter of one family to another through marriage. For some women, these practices situate

[40] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict" (Monrovia, 2009), p. 72.

[41] Interview B_18. Americo-Liberian women are not known to have joined the "Sande societies" in which these ceremonial practices were carried out: Fraenkel, *Tribes and Class in Monrovia*, p. 173.

[42] Interview B_10.

[43] The Advocates for Human Rights, "A House with Two Rooms: Final Report of the Truth and Reconciliation Commission of Liberia Diaspora Project" (St. Paul, Minnesota: The Advocates for Human Rights, 2009), p. 234.

[44] Interview B_19.

[45] Mary H. Moran, *Liberia: The Violence of Democracy* (Philadelphia: University of Pennsylvania Press, 2006), p. 45; *Civilised Women: Gender and Prestige in Southeastern Liberia* (Ithaca and London: Cornell University Press, 1990); "Warriors or Soldiers? Masculinity and Ritual Transvestism in the Liberian Civil War," in *Situated Lives: Gender and Culture in Everyday Life*, ed. L. Lamphere, H. Ragone, and P. Zavella (New York: Routledge, 1995).

[46] Thatcher, "Thesis: The Role of Women in East Timorese Society," pp. 68–69.

[47] Maria Domingas Fernandes Alves, Isable Sequeira, Laura Abrantes, Filomena Reis, "Baseline Study on Sexual and Gender-Based Violence in Cova Lima and Bobonaro" (Dili: Asia Pacific Support Collective Timor-Leste (APSCTL), 2009), p. 41.

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women as chattel in exchanges of fertility between men. For others, the practice of negotiation and exchange symbolizes the value of women within the broader kinship system. Activists in Timor-Leste often blame this practice for the abuse that women experienced (and continue to experience) in Timor-Leste.[48] A similar system exists in Liberia where "people felt that because this man had paid his money so he beat his wife anytime he feels like beating her."[49] Respondents who work on women's rights and service provision described these practices as akin to exchanging women as property, making women subject to the men who claim or purchase them.[50] For many women in this context also, such systems represent the structural discrimination to which women were subjected and its resulting violence.[51] However, such practices alone cannot explain this violence given that similar forms of violence in relationships also exists in contexts void of such marital practices. Of interest is how structural inequalities specific to each context inform the variance in the type and rates of violence that are seen globally.

In Northern Ireland, there were historic competing, and at the same time reinforcing, socio-political notions of patriarchy within Irish and British cultures. For (largely Catholic) Republican and Nationalist communities, and (largely Protestant), Unionist and Loyalist communities, gendered nationalisms pre-dated the current-era conflict, infused with gendered ideologies and iconographies for men and women. Purity of womanhood and the nation intersected. Historic Catholic Church-based ideologies depicted and required ideals of chaste womanhood, manifesting in control of women's reproduction. For example, the "Magadalene Laundries" of the nineteenth and twentieth centuries were Catholic institutions to which women who became pregnant outside of marriage were sent. In these institutions, women were held in punitive-style conditions to be "rehabilitated" back to the expected notions of the morally sound Irish woman.[52] A definitive

[48] Susanne Alldén, "Internalising the Culture of Human Rights: Securing Women's Rights in Post-Conflict East Timor," *Asia-Pacific Journal on Human Rights and the Law* 1, no. 1–23 (2007), p. 16; and Oxfam GB and UNESCO, "Obstacles to the Effective Participation of Women in Adult Education Program: Focus on Social-Cultural Factors, Timor-Leste" (Dili: Oxfam GB and UNESCO, August 2004), pp. 18—20.

[49] Interview B_10.

[50] Interview B_15, Interview B_10, Interview C_1, Interview C_19, Interview C_22. It is also worth noting again here that in Liberia two types of marriage existed (and continue to exist to some degree): traditional and statutory. Under traditional marriage, "native" women could not inherit property from their husband if he died and she herself could be inherited by his brothers as a form of property; statutory marriage was more common among the "Americo-Liberian" population. Women were perceived to have different roles within these distinct socio-economic and political classes. "Native" women were responsible for domestic chores, for farming, and for marketing the food, along with rearing children; "Civilised" women were not expected to work inside or outside the home: Moran, *Civilised Women: Gender and Prestige in Southeastern Liberia*.

[51] Aisling Swaine, "Traditional Justice and Gender Based Violence in Timor-Leste" (Dili: The International Rescue Committee, 2003), p. 13; David Mearns, "Looking Both Ways: Models for Justice in East Timor" (Australian Legal Resources International, 2002), pp. 21, 29.

[52] See, for example: Justice for Magdalenes, "Magdalene Laundries," www.magdalenelaundries.com/; James M. Smith, *Ireland's Magdalen Laundries and the Nation's Architecture of Containment* (Manchester: Manchester University Press, 2007).

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notion of the feminine, as expounded by male protagonists, writers, and poets, has also permeated historical Irish folkloric nationalism, which persists today. Early Irish poetry "describes the Anglo-Irish political conflicts in gender terms,"[53] nowhere more evident than in the evolution of the "Aisling" form of poetry in which "the personification of Ire-land as a defenceless woman and the image of England as her rapist" emerged.[54] The poetry is designed to speak to men aligned with the Irish movement for a "free Ireland," the protectors of "Eire," garnering their commitment to "her" salvation. In some estimations, on the British and unionist side, the British geo-political territory was also characterized as a pure female figure in need of protection.[55] There appears to be no active role available for women within these narratives. These socio-culturally, religiously, and politically implicit (sometimes explicit) and diffuse notions of women have influenced the conceptions and expectations of women today.

CHILD ABUSE–WOMAN ABUSE LINKAGES

In Liberia and Timor-Leste, interview respondents differentiated between abuses directed at women and those directed at children. My research suggests that children who were consigned to live with relatives or other known families as a result of poverty were sometimes subjected to sexual abuse and other forms of violence in those homes.[56] For some respondents in both Timor-Leste and Liberia, child abuse was kept hidden in the family due to the associated social and communal shame.[57]

THE PRIVATIZATION OF ABUSE PRIOR TO CONFLICT

Interview respondents in all three sites generally described abuses prior to the conflicts as having been perpetrated by men known to women.[58] The abuse involved "mostly family members, community members, neighbors . . . strange people were very few."[59] Following these experiences, women "were not allowed to talk about it, because of the low status of women,"[60] and such violences were considered to be part and parcel of everyday life for women.[61] In Liberia it was likened to "a culture of practice, it was almost like, only maybe if a child was raped people would raise an eyebrow but if a woman was raped they didn't think it to be anything."[62] For instance, "who would say 'well, my husband raped me.' No woman would talk about that because culturally she belongs to the man, they have paid for her, so she won't talk about it."[63]

[53] Joseph M. Armengol, "Gendering the Irish Land: Seamus Heaney's 'Act of Union'(1975)," *Atlantis* 23, 1 (2001): 7–26, p. 9.
[54] Ibid., p. 7.
[55] Rachel Ward, *Women, Unionism and Loyalism in Northern Ireland: From "Tea-Makers" to Political Actors* (Dublin, Portland: Irish Academic Press, 2006), pp. 38, 42.
[56] Interview B_12. [57] Interview B_10, Interview C_9.
[58] Interviews A_1, A_7; Interview B_9, Interview C_19. [59] Interview B_11. [60] Interview B_10.
[61] Interview B_9, Interview C_9. [62] Interview B_9. [63] Interview B_10.

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In all three sites, a range of factors influenced why issues of violence and abuse were not publicly addressed. These included: a lack of options for women as violence was a normative aspect of childhood, adult, and married life; attitudes toward sexualized abuse that incited shame and stigma on victims; police services that were not sensitive to this kind of violence or did not have the mandate to pay attention to it; the use of informal justice systems that kept the problem within the family in the case of Timor-Leste and Liberia;[64] and, in Northern Ireland, women in Nationalist/Republican communities' limited access to the criminal justice system.[65]

FURTHER INDICATORS OF STATUS: LEGAL, SOCIO-LEGAL, AND SOCIO-ECONOMIC FACTORS

A shared characteristic across all three sites was women's inferior legal status within the spheres of employment, economic independence, property ownership, education, and politics, with some distinctive cultural differentiations in the ways that these manifested. An interview respondent in Northern Ireland noted differences in the value placed on women and men's work: "Women worked very very hard for a living, they were treated very badly ... it didn't matter that the women worked hard if not harder, but men working that was the big thing."[66] Notably, in Northern Ireland, it was during the conflict that laws were passed – in 1970 and 1976 – upholding women's equal pay and prohibiting discrimination on the basis of sex.[67] For both Timor-Leste and Liberia, specific laws on domestic violence and rape only came into existence in the transition periods after the conflicts (further discussed in Chapter 6). In Liberia, girls lacked opportunities for education, some women were prohibited from owning property, and social rules inhibited women from speaking at public meetings,[68] all of which are factors in maintaining women's subordination.[69] As noted in Chapter 3, in Timor-Leste, women were socio-culturally positioned in the role of child-bearer, which for some families was integral to successful marriage-exchanges.[70]

[64] Interviews B_12, C_9. Differentiation between serious and more acceptable forms of abuse have also been noted elsewhere: Brown, "Introduction: Definitions, Assumptions, Themes and Issues." In Timor-Leste, this involved the use of "adat" or "local justice," perceived to be inherently discriminatory toward women, that through arbitration and the payment of goods to a woman's family closed the shame brought about by the report of the incident: Interview C_9; Swaine, "Traditional Justice and Gender Based Violence in Timor-Leste." In Liberia, payments between families were also made to compensate for sexual abuses: Interview B_10.

[65] Interview A_7.

[66] Interview A_7.

[67] "The Equal Pay Act (Northern Ireland)," (1970); "Sex Discrimination (Northern Ireland) Order," (1976).

[68] Interview B_10.

[69] Interview B_10.

[70] Authors own experience of current trends in Timor-Leste and from pre the conflict: Thatcher, "Thesis: The Role of Women in East Timorese Society," p. 71.

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(ii) Prior Cycles of Conflict

Archival research for the three sites uncovered indicative data on gendered violence in cycles of conflict prior to those periods I am focusing on in this book (see Chapter 3). I include this data here for two reasons. First, I seek to include all data on violence against women that is set within a time period that can be considered as "pre" the contemporary era of conflict I am analyzing. Second, I include this data to tentatively propose that there are patterns, or at least ways to identify indicators of potential gendered violence from one cycle of conflict to the next, and that such an idea requires deeper examination. My inclusion of this data here is to prompt consideration, research, and debate on this idea. Further exploration is required to ascertain whether this approach is useful going forward, and in what contexts it might be relevant. The discussion focuses primarily on the Timor-Leste case study as more substantive data on earlier conflict periods was available.

EARLIER PATTERNS OF CONFLICT-RELATED VIOLENCE AGAINST WOMEN

For Timor-Leste, two distinct, earlier periods of political contestation and violence are relevant. The first is the era of Portuguese colonization (1500s to 1975), and the second is World War II, during which Japanese forces occupied Timor-Leste (between February 1942 and September 1945). While there is little data available on the experience and patterns of violence against women during the Portuguese colonization of Timor-Leste (at least that are accessible in English), there is some evidence of practices that may have constituted the abuse of women. One interview respondent spoke of the need to protect herself as a child because of fears associated with the Portuguese military stationed near her home.[71] There is also evidence of Portuguese soldiers creating prostitution nuclei in different areas of the country where troops were stationed.[72] "Relationships" took place in the context of a cultural understanding on the part of Timorese women that sexual relationships are equivalent to marriage and related responsibilities, an understanding not shared by Western mores.[73] Women were often left with little support for children born of either abuses or consensual relationships with Portuguese men. Women who were engaged in prostitution had similar experiences.[74]

The Portuguese have also been accused of handing Timorese women over to the Japanese forces that occupied Timor-Leste during World War II in order to protect European women from abuse.[75] Sexualized violence was an organized feature of the

[71] Interview C_8.

[72] Domingas Fernandes Alves et al., "Basline Study on Sexual and Gender-Based Violence in Cova Lima and Bobonaro," p. 41.

[73] Interview C_25, Interview C_19.

[74] Domingas Fernandes Alves et al., "Basline Study on Sexual and Gender-Based Violence in Cova Lima and Bobonaro," p. 41.

[75] Jill Jolliffe, "Return of the Ghosts," *Sydney Morning Herald*, November 3, 2001.

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Japanese occupation.[76] Timorese women and girls were held by the Japanese for the purposes of forced labor during the day, and they experienced continuous and violent rape at night. Some of these women have explained that had they protested or refused, there would have been serious consequences for their families and communities, and they perceived their forced situations as playing a role in protecting their community. Some women and girls committed suicide during their enslavement.[77]

Patterns of gendered abuses are identifiable across all episodes of political contestation in Timor-Leste's political history. Under the Portuguese administration, women and girls experienced sexual abuse as a result of military encampments and were used for "prostitution." Women and girls were enslaved for sexual purposes by the Japanese forces in their encampments during WWII. Under the Indonesian regime, military contingents were similarly positioned in communities, and, as detailed in Chapter 3, Timorese women were subjected to sexual enslavement, forced marriages, forced prostitution, and other forms of sexual abuse. They were also unable to protest these harms because of the tie that was made between their required complicity in these relationships and the threats made to the actual safety of their families. There are thus very similar types of abuse from similar types of actors found across these three phases. However, notable is that these are differing sets of armed forces – i.e. not an inherited or historical institutional practice within one military. While enacted in somewhat different ways, the common thread is the sexual abuse of women by political/military installments. Of interest to this book's aims is that, in all three episodes of political violence, armed men used their positions and power to force sexual access to women, and women's bodies were exchanged for what was perceived to be political protection for their families and communities.

The Northern Ireland context can be briefly comparatively examined. Prior to the period of The Troubles, from 1969 to 1998, the most recent earlier period of conflict was the Irish War of Independence from 1919 to 1921. This war took place across the island of Ireland between the Irish Republican Army (IRA) and British security forces. It pre-dated the creation of Northern Ireland as a political jurisdiction. Patterns of gendered violence similar to those that occurred during The Troubles are evident during that time. For example, British security forces conducted raids on homes[78] in which women were targeted, particularly those involved in the Republican struggle, mirroring the same strategies used during The Troubles (see Chapters 3 and 4). Abuses included a range of physical and

[76] Violence Against Women in War Network Japan, "Women's International War Crimes Tribunal on Japan's Military Sexual Slavery," http://www.jca.apc.org/

[77] Interview C_25; "Feto Timorense Iha Tempu Okupasaun Japaun (1942–1945)," ed. Koligasaun Japaun Ba Timor-Leste Asosisaun Hak (2010); "Remembering Two 'Comfort Women'," *Voices from Japan*, no. 19 (2007).

[78] Approximately 48,474 raids on homes were recorded in 1920: Margaret Ward, *Unmanageable Revolutionaries: Women and Irish Nationalism* (London: Pluto Press, 1995).

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sexual assault and rape,[79] described by one author as "acts of sexual humiliation."[80] The strip-searching of one woman was recorded in the prisons.[81] Women and girls were also subject to control and intimidation by Irish paramilitary organizations, again mirroring those also used during The Troubles by non-state actors (see Chapter 3), including punishments such as tarring, feathering, and head-shaving for transgressing sanctioned behaviors.[82] Notable is that similar tactics were used by both state and non-state actors in earlier and current iterations of conflict on the island of Ireland, with very specific gendered and sexualized abuses of women across both distinct periods.

Patterns of gendered violence across earlier and contemporary periods of conflict are evident in both these case studies. Contemporary scholars have theorized that the culture and behavior of military institutions may be a critical factor, evidenced here in common patterns of abuse across time by military institutions.[83] Given that there is evidence of similar patterns of abuse across two periods of conflict within a setting such as Northern Ireland, could this kind of data be used to predict where and how CRVAW may appear within particular sites should conflict with these same armed entities erupt once again? And what relevance should be given to whether these are external actors coming in, as in the case of Timor-Leste, or new iterations of the same institutions within the same context, as in Northern Ireland? Changes in actors may matter. For example, in the Timor-Leste case, the Indonesian regime responsible for violations is no longer present. Would it make a difference if a different armed group was the protagonist in a

[79] Sinéad McCoole, *No Ordinary Women: Irish Female Activists in the Revolutionary Years 1900–1923* (Dublin O'Brien Press Ltd, 2004), p. 76; Lil Conlon, *Cumann Na mBan and the Women of Ireland* (Kilkenny: Kilkenny Press, 1969); Louise Ryan, "'Drunken Tans': Representations of Sex and Violence in the Anglo-Irish War (1919–1921)," *Feminist Review* 66 (2000).

[80] Sarah Benton, "Women Disarmed: The Militarisation of Politics in Ireland 1913–1923," Feminist Review 50 (1995), p. 164. In 1921, in a letter sent by President de Valera to the British cabinet, "outrages against women" was listed as one of many atrocities being committed in Ireland. Ryan, "'Drunken Tans': Representations of Sex and violence in the Anglo-Irish War (1919–1921)," p. 66. Also see: Conlon, *Cumann Na Mban and the Women of Ireland*.

[81] Sinéad McCoole (2004), *No Ordinary Women: Irish Female Activists in the Revolutionary years 1900–1923* (Dublin: O'Brien Press Ltd), p. 49.

[82] Inghinide na hÉireann distributed leaflets to young women, sending clear messages about expectations of women's chaste roles, and the devious nature of the English male: "Irish girls who walk with English soldiers, remember you are walking with your country's enemies, and with men who are unfit to be the companions of any girl": McCoole, *No Ordinary Women*, p. 21. Also Ryan, "Drunken Tans," pp. 83–86.

[83] Elisabeth Jean Wood, "Armed Groups and Sexual Violence: When Is Wartime Rape Rare?," *Politics and Society* 37, no. 1 (2009); Elisabeth J. Wood, "Rape During War Is Not Inevitable: Variation in Wartime Sexual Violence," in *Understanding and Proving International Sex Crimes*, ed. Morten Bergsmo, Alf Butenschøn Skre, and Elisabeth J. Wood (Beijing: Torkel Opsahl Academic EPublisher, 2012); "Multiple Perpetrator Rape During War," in *Handbook on the Study of Multiple Perpetrator Rape: A Mutidisciplinary Response to an International Problem*, ed. Miranda A. H Horvath, Woodhams, Jessica (London, New York: Routledge, 2013); "Sexual Violence During War: Variation and Accountability," in *Collective Crimes and International Criminal Justice: An Interdisciplinary Approach*, ed. Alette Smeulers and Elies van Sliedregt (Antwerp: Intersentia, 2010).

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future conflict? Or would the introduction of new technologies influence forms of harm? The relevance of the changing social, political, and legal status of women over time may matter, as would the inculcation of behaviors and attitudes prohibiting gendered violence.

During-Conflict Liberia, Northern Ireland, and Timor-Leste

Chapters 3 and 4 already identified forms of strategic gendered violence and forms of in-between gendered violence that took place during the conflicts in Liberia, Northern Ireland, and Timor-Leste. That discussion of conflict-time harms is taken as encompassing the "during conflict" violence for those sites. Rather than regurgitating all of that data here, I instead assume and cross-reference it, draw in additional empirical data, and, on this basis, approach the conflict-time phase through a broader thematic analysis of the nature of violence during that period. The thematic analysis here aims to provide a basis for advancing discussion of linkages across the temporal phases of the framework. The discussion in this section is organized under two sub-themes: (i) normative mutations that may inhibit or inform forms of violence; and (ii) fluctuations in violence in response to fluctuating power dynamics.

(i) Normative Mutations that Influence Forms of Conflict-Related Violence

"Runaway norms" have been described as a "special class of norms" which evolve during conflict, representing a break from what was normative. Such "runaway" norms are said to be used by a group to enforce a new or correct way of thinking.[84] Runaway norms are often blamed for conflict-related violence as they are said to enable conflict actors to break through limits on violence in place prior to the eruption of conflict.[85] A consideration of women's pre-conflict experience of violence, as outlined in the previous section, prompts an alternative assessment. Instead, I consider whether "the decision to act and the ways in which such action is taken are determined by social circumstances."[86] In other words, it is what is normative about violence in peacetime that provides a basis for what becomes normative during conflict.

As seen in the pre-conflict phase, the gendered oppression of women and the violence they endured performed a normative function. Violence specific to the socio-cultural circumstances of each country was easily identifiable and correlates with estimations that "violence is likely to be generated by society and its norms, rather

[84] Janie Leatherman, "Sexual Violence and Armed Conflict: Complex Dynamics of Re-Victimisation," *International Journal of Peace Studies* 12, no. 1 (2007), p. 59.

[85] Ibid., p. 60.

[86] Daniel Muñoz-Rojas and Jean-Jacques Frésard. "The Roots of Violent Behaviour: Understanding and Preventing IHL Violations" (Geneva: International Committee of the Red Cross, 2004), p. 7.

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than simply representing a break-down of those norms."[87] "If sexual violence exists it is because it is allowed, not because it is natural."[88] It may be deduced that norms that enable violence before conflict will enable violence during conflict and will, in turn, influence the kinds of violence employed. A comparison of the pre-conflict and during-conflict situation from the perspective of women's experiences of violence in Liberia illuminates this point:

> Before the war there was violence against women, but people did not easily talk about it, men were in charge and they had all the power ... During the war, violence against women became more open, it increased because the men who were doing it had arms. Men used violence against women as a tool of power and authority ... there was no check and balance system on it. Before the war it was done quietly, it was done quietly in the family and in the community. During the war it was done openly at every level.[89]

Power is acknowledged as being at the root of this violence. Prior to, and during the conflict, violence may be seen as a means to exert power and control over women. As noted by one respondent, "People were very creative ... Sometimes you wonder how did this person dream about this kind of violence? For women it was completely shocking because we come from a society, while it is true that women have been marginalized for a long time, but equally so, you are trained in ways to respect women."[90] Women's lives are characterized by degrees of oppression that are simultaneously delimited through a modicum of respect defined by normative restraints, i.e. a pre-conflict order in which women may expect and accept certain levels of violence as normative.[91] However, the kinds of "creative" violence described here are understood to have gone beyond the expected normative levels of violence that women learned to live with. The new ways that violence was perpetrated during conflict, and its emergence into the public arena specifically, was understood in Liberia to be as a result of the ways that "people got exposed to the war, there was no rule of law, there were no controls, so ... people got used to free ways of doing things."[92] As noted elsewhere, "[a]cts that harm others, without restraining forces, bring about changes in perpetrators, other members of the group, and the whole system that makes further and more harmful acts probable. In the course of this evolution, the personality of individuals, social norms, institutions, and culture changes in ways that make further and greater violence easier and more likely."[93] The role of law in prohibiting violence may be evacuated in

[87] David Keen, "War and Peace: What's the Difference?," *International Peacekeeping* 7, no. 4 (2000) p.14, citing Zygmunt Bauman, *Modernity and the Holocaust* (Cambridge: Polity Press, 1989).
[88] Carolyn Nordstrom, "Rape: Politics and Theory in War and Peace," *Australian Feminist Studies* 11, no. 23 (1996), p. 149.
[89] Interview B_4. [90] Interview B_16.
[91] Margaret Urban Walker, "Gender and Violence in Focus," pp. 30–31. [92] Interview B_5.
[93] Muñoz-Rojas and Frésard, "The Roots of Violent Behaviour: Understanding and Preventing IHL Violations," p. 91.

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circumstances where the pre-conflict regulation of gendered violence was limited and where, during conflict, the possibility of law's regulatory function becomes even further challenged, both theoretically and practically. In times of conflict, the actions of those associated with the conflict can become "disengaged from the larger structure of social norms that limit and channel gender domination within normative boundaries."[94] Not only do pre-conflict norms inform during-conflict forms of violence, the pre-conflict norms that limit violence may shift and become re-determined. A key factor here is identifying how this happens and who has the power to redefine normative thresholds of violence.

As identified in Chapter 4, Liberian fighters and those with access to arms attained an elevated power and authority that contributed toward the causality of violence. The new identity of fighter available in Liberia meant that some men who occupied this identity took over the role of primary power-holders and socio-cultural dictators, defining for themselves the ways in which their society now controlled women. The predominant power and control of women was consolidated in the hands of a distinctive set of actors. This functioned to expand norms that regulate the practice of gendered violence prior to conflict. Violence on a private scale was brought into the public sphere under these new norms and not only increased in prevalence, but also mutated in form. While it is impossible to say that these kinds of acts did not occur prior to the conflict, the use of objects such as cassava,[95] hot peppers,[96] bottles, sticks, and knives[97] as part of wartime rape was tied specifically to armed actors. In other instances, rape was taken to the extreme: "like three men, one would be in the butt, in the anus, one in the vagina and one in the mouth."[98] The collective and public nature of the acts reflects the power taken by armed actors to reconfigure and determine how harms directed toward women would occur.

Herein lies a conundrum – on the one hand the experiences of violence are understood as related to the pre-conflict order; and on the other, the forms of violence are also understood and experienced as extreme, innovative, and different than before. Can violence occupy both characteristics at once? Further examples elucidate this dynamic to violence. A clear example of how public forms of gendered violence may derive from what is already practiced and normative prior to conflict is the practice of "sexual slavery." Again, not wishing to minimize the experience of this harm for those affected, examining this violence in respect to what went before can assist in deepening understanding of this practice, its roots and impacts, and, ultimately, how it might be addressed. Research in the Sierra Leone conflict, for example, has found that the status of women as forced wives, sex slaves, and domestic helpers to armed fighters mimicked the roles women held before the conflict, where the expectations of forced marriage and free female labor were common.[99] This may

[94] Urban Walker, "Gender and Violence in Focus," p. 31. [95] Interview B_15.
[96] Interviews B_6 and B_15. [97] Interview B_18. [98] Interview B_15.
[99] LaShawn R. Jefferson, "In War as in Peace: Sexual Violence and Women's Status" (New York: Human Rights Watch), pp. 4–5.

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also be the case for Liberia and requires thorough consideration to further understanding of whether there is a theoretical or social link between the propensity for sexual slavery and forced marriage during conflict, and marriage practices common before the conflict for some communities in Liberia. Liberian fighters held women for the purposes of sexual slavery and forced marriage during the conflict. While this involved the forced capture of women and egregious assaults, earlier normatively sanctioned practices in sexual access to women may be relevant to understanding the form and function of this violence. If the normative standard pre-conflict is that men have access to multiple women at once through the designated practice of polygamy, this normative standard could be expected to be retained or to mutate to a derivative form during the conflict. My analysis here is not meant to detract from the importance of acknowledging that sexual slavery represents an egregious violation for women subject to this practice during armed conflicts. Rather, it underlines two issues relevant to furthering theoretical understanding and practical responses to CRVAW. First, it signifies that practices of gendered violence during conflict such as this have a clear conceptual and practical connection to practices of sexual access to women based on structural gendered inequalities prior to conflict. Work by Mats Utas found that Liberian fighters who had several "girlfriends" or captured "wives" in sexual slavery were "mimicking strongmen in their villages"[100] in their quest to attain women. Second, while connected to prior practices, these findings also indicate that sexual slavery is a distinctive violation for those women subject to it. Practices of polygamy regulated through systemic norms prior to conflict, while discriminatory, are nevertheless systemically normative and are familiar and (to variant degrees) acceptable to (some) women and to society broadly. Prior to conflict, these practices in context work to uphold women's standing through marriage and to secure women's positioning within socio-cultural and socio-economic systems in which marriage finds gendered function. During conflict, however, the capture and assault of women by a group of strangers or known men, which is not agreed through socio-cultural marriage negotiation is thereby absent of structural sanction, which sets this act apart. Men with guns had the power to not only capture women, but also to override the normative practices of marriage negotiation normally required to gain access to women. "Sexual slavery" – i.e. the access to multiple women at one time without normative permissions – is distinctive not only for individual women subject to assault, but for society more broadly, which will view such women differently post-violation because they have transgressed normative practices regulating sexual relations. I hasten to note that sexual slavery has been documented in multiple conflicts globally (e.g. the former Yugoslavia), with and without prior practices of polygamy. I do not conflate sexual slavery with pre-existing practices of polygamy or particular forms of marital practices. Rather, I am arguing that there is need for

[100] Mats Utas, "Victimcy, Girlfriending, Soldiering: Tactic Agency in a Young Woman's Social Navigation of the Liberian Warzone," *Anthropological Quarterly* 78, no. 2 (2005), p. 415.

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much stronger consideration than is currently given to how pre-conflict norms regulating women's sexual and reproductive autonomy play a role in the manifestation of certain forms of gendered violence during conflict. This view brings back to the understanding of CRVAW the critical relevance of gender norms and socio-cultural regulation of women's bodies and reproductive capacities prior to conflict. It helps to illuminate the relevance of assessing the meaning that might lie behind this kind of sexual access to women for male power-holders across different conflict contexts. It uniquely demonstrates that some forms of CRVAW, while experienced as distinctive, are mutated forms of ordinary violence and oppressive practices existing prior to conflict. Sexual slavery and forced marriage become a mutated, violent, and forced extension of sexual access practices to women pre-conflict. In this case, these practices enabled sanctioned male sexual access to multiple women in regulated ways, which, during conflict, became practices that extended beyond what was normatively expected.

Evolving forms of power may not have only been about control of women but also of other men. The experience of women from the Mandingo tribe in Liberia is demonstrative in this regard. Described as a closely knit Muslim culture that evolves along intra-tribal marriage lines, the targeting of women from this group illustrates how power between men is redistributed through the abuse of women: "some of the perpetrators who perpetrated violence against them said 'you people, your men don't allow you to mix with other tribes, to mix with other men, so we are going to rape you.'"[101] Prior to the conflict, men who were not of this social group could not access these women. Mandingo men would have acted as gatekeepers: their authority derived from their normative role in overseeing negotiations over sexual/marital access to women, a practice also normative to women. The posting of Indonesian forces to communities in Timor-Leste disrupted a similar systemic order there. Timorese males were no longer the most powerful males in their communities. When Indonesian soldiers forced women into prostitution, "marriage," and sexual slavery, Timorese males could do little but surrender their normative authority over these women to men who took over that authority. More powerful males were now deciding who had access to these women and how. A new normative order evolved, which, in turn, influenced the arrival of related forms of violence for this period.

Different societies are characterized by different levels of violence against women; it is both enabled and limited, by differing formal (e.g. law) and informal (e.g. socio-cultural norms) practices.[102] Such violence is performed "without sanction and sometimes with community and government support. Such violence is often culturally and sometimes legally sanctioned. This is the backdrop against

[101] Interview B_16.

[102] See, for example: Dorothy Ayers Counts, Judith K. Brown, and Jacquelyn C. Campbell, eds., *Sanctions and Sanctuary: Cultural Perspectives on the Beating of Wives* (Colorado, Cambridge: Westview Press, 1992).

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which sexual violence in conflict must be understood."[103] If the pre-conflict context disables women from protecting themselves from forced sex, oppressive structural restrictions, and practices such as forced marriage, then these practices will continue during conflict, but absent of systemic means of regulation and sanction.[104] Power on the basis of conflict-related resources is a commodity of utmost primacy for those wishing to determine the sites and severity of violence. New thresholds of violence reflect new norms set by new power-holders.

(ii) Fluctuating Power that Influences Fluctuations in Violence

While violence may mutate in means, function, and form, as described in the previous section, a further characteristic is the way that violence will fluctuate in response to contextual factors. These fluctuations take place in response to power between men and in response to the characteristics of a conflict.

FLUCTUATING VIOLENCE AS A RESULT OF NEWLY DEFINED CONFLICT-INFLUENCED MASCULINITIES

In Liberia, the sporadic nature of the conflict meant that there were some areas of the country engulfed in violence, some without direct fighting, and others controlled by fighting factions while people continued to live there.[105] In these latter areas, some men who did not wish to join fighting factions, or even encounter these groups, went into hiding in their homes and communities. Several respondents from Liberia noted that the men in hiding were afraid to draw attention to themselves by perpetrating violence on their wives. Such a man "didn't even want people to know that he was in that house, so how would he hit his wife because if he hit his wife she would cry and then the soldiers would come."[106] The threatened arrival of soldiers could mean death or transfer to the front lines of the conflict.[107] In both cases, unarmed men became subject to the power and control of the armed and more powerful men, which in turn had an impact on the unarmed man's potential for, and use of, violence against women:

> So, at the time, even men … were not really perpetrating violence … because sometimes if you were fighting and you were caught beating your wife, you might be killed for example for it, so … people really were calm, especially if they didn't have arms at the time. So, where the power lies then was where the violence was perpetrated.[108]

Some of the domestic violence between men and women not involved in fighting and in locations not entirely engulfed in conflict appears to have become minimized during some periods of the conflict.[109] Ordinary men could no longer continue to

[103] Jefferson, "In War as in Peace," p. 3. [104] Ibid., p. 3.
[105] These conflict dynamics were explained across various interviews for this research.
[106] Interview B_7. [107] Interview B_10. [108] Interview B_3. [109] Interview B_1.

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exert control over women in the ways they had before the conflict, as this role was taken from them by greater masculine power. On the whole, with the presence of more powerful men, domestic violence within intimate relationships was considered to be "very rare at that time. From what I saw, it was very very rare."[110]

However, this did not mean that women in these situations escaped violence altogether. Women's roles during the conflict changed, and women became responsible for all issues outside the home:

> During the war then some of the men was even hiding under the bed! So they didn't want even the rebels to know that they were there! So, it was the woman who was going out to fetch food for them men. Especially for the men who didn't want to fight. So, it's like they were under the bed and the women were off searching for food for them.[111]

There is an inherent complexity and irony here. Women gained some levels of power during the conflict where private violence within their relationships changed and they undertook a greater role outside the home. However, this placed them at risk of exposure to the increasing public violence where "only those that were armed were in the position to say if a woman does wrong he hit her but for normal family, no."[112] "[O]nly the soldiers could do it,"[113] shifting power from one set of men to another. Armed men now played the role of violator and controller of women as unarmed men were forced to abandon this entitlement. Respondents in Liberia commented that men are perceived to have been born with the belief that,

> all power for sex belonged to them . . . they grew up that way. And moreover, add the power of the gun. . .. So, with that, they had an additional power over the other men who were not soldiers. So, now they are saying that "we all are men but there is a distinction, I am more male than you" . . . now there's a male that says "I am more men than other men because I have the gun." . . . So, now they use that advantage over other men plus what they had before over all women.[114]

The way that public conflict-related harms are enacted on women by some men challenges other men's authority over their women and also questions the performance of their gendered male roles.[115] The relativity of power between men is thus demonstrated through their control over women. The fighters perceived all men relative to themselves and their positions: as non-fighters and subject to their control, or as potential fighters where control is ever more necessary. Ordinary males even devised strategies to protect themselves within the contest of control over women. While traveling or fleeing violence, men would deny relationships with their wives to avoid confrontation with armed males over access to the female.[116]

[110] Interview B_10. [111] Interview B_10. [112] Interview B_9. [113] Interview B_7.
[114] Interview B_7. [115] Urban Walker, "Gender and Violence in Focus," p. 34.
[116] Interview B_7.

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As the conflict itself evolved, however, the momentary shift had repercussions. After fighters had left an area, "some of the men would start to accuse their wives of loving the fighter" and there could be violence.[117] When the men with guns were removed from the equation and some security was established for families, "men started feeling that they were up there again because there were not other men who were suppressing them or who they fear. So, it was now just men and women. So … it was back again to the normal life of women versus men … they started perpetrating the violence again."[118] In many cases in Liberia, "ordinary" violence by "ordinary" men became impossible or limited in favor of a range of mutating, in-between, and strategic political violence by armed groups and armed individuals. The tension between pre-conflict and newly defined, conflict-influenced masculinities may be described as a contest in which men exert newly sourced and greater power over women and over other men.[119] As noted elsewhere "violence, as an aspect of masculinity, is deeply linked to the assertion of social status and the value of self in particular contexts."[120] Violence communicates a message to ordinary men and women, and affirms who has power over whom and who will define the ways in which women are now subject to control and punishment. As noted earlier, it will also determine the prevalent forms of violence.

The shift in power can also be explained in other terms. In relation to the conflict in Kashmir, Rita Manchanda describes how "[v]iolent conflict saw the collapse of the divide between the public world of man and the private world of women."[121] In the Liberian case, non-armed women became the primary public sphere actors in comparison to the non-armed men. However, women's entry into the public world confronts another layer of male-dominated controls where fighters with the ultimate power exert similar controls over them as if they were in the private realm. The context of the violence had shifted, but the violence itself had not gone away. As power between men fluctuates, so too does violence.

A similar phenomenon is evident in Northern Ireland, although the power shifts between men played out somewhat differently. The exchange of control and power over women was sometimes ceded tactically and tacitly between men in the same group. In this context, men who were imprisoned relied on members of their paramilitary organization outside to maintain control of "their women." Republican women were subjected to controls by men of their husband/boyfriends/partner's affiliated armed group in his absence:

[117] Interview B_10. [118] Interview B_3.

[119] Urban Walker, "Gender and Violence in Focus," pp. 27, 28.

[120] Naomi Cahn and Fionnuala Ní Aoláin, "Hirsch Lecture: Gender, Masculinities, and Transition in Conflicted Societies," *New England Law Review* 44 (2009–10), p. 106.

[121] Rita Manchanda, "Guns and Burqa: Women in the Kashmir Conflict," in *Women, War and Peace in South Asia: Beyond Victimhood to Agency*, ed. Rita Manchanda (California, London: Sage Publications, 2001), p. 75.

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> The partners were inside and there would have been a lot of control over them if they decided to move on or leave the relationship and things like that . . . It was telephone control . . . From him or sometimes from both, from people outside to say, you know, "you're being monitored," or from the friends. There would have been fairly stringent controls on women, and probably the most vulnerable women.[122]

Control was extended from the prison by imprisoned men themselves, and externally by their fellow group members.[123] Additionally, sexual exchanges would have been expected during prison visits and, in some cases, would take place openly in visiting areas. In one story recounted by an interview respondent, a woman was ordered by her husband to wear tights with a hole in them during her visits to the prison. According to this respondent, women understood these acts to be expressions of women's own individual agency and of their Nationalist and political ideology – ensuring husbands received access to conjugal rights in the face of British oppression. Whether these demands amounted to sexual control and abuse, or could be perceived as acts of sexual humiliation, is questionable, however, as it was also assumed that "if you didn't you would have got another beating or else the news would have gone out to the local paramilitaries that you weren't playing ball with their man in jail so. . ."[124] In one case a woman was beaten by her husband during a prison visit. The prison guards who witnessed the incident did nothing, allowing this man to impose control on his wife from within the prison domain.[125] Another woman, whose husband left her, was forced to move out of her community due to the expectation that local PIRA men were entitled to have access to her.[126] There are similar examples of women in Loyalist communities where "men moved in on the women when they knew the boyo was put in prison."[127] In Northern Ireland, the situation was less about the shifts of power and control between known men to armed strangers, but between known armed men who upheld and used forms of private, conflict-influenced violence to maintain male control over women in the public and private spheres.

FLUCTUATIONS IN VIOLENCE AS A RESULT OF CONFLICT ITSELF

Fluctuations in violence may not only be determined by the contestation or transition of masculinities between men, but also because of the nature of conflict itself. In Liberia, rates of FGM/C, which were high before the conflict, were reduced to some degree among the populations directly affected by the conflict. Displaced populations that did not have material stability were less inclined to engage in FGM/C. As one respondent commented "it is a happy time for them so they need to be in a good atmosphere feeling good, eating and having a lot of play. So, FGM/C was not highly practiced during the war."[128] The conflict had an

[122] Interview A_2. [123] Interview A_2. [124] Interview A_1. [125] Interview A_1.
[126] Interview A_1. [127] Interview A_16. [128] Interview B_18.

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impact on social and economic conditions, which, in turn, impacted on the practical ability to hold such practices, as well as making them displaced from their normative context.[129] The practice of FGM/C at "a minimum, it was very low, because everyone was afraid [of the conflict], so it didn't go on like it used to."[130] Alternately, those areas unaffected by the conflict continued to practice FGM/C and those communities that moved into Liberia as they fled violence in neighboring countries are known to have practiced FGM/C, such as Sierra Leonean refugees residing in Liberia.[131]

A more pertinent and nuanced approach to understanding the complexities of violences during conflict may be to identify the sites and sources of violences during conflict and who has the power to exert violence over another and in what circumstances. Gender's role in determining the appearance of violence among men, among women, and between men and women requires further assessment. The identification of the continually shifting patterns of power within sites of conflict would go some way to revealing the causality and kaleidoscope of violences that appear. This more textured picture of gendered violence would further highlight the deficits in the legal definition of, and response to, this violence.

Post-Conflict Northern Ireland, Liberia, and Timor-Leste

The legal definition of armed conflict considers combatant-related public violence to end once political contestation stops.[132] This narrow conceptualization of violence, armed conflict, and the nexus between the two does little to expose the ways in which violence itself does not altogether disappear with the cessation of hostilities. In an attempt to disaggregate and make visible different violences post-conflict, I structure my discussion around two, albeit again arbitrary, linear periods: (i) the immediate aftermath of conflict, and (ii) the longer-term aftermath of conflict.

(i) The Immediate Aftermath of Conflict

The following discussion examines how the conditions of conflict may continue to influence the violences that occur during the flux surrounding the cessation of political hostilities.

[129] Emily Martin, "What Is 'Rape'? Towards a Historical, Ethnographic Approach," in *Evolution, Gender and Rape*, ed. Cheryl Brown Travis (Massachusetts: Massachusetts Institute of Technology, 2003), p. 364.

[130] Interview B_6. [131] Interview B_18.

[132] Okechukwu Ibeanu, "Healing and Changing: The Changing Identity of Women in the Aftermath of the Ogoni Crisis in Nigeria," in *The Aftermath: Women in Post-Conflict Transformation*, ed. Sheila Meintjes, Anu Pillay, and Meredeth Turshen (New York: Zed books Ltd., 2001), p. 204.

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VIOLENCE DIRECTLY CONNECTED WITH THE EVENTS OF THE CONFLICT

As I identified in Chapter 4, material sources of power during conflict include access to guns and combatant status. These and other sources of power accessed during the conflict may be carried over, either tangibly or intangibly, and used to exert similar forms of *power-over* violence in the conflict's immediate aftermath. In Liberia "[t]he combatants had arms for some months, for some over a year before the disarmament took place."[133] Despite the formal legal conditions of "peace" implied by the signing of a peace agreement, women continued to experience abuses in the pockets of political violence that continued in Liberia for some time after the ceasefire.[134] Respondents explained that the exclusion of criminal prosecutions from the Liberian Comprehensive Peace Agreement was perceived by members of fighting factions as extending them legal amnesties, which inevitably impacted behaviors in the period of fluidity between conflict and peace. Even where political violence had ceased, the implicit power once held during the conflict (through armed group/social network membership) provides symbolic power and immunity: the fighter status carries into newly established normative conditions and is used as a basis for continuing abuses.[135] The power associated with fighter status did not automatically diminish once the conflict was over: "that power that added to what they already had, they perceive that it is still there."[136] In Liberia, some women who were held captive and bore children as a result of rape found that they were physically set free, yet their children were taken away from them by their captors once the war ended.[137] In one case a woman,

> tracked the perpetrator, she knew where he took her child, she even approached him at the end of the war . . . and he insisted that if she wants her child she had to pay x amount of US dollars which she didn't have so she couldn't get her child from him. But she kept track of him, each time he changed the location of the child she kept track from a distance and . . . he told her that if she ever went near the village where the child was, he was going to kill her.[138]

The difficulties facing women who experience forced and unwanted pregnancies, maternities, and babies as a result of rape during conflict are increasingly documented.[139] While women may be subject to stigma and isolation by their community and family in some cases,[140] in this situation it is evident that women remain subject to the ex-fighters' abuse of power after the conflict has ended. This specific violence, which is clearly carried over from the conflict, is not captured by existing legal

[133] Interview B_18.
[134] "'The Guns Are in the Bushes': Continuing Abuses in Liberia" (Human Rights Watch, 2004), p. 11.
[135] Interview B_7. [136] Interview B_7. [137] Interview B_16. [138] Interview B_16.
[139] See, for example: Diane Seto, *No Place for a War Baby: The Global Politics of Children Born of Wartime Sexual Violence* (Surrey/Burlington: Ashgate, 2013); Charli Carpenter, *Born of War: Protecting Children of Sexual Violence Survivors in Conflict Zones* (Bloomfield, CT: Kumarian Press, 2007).
[140] See, for example: Susan Harris Rimmer, "'Orphans' or Veterans?: Justice for Children Born of War in East Timor," *Texas International Law Journal* 42, no. 2 (2007).

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conceptions of conflict-related harms and therefore calls into question the boundaries of the application of international legal instruments.

The Violence of Return

The threat of violence associated with the conflict may also remain. This was particularly evident in Liberia following the return of fighters to their communities. In one case, an ex-fighter, who during the conflict decapitated a woman's father and then raped her, is now living as her neighbor. Since his return, the ex-fighter has persistently made overt attempts toward building a relationship with her and particularly her children. Some Liberian women feel that men like this are purposely living in the vicinity of the women they abused as a means of intimidating them and keeping them from reporting their abuse.[141] Many women are living in fear of these men.[142] The ability of, and likelihood that, abusers, particularly those who committed sexualized abuse, may live in the proximity of their victims, whether purposely or otherwise, creates a challenge for any post-conflict legal framework that attempts to guarantee restitution and the non-repetition of conflict-related violence.

In Northern Ireland, the release of prisoners meant that for some women violence would re-enter their lives with the return of the male to the home. In many instances, it is clear that the returned male had been violent before being imprisoned and his return represented a resumption of this violence.[143] For example, one respondent stated that, "I know that mothers of men were really worried about prisoner release because they would beat up their partners. There was one woman came in tears 'please don't let him out, I know what he is like'."[144] Not only are women who are partnered to violent men concerned about their release, so too are their wider family networks. It is not clear whether this was always the case, however, or whether violence became part of the behavior of men who transitioned from combatant roles to ordinary civilian roles. The status of ex-paramilitary, and some of the power attributed to that role, continued to exert influence inside and outside of the home. Returned ex-Falintil soldiers in Timor-Leste are reported to have used violence as an acceptable means of reasserting their role within the home.[145] Whereas women may have made gains in assuming roles normally undertaken by men during conflict,

[141] Interview B_16.

[142] A respondent who worked with women who testified to the Liberian Truth and Reconciliation Commission described how some women cannot come to terms with and understand that the men who did this to them will not apologize. There is an expectation on the part of such women that the violence that occurred during the conflict is redressed in some way. This respondent noted that "these warlords are still holding a piece of the victim, they will not let them go" and felt that these men were preventing healing from taking place and holding on to some form of power over these women. Interview B_16.

[143] Interview A_3. [144] Interview A_5.

[145] Hilary Charlesworth and Mary Wood, "Mainstreaming Gender in International Peace and Security: The Case of East Timor," *Yale Journal of International Law* 26 (2001), p. 315.

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men may attempt to violently retract them as they reassert their control within intimate relationships.[146]

The return process has been documented as a complex moment, generating specific contextual vulnerabilities for women.[147] An example from Liberia demonstrates how the need to negotiate new roles and deal with the impacts of conflict may result in new sources of violence. Following the murder and decapitation of her husband in front of her and her two sons, a woman was taken captive and repeatedly raped. When the war ended and she returned home, "her son would not accept her, he was beating her and insulting her and threw her out of the house because he said that it was his father's house and she was now spoiled and that she was not worthy to stay at that house."[148] Shifts in patterns of power and violence are evident again here – this time not between spouses, but between women and children, an added dynamic and source of violence in the post-conflict landscape for women.

In a post-conflict context, women are caught between two competing dynamics: those who held the most power during conflict continue to attempt to exert as much power as possible (e.g. former combatants), and those from whom power was perceived to have been taken (e.g. returning husbands) struggle to reclaim it. Power struggles and shifting authorities through acts of violence again appear in the aftermath of conflict. It is notable that many of these forms of violence which are perpetrated by combatants/ex-combatants could be categorized as "in-between" forms of harm, akin to those identified in the previous chapter. In other words, these are harms that are crossing the lines between conflict and non-conflict, perpetrated by a combatant in his formal or personal capacity, that disrupt the legal dichotomy imposed between conflict-related and non-conflict-related harms.

(ii) The Longer-term Aftermath of Conflict

Immediately following the end of the conflict, the ordinary harms that existed prior to, and that may have endured or fluctuated and mutated during conflict, are also evident.

CONTINUING CONFLICT-RELATED VIOLENCE OR ONGOING ORDINARY VIOLENCE?

The shift in norms that regulate violence must be reassessed in the aftermath of conflict. In a context such as Liberia, where the fighters are still present following the

[146] Brandon Hamber, "Masculinity and Transitional Justice: An Exploratory Essay," *The International Journal of Transitional Justice* vol.1 (2007), p. 385.

[147] See: Naomi Cahn, Dina Haynes, and Fionnuala Ní Aoláin, "Returning Home: Women in Post-Conflict Societies," *University of Baltimore Law Review*, no. 3 (2010).

[148] Field Notes_B_Liberia Field Work.

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conflict, it is perhaps most relevant to review whether the perpetrators of abuse post-conflict are the same as those who were fighters during the war:

> During the war they were perpetrated by men in arms, but in our society to differentiate armed men from family men is difficult because a lot of men took up arms, so you will find that he is a father, he is a brother, he is also an ex-combatant. So, it is hard to tell the difference but one thing I know is that majority of the violence against women [post-conflict] are perpetrated by family members or close relatives. So, to tell you that they are being perpetrated by former armed men or not is difficult because as I say a lot of people took arms, a lot of people fought, so he could be a cousin, he could be a brother, he could be your husband, he could also be a former combatant ... So, the violence has been perpetrated by various family members, more, than strangers.[149]

The fact that violence is perpetrated more by known assailants than by strangers reflects statistics on rape and abuse of women in societies that are not affected by conflict.[150] These reflect "normal" patterns of gendered abuses elsewhere.[151] In Liberia it is "no longer those armed fighters, it turns out to be people that are very close to the survivors."[152] The situation becomes more complex, however, through a deeper examination. For example, in Liberia, one woman described how she began experiencing rape by her husband during the conflict after he had become a fighter. This behavior continued after the conflict ended, and she decided that "this is not surprising because you were a fighter, you did that during the war so you are still doing this so, if I don't leave you, you will do something else."[153] Fighters become redefined as community and family members. In the case of Northern Ireland, some combatants perpetrated abuses in the home during conflict and little changed after the conflict. The situation and behavior of ex-fighters in the longer-term post-conflict requires further consideration. In one community in Northern Ireland, interview respondents noted that "[paramilitaries] are doing it still and it's still ongoing and they might do it in a different way under a different name, but they're still doing it, and still

[149] Interview B_3.

[150] United Nations World Health Organization, "WHO Multi-Country Study on Women's Health and Domestic Violence against Women."

[151] For example, in the USA statistics reveal that violence by known/intimate partners is the leading cause of injury to women. Additionally, research has found that "Historically, females have been most often victimized by someone they knew": "Errata, Criminal Victimization, 2005" (US Department of Justice, Bureau of Justice Statistics, June 16, 2011), p. 10. Women's Aid statistics in Ireland show that 95 percent of women who access their services have experienced abuse by a current or former intimate partner: Women's Aid, "Women's Aid National Freephone Helpline & Support Services: Annual Statistics 2010" (Dublin, 2010), p. 17. That violence mainly takes place in private within intimate relationships has also been documented in scholarly work: Jill Radford and Elizabeth A. Stanko, "Violence Against Women and Children: The Contradictions of Crime Control Under Patriarchy," in *Women, Violence and Male Power: Feminist Activism, Research and Practice*, ed. Marianne Hester, Liz Kelly, and Jill Radford (Buckingham and Philadelphia: Open University Press, 1996).

[152] Interview B_17. [153] Interview B_6.

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paramilitary-based . . . they don't see them as 'ex-paramilitaries,' they are 'paramilitaries' . . . we never call them 'ex.'"[154] Given the findings, detailed in the previous chapter, that combatant status lends authority and power, it may, in some cases, suit conflict actors to retain either the status of paramilitary membership or the reputation associated with that status. A snap-shot survey of incidents of violence against women reported to women's shelters in Northern Ireland over a one-week period in September 2009, ten years after the ceasefire, found that 14 percent of perpetrators of abuse identified by women were linked to paramilitary activities.[155] While this percentage seems relatively small, any linkage of perpetrators to paramilitary activity is significant given the length of time that had passed since the conflict had ended. It is also revealing given that these kinds of perpetrators of violence would not arise in the rest of the United Kingdom, where there is no history of past or enduring paramilitary activity. It is unique to Northern Ireland because of its conflict.

Timor-Leste is a little different and requires some consideration. In this case, the source of strategic sexualized abuse, the Indonesian regime, had been removed at the end of the conflict. As such, these actors were no longer present and therefore did not pose a similar danger to women as did ex-combatants who were from those contexts in Liberia and Northern Ireland. Nevertheless, the legacy of violence can exert an influence, both social and psychological, as can the presence of the ex-resistance fighters (Falintil) who have returned home. In 2002, two years after the Indonesian withdrawal, four women were hacked to death with machetes by male family members.[156] As noted in Chapter 3, a 2002 study measured whether violence was worse after the crisis of 1999, when the Indonesian regime withdrew, compared to the period immediately before this particular crisis. It found that violence by perpetrators outside the home was lower in the post-crisis period than during the crisis, representing a 75.9 percent decrease in physical violence and 57.1 percent in sexual violence.[157] The majority of perpetrators during the crisis were reported by women to have been Indonesian military or militia. Post-conflict, however, the majority of perpetrators were reported to be neighbors and community members.[158] In the conflict's aftermath, violences appear to derive from people known to women.[159]

[154] Interview A_5.

[155] Statistics are not available for the overall percentage of the male population involved in paramilitary activities, and as such the data does not consider whether paramilitaries are over-represented in this sample. One book estimates that while "[t]here are no agreed figures . . . republican sources suggest eighteen thousand people on the republican side spent time interned or in jail in the North, the Republic, England, mainland Europe and the USA . . . five thousand ex-prisoners in West Belfast alone." Gerry Bradley and Brian Feeney, *Insider: Gerry Bradley's Life in the IRA* (Dublin: O'Brien Press, 2009), p. 261.

[156] Maggie O'Kane, "Women: Return of the Revolutionaries," *The Guardian*, January 15, 2001.

[157] Michelle Hynes et al., "A Determination of the Prevalence of Gender-Based Violence Among Conflict-Affected Populations in Timor Leste," *Disasters* 28, no. 3 (2004), p. 305.

[158] Ibid., p. 315.

[159] Note that the propensity for legal and other policy institutions to focus on "stranger" violence has been documented. Feminist scholarship has shown that women are more likely to experience

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However, in a case such as Liberia, it is not clear whether these known men were also active in the conflict. Across all three sites, ex-combatants and never-armed men known to women were identified as sources of risk.

CHANGES TO FORMS AND SITES OF VIOLENCE AFTER CONFLICT

In the longer-term aftermath of conflict, gendered violence may also emerge in new and variant modes and in ways connected and not connected to the dynamics of conflict. The pre-, during-, and post-conflict framework draws our attention to the possibility that the *character* of violence mutates once again in the longer-term aftermath of conflict, a critical consideration. The first consideration is whether violence may be worse because of the gendered violence that took place during the conflict. It is not clear whether violence actually becomes worse in form as a result of the violence that appeared during conflict. There is little substantive quantitative or qualitative data, either from my research sites specifically or on a global level, to answer this question. It was, however, an issue debated by interview respondents, with little consensus. In Liberia, some respondents felt that the forms of violence had worsened because threats to life had become part of domestic abuse: "we know that they fought the war and then after that they come home to their wives and then every time there is confusion they are threatening to get rid of their life."[160] However, it is not clear whether threats to life were also part of domestic abuse before the war. This is a common element of domestic abuse globally, including in areas not affected by armed conflict.[161] Other aspects of violence were noted as being different now and that,

> people are so fearless, you know. They are so bold. Like, one other thing I see, this thing of acid ... It's something that I never saw before the war. It happens all the time, people use it as a weapon nowadays ... Men do it to women, women do it to men, they do it to each other. We got a lot of cases where they got risk of permanent damage.[162]

In other ways, however, abuse in Liberia has declined in severity. Some service providers noted that there were few cases of women experiencing rape through the use of implements as had occurred during the conflict.[163] Although one respondent who acts as a lawyer for victims/survivors noted though that there were some cases that evidenced similar kinds of harms. In one, a man physically assaulted his wife and inserted food inside her vagina; and in another a man smeared rat poison over a condom and forced sex with his wife. These were both recounted by a lawyer

violence from men known to them, however: Liz Kelly, *Surviving Sexual Violence* (Minneapolis: University of Minnesota, 1998), chapter 4.

[160] Interview B_6.

[161] In the United States, more than three women a day are murdered by their husbands/boyfriends: "Errata, Criminal Victimization, 2005," p. 10.

[162] Interview B_5.

[163] Interview B_18 and Interview B_9.

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working on these cases who felt these kinds of abuses were a direct result of what occurred during the war.

The second consideration is whether new forms of violence had emerged in the post-conflict era. In addition to the reference to throwing acid mentioned earlier, interview respondents identified a number of "new" forms of violence that appeared in the aftermath of the conflicts. In some cases, such as in Liberia and Timor-Leste, a shift in power from newly unarmed men to newly arrived armed men occurred once again and created new sources of violence. International peacekeepers became legitimate power-holders over formerly armed men and women and over ordinary men and women. As is documented in peacekeeping missions globally, women and girls may be subjected to exploitative abuses from peacekeepers.[164] This was true for Liberia, where girls are known to have had what are described as "relationships" with peacekeepers, which were viewed by interview respondents as "sexual assault, it's abuse of power, but again, how do you convince a woman to come forward when she is going to end up in a worse situation?"[165]

These encounters with peacekeepers are lucrative to poor families and often the wider family will implicitly support these relationships in the interests of family survival.[166] Despite these complexities, issues of consent arise where peacekeepers are understood to be taking advantage of the poor socio-economic situation of women and girls and their families.[167] A 2006 study conducted by Save the Children Fund UK in Liberia (three years post the conflict's end) found that peacekeeping soldiers sexually exploited children in every location where there was a peacekeeping base and that girls came in from surrounding areas to access the soldiers posted in these regions.[168] In Liberia "peacekeepers were having young girls for a dollar, a US dollar,"[169] and found strategic ways to avoid detection under UN codes of conduct. In one instance, a peacekeeper

> made this girl change her identity, she changed her name, he made her change everything, when she got pregnant for him and she was using the name that he gave to her to go to the clinic, so if you go there to look for her you would never find her.[170]

[164] Office of Internal Oversight Services, "Evaluation Report: Evaluation of the Enforcement and Remedial Assistance Efforts for Sexual Exploitation and Abuse by the United Nations and Related Personnel in Peacekeeping Operations, IED-15-001" (New York: United Nations Office of Internal Oversight Services, Inspection and Evaluation Division, June 12, 2015).

[165] Interview B_13. [166] Interview B_13.

[167] Machiko Kanetake, "Whose Zero Tolerance Counts? Reassessing a Zero Tolerance Policy Against Sexual Exploitation and Abuse by UN Peacekeepers," *International Peacekeeping* 17, no. 2 (2010), p. 203.

[168] SCF-UK, "From Camp to Community: Liberia Study on Exploitation of Children," in *Discussion Paper* (Save the Children Fund, UK, 2006), p. 12. A British documentary found that orphaned girls are exchanging sex for as little as £0.40 and were concentrating on border areas or around UN peace keepers' compounds where lucrative exchanges could be made: Matt Haan, "Liberia: Stolen Childhood," in *Unreported World* (UK: Channel 4, 2009).

[169] Interview B_18. [170] Interview B_18.

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It is not clear in the literature whether this reflects a situation where the majority of those engaged in such activities are children or whether the focus has been on children due to their minority status.

In Liberia and Timor-Leste, women were left with no support for children born as a result of sexually exploitative relationships[171] and experiences of sexual assault by peacekeepers.[172] In Timor-Leste the phrase "UN Babies" has emerged in response to the numbers of girls and women with children by departed peacekeepers.[173] The vacuum in accountability is exacerbated by the current system, whereby the troop-contributing country is responsible for prosecuting abuse.[174] It is worth noting that because there were no peacekeepers in Northern Ireland, women were not at risk of, or subject to, this source of violence.

The increased vulnerability of women to wider sexual exploitation and abuse represents the intersection of the impacts of the conflict and women's poverty, which act to compound vulnerability to abuse. It was described by one interview respondent in Liberia as follows: "Everybody. Pastors doing it. Teachers doing it. Family members doing it. Children owned by illegal parents doing it. So, everybody is still doing it. Ex-fighters, armed robbers, even some police people are doing it too. Everybody is still carrying out the same act."[175] In Liberia also "MMMs, you know Mobile Men with Money, there's more men coming in now for mining or phosphate or setting up construction companies . . . that's going to be I think the next group of men to worry about."[176] Many interview respondents concluded that sexual abuse was an outcome of social conditions and increased vulnerability due to poverty and living conditions exacerbated by the conflict.

A number of respondents in Northern Ireland noted that, as the conflict has ceded and society has normalized to some degree, women's organizations are finding new sources of abuse. For example, with the end of the conflict, Northern Ireland became a destination country for the trafficking of women and girls, with paramilitaries and other criminal groups turning to these activities.[177] One service provider recounted how the first time she heard a story of trafficking, she simply did not believe the woman's story of being kidnapped, raped repeatedly, and escaping a brothel because it seemed so incredulous.[178] With the arrival of immigrant populations, new demographics of abuse are evident and present a challenge in providing culturally appropriate services.[179] The increased prevalence of drugs and drug-use in

[171] Interview B_NRC; Interview C_19. [172] Interview C_19.

[173] Interview C_17; Field Notes December 2009; Aisling Swaine, "Voices of Experience: Cross-Learning Process on UN Security Council Resolution 1325" (Dublin: Irish Department of Foreign Affairs, 2010), p. 36.

[174] Aisling Swaine, "Voices of Experience: Cross-Learning Process on UN Security Council Resolution 1325," p. 36.

[175] Interview B_12. [176] Interview B_13.

[177] Interview A_3; Michael Potter and Leigh Egerton, "Human Trafficking in Northern Ireland, NIAR 012-12," (Northern Ireland Assembly Research and Information Service Research Paper, June 12, 2012), p. 10.

[178] Interview A_3. [179] Interview A_3.

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Northern Ireland has led to "a different form of abuse and we are seeing that now . . . the withholding of the drugs or the introduction of the drugs has been used as the relationships builder. . . in an abusive relationship [drugs] have been introduced . . . as a form of that control."[180] This can lead to other avenues of abuse and control, such as prostitution. These emerging forms of abuse have been attributed to "cultural changes from when [immigrant] women first came in years ago."[181]

A third consideration is the reassertion of men's public roles following the cessation of conflict. The efficacy of women's activism in Northern Ireland during the conflict has been documented.[182] While this work received little formal recognition, it has become even more marginalized in the aftermath. There were concerns expressed by interview respondents over what has happened to women's voluntary community and activist work. During the conflict, women activists were leading extensive voluntary community development and reconciliation work within and across conflicted communities. Following the peace agreement, extensive social programming has been developed by the government to address community-level development and reconciliation needs. Formal paid community and political roles have been given as a form of employment to ex-combatant men. As stated by one respondent: "It's more valuable to have done ten years in Long Kesh [prison in Northern Ireland] if you are looking for a job in the community sector . . . than it is to have done your primary or Masters degree."[183] Ex-paramilitaries and political prisoners have become paid community workers and formal representatives of their communities.[184] While not representing actual physical violence against women, it certainly speaks to structural discriminations and prompts a number of questions, including consideration of where power becomes situated after conflict. If sites and sources of power are determinants of violence, then this is an issue of significance to our understanding of the potential for violence against women post-conflict. The roles these men occupied were in some sense legitimized under the peace agreement that ended the conflict. The conditions and status afforded to ex-prisoners and the mechanics of a transition process that places men who were involved in the armed contest in democratically elected positions of formal power matters when it comes to acting on gendered violence. Men's power in formal public roles regulating response to gendered violence is reaffirmed, politically, legally and socially.

It appears as if, in some cases, the following scenario has evolved: a paramilitary member during the conflict becomes an ex-paramilitary/combatant post-conflict; the ex-combatant becomes a government-paid community worker; that community

[180] Interview A_3. [181] Interview A_3.

[182] Monica McWilliams, "Struggling for Peace and Justice: Reflections on Women's Activism in Northern Ireland," *Journal of Women's History* 6/7, no. 1 (1995); Carol Percy and John Kremer, "The Meanings and Impact of Feminism for Women in Northern Ireland," *Feminist Theology* 3, no. 7 (1994).

[183] Interview A_10. [184] Interview A_10.

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worker de facto becomes community representative in formal community-government forums. For many women who were involved in community work, their roles evolved during the conflict, while they devolved post-conflict, as the formalized version of those roles as paid positions were given to certain men. If, as found in the previous chapter, some paramilitary organizations worked to conceal women's experiences of violence during the conflict, their influence over community administration matters. Male ex-prisoners are noted in some cases as taking a "macho attitude" when addressing community-level problems.[185] It is increasingly evident that currently resurgent dissident Republican groups in Northern Ireland are continuing to prevent women in communities under their control from reporting violence in the home and accessing the police.[186] This means that what was hidden during the conflict may remain hidden after the conflict.

A fourth consideration is the re-emergence of pre-conflict socio-cultural harms. In the longer-term, as society re-establishes itself, socio-cultural influences may continue to hold sway and "traditional" forms of harm reassert themselves. At the time I was conducting this research, FGM/C was being widely practiced across Liberia once again.[187] Other practices re-emerged with the re-establishment of the home according to the pre-existing gendered norms prior to the conflict in Liberia. Some harms continued and were seen as the same as before, such as "children [who] are still being forced into marriage"[188] and,

> there are traditions in Liberia that state that if a man is married to you his brothers are all married to you . . . if you are married to a brother, all of the other brothers can have sex with you . . . the issue is the fact that women are not supposed to say no to their husbands or anything. That's what happens. So, it is shameful that you have sex out of marriage but the fact is your husband is saying it so you do it.[189]

The ritualistic violence that entailed maiming and consuming body parts prevalent before and during the conflict are also evident in the aftermath:

> In 2007 . . . just in the middle of this area, where the houses are so close and they just have one bathroom and people saw blood coming out of this bathroom, they decided to look just to find that this man had a 6 year old girl in the bathroom, the girl was drugged and there was a flow of blood coming out of the girl's vagina because she was raped . . . the girl was taken to the hospital, there were some parts of her insides, he was trying to cut out, but she was bleeding so much they couldn't do anything. These are things that are going on apart from violence, that is also some of the rituals . . . taking body parts all those kinds of things . . . these rituals people are saying are very much alive, these parts are being extracted.[190]

[185] Neil Jarman, "Working at the Interface: Good Practice in Reducing Tension and Violence" (Belfast: Institute for Conflict Research, 2006), p. 21.

[186] An issue that was highlighted at: Women's Aid, National Women's Council of Ireland, "The Other Violence": The Impact of Conflict on Women; Irish Peace Centres conference – The Development of a North/South Strategy (Derry/Londonderry, December 2010).

[187] Interview B_15. [188] Interview B_12. [189] Interview B_7. [190] Interview B_19.

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This violence happens to both men and women; however, for women it is "mostly the breasts and the private parts" that seem to be the objects of this violence.[191] Additionally, there may be belief systems and practices that encourage and condone such violence:

> We had a case where this fellow told us that he went somewhere to have a job and they had enlisted a witch doctor, the country doctor told him that he should go and have sex with eight year olds girl, and when he has an affair with an eight year old girl and he [would get] a job. But after some time the child got sick and this child had to confess the name, he was arrested and he was placed in the prison. So, some do it to satisfy sexual desire, some do it for rituals, some do it maybe because of wickedness.[192]

These forms of violence that are referred to as "ritualistic" in Liberia were present before the conflict, continued throughout, and were evident again in the aftermath; it manifested in different ways because of the contexts (conflict/non-conflict); took different forms; and was perpetrated by men with different statuses (combatant/non-combatant).

This comprehensive assessment creates space to recognize the functionality of violence in relation to power and inequality and that violence may manifest in a wide and diverse range of harms across contexts and over time. Contextual factors in each phase, and specific to different socio-cultural systems and sites of conflict, will determine the means and manifestation of violence within and across sites and over time.

The disaggregated assessment of violence mapped across the previous three sections of discussion demonstrate that: the most common violence identified in the phases *before and after conflict* for all three sites were those by perpetrators known to women. This does not mean that violence from strangers did not exist in those phases, rather that it was less mentioned or less frequent in the minds of the interview respondents. This finding fundamentally challenges the "stranger" violence thesis that pervades domestic law application and assumes that women are victim to attack by strangers on dark streets. For both Liberia and Timor-Leste, violence by armed fighters was the most common form of violence interview respondents mentioned as prevalent *during conflict*. It may be that their responses to questions assume that conflict-relted violence is by armed fighters only. It could be said that the sources of violence may, to some degree, vary across the pre-, during-, and post-conflict phases, from predominantly known men, to strangers in the case of systematic political violence, plus ongoing and new violence by known men, back to primarily known men. This reaffirms that sources of violence may mutate, fluctuate, and change. For Northern Ireland, the picture is somewhat different, wherein CRVAW was largely committed by men known to women and children from their communities, and so across all phases of conflict violence was mostly by known men.

[191] Interview B_19. [192] Interview B_12.

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AN AGGREGATED ASSESSMENT: CONNECTIONS AND DISTINCTIONS IN AMBULANT VIOLENCE

This section takes a birds-eye view of the disaggregated data to present a cumulative analysis of gendered violence across pre-, during-, and post-conflict phases for the three sites. It includes the discussion and data on gendered violence identified in this chapter, as well as the strategic "political" violence, and the contributory factors and forms of in-between violence identified in Chapters 3 and 4.

In aggregate, the pre-, during-, and post-conflict framework evidences patterns in violence across temporal phases, summarized here: In the *Pre-conflict phase*, structural discrimination, exclusion, and forms of violence, such as domestic and sexual violence (predominantly by known assailants in all three settings) exist; as do practices and systems that uphold the structurally disadvantageous positioning of women (e.g. bride-price systems in Liberia and Timor-Leste, practices that devalue women and girls education and employment in all three settings). Much of this documented violence takes place in private spaces, and there is evidence that some practices are sanctioned as normative (e.g. FGM/C in Liberia, girls given to overnight guests for sex in Timor-Leste). Prevalent in Liberia is ritual violence that co-opts women and girls into practices that require the cutting and mutilation of their sexed body parts. The relevance of earlier cycles of conflict (e.g. Japanese systematic rape of women in Timor-Leste) and its potential influence on both pre-conflict and during-conflict violence is noted in this phase also. A broad-ranging landscape of gendered harms are present before conflict and are the platform on which conflict-time violence is introduced and evolves.

In the *During Conflict Phase*, new violences may appear in the form of mass and/or strategic sexualized violence by armed groups (e.g. systematic rape largely by strangers); as well as in-between violence (e.g. private acts of sexual abuse by armed/affiliated men known to women in Northern Ireland; sexualized violence by known and unknown armed men on a private and opportunistic basis in Liberia, and exploitation by men not known to women residing in displaced camps in Liberia). Aspects of endemic violence, norms, and practices may be appropriated into conflict tactics or take on new form during conflict: for example, in Liberia, "ritual cannibalism" as part of acts of rape take place; forced marriage without social sanction and forced enslavement of multiple women is prevalent. Some forms of endemic violence may fluctuate or momentarily desist (e.g. certain sources of domestic violence and FGM/C decreased in Liberia) depending on the dynamics of the conflict. Evident here are some similarities in the forms of violence prevalent before and during conflict: ritualistic violence and "cannibalism," sexual assaults of women that in some cases become more extreme, and sexual access to multiple women that in the Liberia context, was once governed by normative marriage negotiation, mutated into forced and violent sexual and marital-like access to multiple women. The net volume of this violence represents layers of various, multi-faceted,

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multi-functional, and contextually dependent violence. It also demonstrates mutations in violence between what went before and the ways that harms occur during conflict, and a gendered and structural basis to the commonalities across the violence.

The *Post-Conflict Phase* is inevitably influenced by the previous layers and forms of violence that have become normative across time. In respect of the period of conflict that precedes this moment: the strategic forms of violence largely dissipate (e.g. armed groups in Liberia cease activities; Indonesian regime exits Timor-Leste); but these are replaced by associated forms of violence that are conflict-related even though the conflict is officially over (e.g. ex-fighters intimidating women in Liberia). New forms of violence related to the conflict may appear (e.g. sexual exploitation and abuse by international peacekeepers). Longer-term, endemic forms of violence endure and those that dissipated during the conflict may reappear (e.g. domestic violence by returning fighters and ex-prisoners in Timor-Leste and Northern Ireland); pre-conflict normative violent practices re-emerge or continue, such as FGM/C, marital norms, and ritualistic use of women's sexed bodies in Liberia, dis-associated with the conflict as such, are prevalent again. In the fluidity between immediate and longer-term post-conflict: violence that may be identified as conflict-related because of association with ex-combatants endures (for how long is not clear, maybe a lifetime for women who live next to the men that committed violations during the conflict) and new conflict-related forms appear, such as intimidations by those ex-fighters, or sexual exploitation by peacekeepers who are there because of the conflict; endemic harms such as domestic violence continue for those who kept experiencing it, and return for those where it was momentarily absent during the conflict; and some forms of harm dissipate or disappear altogether, such as mass or strategic public sexualized violence. In a post-conflict setting such as Liberia, there are forms of harm that endure (or reappear) from the pre-conflict phase (e.g. domestic violence, ritualized violence); forms of harm specific to conflict that dissipate (e.g. strategic rape); new forms of harm that appear (e.g. sexual exploitation and abuse); and forms of harm that reappear as normative (e.g. FGM/C). These enduring, newly arising, re-appearing, and dissipating harms co-exist at once, and of course mutate over time as agents of violence enter and exit and the conditions of these social contexts change, and as new and existing forms of violence become normative and/or are delegitimized through legal or social prohibitions. It is not discernible when the post-conflict phase ends and a "normalized society" once again regulates the tolerance of ordinary normative violences, nor what then becomes considered "normative" violences. There is however a convergence in harm, creating a renewed normative context for gendered violence to operate.

In aggregate, across all three phases are patterns of harm that demonstrate clear mutation in the violence of the pre-conflict setting, to the violence of the during- and post-conflict settings. The enduring nature of some forms of violence prompt

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consideration of *connections* between harm across time; while the uniqueness of some forms of violence, or new aspects to what are otherwise familiar or pre-existing forms of violence, prompts consideration of how some violence may be *distinctive* from what went before, or what comes after. That there are connections and distinctions in violence across times of peace and conflict are proposed here:

Connections

The aggregated analysis of this schemata of violence demonstrates that there are connections between forms of violence in both *practical* and *conceptual* terms. In *practical terms*, there is an evident normative basis to pre-conflict gendered violence, such as socio-cultural acceptance of certain levels and forms of domestic violence, sexualized violence, and specific sexual and ritual practices that pose harm to women. This normative tolerance of certain harms provides the platform on which conflict-time violence is introduced and evolves. What we see is that specific forms of violence are consistent but mutating or fluctuating from pre- to post-conflict, over time. For example: the mutilations and removal of women's body parts for the purposes of ritual in Liberia prior to conflict continued during conflict. In some instances, these acts took on similar as well as divergent forms, sometimes more intense and extreme and in public rather than covert ways. After conflict, these acts are still evident, but revert to occurring in covert ways. Domestic violence was evident prior to conflict in all sites. The presence and absence of men affect both its prevalence as well as its intensity and function. Prior to and after conflict there is a consistency in this violence for women. In some instances, domestic violence endured during conflict, in others it ceased due to the absence of men, or the heightened power of other (combatant) men to determine how violence was enacted on women. Access to resources, such as guns mutated violence for some women, e.g. use of guns during domestic violence during the conflict in Northern Ireland, and the use of guns in violence after conflict by returning armed ex-combatants. Practically and materially, there are clear connections to be seen between forms of violence across space and time.

In *conceptual terms*, these connected and mutating forms of violence reflect mutations and shifts in where and how power conceptually and socially lies for agents of violence. Given their practical connectedness, the idea of continuums, as noted in Chapter 1 and earlier in this chapter, are relevant to consider as a conceptual basis for the character and constancy of violence. While my analysis confirms a "gendered continuum of violence," i.e. the normative basis of gender power relations between men and women pre-conflict as ever-causal to gendered violence across time,[193] the evidence here also demonstrates variations and shifts

[193] Cynthia Cockburn, "The Continuum of Violence."

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in power on the basis of context-specific and conflict-related resources. For example, in Chapter 4, contextually specific sources of power, e.g. armed group affiliation or armaments enforce power and status, were identified as instrumental to *power over* in the enactment of violence during conflict. Continuums of context-specific and thereby fluctuating sources and sites of power provide conceptual and material basis for the connections between forms of violence across space and time. For example: pre-conflict and enduring across all temporal phases of conflict are gendered inequalities that per the concepts of continuums, are causal to and determine the gendered positioning of women relative to normative and shifting forms of harm; during conflict, on top of this normative basis, new sources of power are attained by some actors (e.g. access to guns, or the ability through armed group affiliation to over-ride existing norms of sexual access to and ownership of women); after conflict, power shifts again, determined by efforts to reassert power over to enact violence (e.g. violence within the home by returning men). The conditions for conflict-related violence are set in place prior to a conflict occurring, and, on this basis, gradients of emerging forms of power, and resulting violence appear during conflict and after. There are multiple shifts within and between different categories of men as they navigate predominant positions relative to women, with some men becoming the rule-formers for gendered violence over other men (as was seen in the Liberian context) in different phases. After conflict, the sources and sites of power shift once again. The power-holders may formally change, yet the power derived from the conflict may be held on to as long as possible by those not willing to relinquish such power over others. An equilibrium of male power over women is once again found as endemic forms of violence, some influenced by conflict conditions, reinstate an accepted norm.

Attention to shifts in where power is derived reveals where, how, and why violence appears in connected and mutated ways in each phase. This analysis points to the concept of power in gendered violence as not just about unequal power relations between men and women, but also about the basis of power relations on a broader scale. *Power to* enact certain forms of violence (e.g. domestic to public sexualized violence) will shift among men (those who have access to power-enhancing conflict resources versus those who do not, i.e. ordinary men), among women (those who have access to power-enhancing resources versus those who do not), and between men and women (either with or without access to specific resources). Forms of violence and the power to enact violence must be understood as relative to contextual factors. These include gender relations, but also other identity factors (e.g. power of ethnicity during a conflict), wider legal, socio-economic, socio-cultural, and political conditions, as well as emerging factors, such as combatant status or access to arms. Practical connections in forms of violence and in their material and conceptual basis are evident across the aggregated framework.

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Distinctions

An aggregated assessment also demonstrates that there are distinctive forms of egregious violence taking place specific to the during conflict phase that require recognition. For example: mass public rape, the use of implements during rape and the cooption of women into actual rather than symbolic acts of cannibalism in Liberia; sexual slavery in Liberia and Timor-Leste; strip-searching, isolated sectarian rape, and paramilitary use of domestic and sexual violence in Northern Ireland. Arguably, these forms of harm are mutated forms of earlier or existing harms and "connected" to pre-conflict harm, both practically (in terms of the act of violence) and conceptually (in terms of their basis in gender norms). However, an assessment of conflict-time violence must acknowledge that: 1) the *mutation* in the actual violent act means that the violence may appear different for onlookers and those experiencing it (sexualized assault pre-conflict becomes broadly collective and appears in public); 2) the actual experience of the harm during conflict may be different from its earlier iteration pre-conflict because of its newly non-normative positioning during conflict or the ways that it is forced or enacted by different actors (e.g. violence by combatants and not by known actors); and 3) its function and character may be different for the agents of the violence (e.g. the use of violence to provoke terror among wide populations rather just in the household). Some acts of conflict-time violence thereby may be *experienced as distinctive* for those subject to, as well as enacting the violence. This empirical and experiential aspect of harm requires recognition in the ways that we propose to understand conflict-related violence.

This assessment prompts a critical reconsideration of whether the idea of continuums captures not just the constancy and connective strands in the violence across women's lives, but also the divergent aspects of power and violence, and women's understanding of that violence, that are evident when mapped in disaggregated ways across pre-, during-, and post-conflict temporal phases. As argued by Margaret Urban Walker, the continuum idea may not create enough visibility for the distinctly egregious violences that women are targeted for during conflict and the distinctive ways these may be experienced by women.[194] Even if the pre-conflict normative order is one in which women experience oppression, discrimination, and violence, it is also an order from which women derive meaning and around which they construct their lives.[195] That which is tolerated becomes acceptable, and thereby normative. If violence in the home by one's husband is the normative order (regardless of whether that is acceptable or not to the women in question), then the public and mass rape characteristic of conflicts cannot be normative, as this is not expected or understood in the same way and ultimately represents something else.[196] Some forms of harm, such as FGM/C, are predictable and are perceived as functional, even making women more acceptable to her society; whereas the mass

[194] Urban Walker, "Gender and Violence in Focus," p. 31. [195] Ibid., p. 30. [196] Ibid., p. 30.

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public rape by strangers during conflict acts to create the opposite effect.[197] In settings such as Timor-Leste and Liberia, this non-normative violence creates stigma, and women are shunned for the violence they experienced. The violences women experience during conflict "are often not normal or normative from the victim's point of view."[198]

As I have experienced and noted in Chapter 1, displaced communities in Darfur expressed outrage and demanded a response to the rape and violation of women and girls by armed parties to the conflict. Yet, there was little outrage expressed, particularly by the same men, at the ongoing domestic and sexualized violence for which they were responsible in their own homes and communities. A comparable anomaly was observed in the Northern Ireland conflict, in which women loudly protested against the violence to which their male family members were subjected by the British army during the 1970s, yet these women did not adopt the same stance in relation to the violence their male partners were using against them in their own homes.[199] Similar attitudes were found in Haitian society where responses to violence against women were found by one author to vary according to context. Attacks of a political nature were remonstrated while "ordinary attacks by ordinary citizens [we]re not."[200]

I come back to the question of how "mundane" forms of violence that women ordinarily experience may or may not be associated with violence that is considered extraordinary and innovative in warfare. There are evidently innovations to violence during warfare. The violence of warfare may be experienced differently even where practically it reflects similar forms of pre-existing violence. It may be that *how* this violence takes place in conflict matters. Endemic gendered violence takes place in a particular manner, such as domestic violence, which relies for its success on its location in private spaces enacted by known actors, which in turn endows it with a significance "considered normal, [and] presumptively not harmful,"[201] contributing to its efficacy and its acceptance, longevity, and enduring place in our global cultures. Similarly, there are features to conflict-related violence that contribute to its very specific purpose, power, function, and enduring and historic place in armed conflicts. During a conflict, incidents of sexualized violence may increase and peak, and take place in intensive and new ways, collective to one site or sites. It occurs within a specific temporal period (rather than measured over categories of life cycles per the statistics of ordinary gendered violence); takes place in ways that are

[197] Ibid., p. 30. [198] Ibid., p. 30.

[199] Monica McWilliams, "Women in Northern Ireland: An Overview," in *Culture and Politics in Northern Ireland 1960–1990*, ed. Eamonn Hughes (Milton Keyes Philadelphia: Open University Press, 1991), p. 84.

[200] Nadine Puechguirbal, Wiza Loutis, and Natalie Man, "Haiti: The Gendered Pattern of Small-Arms Violence Against Women," in *Sexed Pistols: The Gendered Impacts of Small Arms and Light Weapons*, ed. Vanessa Farr, Henri Myrttinen, and Albrecht Schnabel (Tokyo, New York, Paris: United Nations University Press, 2009), p. 121, citing Danielle Magloire.

[201] Susan J. Levitt, "Rethinking Harm: A Feminist Essay."

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deliberately public (outside the home); and in ways that display the ferociousness of the violence and of the agents of that violence to the onlookers (armed actors and power over civilians). The intensity of attack on women is made apparent and made visible.

Concurrent Connections and Distinctions in Ambulant Gendered Violence Across Pre-, During-, and Post-Conflict Contexts

The evidence generated here illuminates the volume and variation in violence that women will experience across peace and conflict spaces. The disaggregated and aggregated assessment of violence across pre-, during-, and post-conflict temporal phases prompts two critical observations: First, the empirics of women's experiences of violence demonstrate that CRVAW can be theoretically and empirically understood as wholly linked to pre-conflict norms and a structural order that regulates and enables particular forms of gendered violence. CRVAW is connected through the ways that it both practically manifests and in how it is conceptually and materially tied to the pre-existing normative order of gendered violence. Second, the empirics of women's experiences of violence demonstrate that women may in fact draw distinctions between the normative violence that they expect in their systemic gendered roles, and violence that they do not perceive as normatively appropriate, such as that which occurs in conflict or that which extends beyond acceptable thresholds. Such violence may occur in ways and on a basis that violates normative constraints on tolerated gendered violence, such as on the basis of intersectional identity characteristics (e.g. strategic rape due to ethnic identity) or because of opportunity for "in-between" violence by strangers.

A comprehensive way to understand conflict-time violence is to draw together the idea of connections in violence with the idea of distinctions in violence. Rather than an either/or scenario, wherein conflict-time violence is either similar to what went before, or solely exceptional, innovative, and distinctive; CRVAW can be understood as simultaneously rooted in and reflective of normative gendered harm, and at the same time, on the basis of and because of the way that it is normatively framed and experienced, manifest in ways that may be distinctive for women. The framework of pre-, during-, and post-conflict violence evidences the disaggregated ways that violence against women occurs within all temporal phases in response to differing contextual factors. On an aggregated basis, a connective thread is apparent, which is women's subjectivity to gendered violence and, as noted in earlier chapters, the predominance of certain types of harms, such as sexualized violence in conflict. This analysis evidences an understanding of violence itself as a pliant phenomenon, responsive to context. Violence mutates in form and function across context and temporal phase, and in response to the connective thread of prevailing and fluctuating norms (gender and others). Violence has the ability to fluctuate, mutate in form, appear, and disappear across time and in response to specific contexts and contextual

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factors. A comprehensive understanding of CRVAW would recognize it as being *ambulant* in nature. Ambulant violence derives from its normative basis, which provides it with a starting point pre-conflict, from which it mutates, fluctuates, and shifts across temporal phases, changing in response to context, actors, and its perceived utility and efficacy. Violence moves from place to place, shifting and mutating based on its connections to prevailing conditions and in response to new conditions. Understanding violence as ambulant captures the changing sites and sources of violence, its rootedness in contextual factors, including gender, and creates space for the recognition of both the connective and distinctive forms and aspects of how violence is experienced. In this way, shifting sites and sources of power could be identified and correlated with factors that influence violence and with the fluctuating, context-specific violences outlined in Chapters 3 and 4. It is on the basis of *continuums of power* that violence becomes ambulant and can shift and move in this way. That there are shifting sources and sites of power among men, among women, and between men and women will tell us where to expect violence to appear and offer some clues as to the way in which it might appear.

CONCLUSION

The pre-, during-, and post-conflict framework illuminates both a disaggregated and an aggregated picture of violence against women, revealing descriptive, experiential, and analytical aspects of violence. By no means perfect or the solution to theoretical or evidentiary gaps, this approach enabled the identification of commonalities and contrasts in the ways that violence occurs across the three different temporal phases. The idea of violence as ambulant presents a broader paradigm in which to capture a wider landscape of the sources, sites, and manifestations of violence. It may present space for women to speak about a wider range of heretofore seldom heard or untold harms across a wider range of contexts. What such an understanding holds for the potential for redress and accountability, and the prevention of future gendered harm within and outside of conflict, is assessed in the final chapters.

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6

Seeing Violence in the Aftermath: What's Labeling Got to Do with It?

To observe at all is to bestow meaning of some kind on the thing observed; to gather peculiar pieces of evidence is to seek those relevant to some conceived notion of their utility.[1]

INTRODUCTION

In post-conflict Liberia and Timor-Leste, pictorial messaging campaigns against violence against women are visible in expected and unexpected ways throughout the cities and countryside. On roadsides and roundabouts, from well-equipped city offices to remote and resource-poor rural locations, one is regularly confronted by large vivid posters depicting rape scenes (Monrovia) and sketched images of domestic violence (Dili). In both contexts, the state's recent adoption of legislation regulating rape (Liberia) and domestic violence (Timor-Leste) is visible through these portrayals, as well as being a distinct message in itself. In Northern Ireland, these issues are largely confined to pamphlets in doctors' offices and posters in women's centers or in women's bathrooms in bars, although there are increasingly visible billboard posters addressing intimate partner abuse. The abundant messaging, particularly in Timor-Leste and Liberia, portrays a post-conflict society that appears to be experiencing a "crisis" of violence against its female population. Both countries are depicted as grappling with increasing levels of violence that appear almost out of control. In Timor-Leste, domestic violence has been described as "drastic,"[2] and, in Liberia, the sexual violence of the conflict is said to be "haunting" the post-conflict period.[3]

The previous chapters of this book have all focused on the presence, type, and qualities of violence against women, expanding understanding of the experiential and empirical reality of violence and its relationship across pre-, during-, and post-conflict settings. While this was the aspect of violence I originally set out to research,

[1] Peter D. McDonald and Michael F. Suarez (eds.), *Making Meaning: "Printers of the Mind" and Other Essays of D. F McKenzie* (Amherst, Boston: University of Massachusetts Press, 2002), p. 16.

[2] Susan Harris Rimmer, *Gender and Transitional Justice: The Women of East Timor* (London and New York: Routledge, 2010), p. 135.

[3] Stephen Lewis, "Peace is a Mere Illusion When Rape Continues. Remarks Delivered at the Wilton Park Conference: Women Targeted or Affected by Armed Conflict: What Role for Military Peacekeepers?" (2008). Retrieved September 10, 2008, from www.pambazuka.org/en/category/comment/50445.

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the public discourse I just described became impossible to ignore during my empirical work. I repeatedly observed a very specific composition that the concept of gendered violence was presumed to occupy in the post-conflict context. Implicit in its ubiquitous visibility and representation in public messaging was the belief that its prevalence was specifically due to the dynamics of the foregoing conflict and its fallout. A discourse circulated, identifying a type and pervasiveness of violence that was "new," was of a threshold far beyond what was acceptable or had previously existed, and was increasing as a result of the conflict.

All of this may have been true and, is, of course, a plausible dynamic in any context. Except that, when I looked for documentary evidence or studies that substantiated this reality, as I will demonstrate in this chapter, there were none to be found. Questioning interview respondents on these dynamics only led to more questions, rather than answers. Numerous scholars have pointed to the ways in which violence against women endures after conflict has ended.[4] This has been an important issue for feminist scholars to make visible. The enduring pervasiveness of violence in women's lives has been made visible by feminist scholars and was evidenced in earlier sections of this book. Gendered harms do not disappear as conflict ends but rather remain a critical concern for post-conflict transition.[5] As demonstrated through the pre-, during-, and post-conflict mapping of violence in the previous chapter, gendered violence is ever-present.

Up to this point, this book has emphasized the variant pervasiveness of gendered violence globally across multiple conflict and non-conflict contexts. There is a growing body of scholarship that makes similar claims to those I heard in my case study sites, however: that violence is particularly prevalent in the post-conflict environment. I re-engage with this body of work (some of which is cited in Chapter 2) to contextualize why I devote this chapter to the dynamic of post-conflict violence *parlance* rather than to the violence itself. Numerous scholars reference an increase in violence after conflict. As discussed in Chapter 2, there are small-scale studies and multiple media reports that discuss how returning combatants are violent in the home. Yet, in many cases, it is not clear whether these are men who are ordinarily violent and happen to have returned to the place in which they ordinarily commit this violence, or whether this is a new behavior brought on by the experiences of warfare and therefore represents an actual increase. As cited in Chapter 2, a study found that women in Sierra Leone and Liberia did not perceive their returning husband's violence toward them as stemming from the war because such violence had been present in their homes even before the war. They did

[4] For example see: Tracy Fitzsimmons, The Postconflict Postscript: Gender and Policing in Peace Operations, in *Gender, Conflict and Peacekeeping*, edited by Dyan Mazurana, Angela Raven-Roberts, and Jane Parpart (USA, Rowman & Littlefield Publishers, 2005), p. 185.

[5] Sheila Meintjes, Anu Pillay, and Meredeth Turshen (eds.), *The Aftermath: Women in Post-Conflict Transformation* (New York, Zed Books Ltd., 2001).

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however note the more prevalent use of violence and aggression as means to attain resources and power.[6]

There are, of course, documented cases of returning soldiers being more violent than before.[7] The ingredients of trauma, relational triggers, and performance of hyper-masculinities are all concrete contributory factors. There is no doubt that violence can become a means to express frustration or to cope, and evidence shows that the deployment of soldiers may contribute to family stress in terms of separation, isolation, and fears due to exposure of family members to danger.[8] The potential for this dynamic can, and will, vary. In some of the literature a presumptive link has been drawn between war experiences and use of violence in the home, however.[9] On deeper scrutiny, many of these are theoretical rather than empirically based arguments, and assumptions reinforced by scholars citing one another,[10] and often it is not clear what kinds of violence in what spaces are assumed to have increased.[11] There are also concerns in the literature about changes in the intensity of violence, with some limited evidence that returning male combatants use their guns in domestic violence upon return.[12] Yet, small arms also feature in domestic violence in contexts where arms are ordinarily available even where there is no armed conflict.[13] These examples, and those identified in Chapter 2, paint a very complex picture of violence dynamics after conflict. To truly understand the correlations between

[6] Rebecca Horn, Eve S. Puffer, Elisabeth Roesch, and Heidi Lehmann, "Women's perceptions of effects of war on intimate partner violence and gender roles in two post-conflict West African Countries: consequences and unexpected opportunities." *Conflict and Health* 8 (12) (2014), pp. 1–13, 6–7.

[7] Fitzsimmons, "The Postconflict Postscript: Gender and Policing in Peace Operations."

[8] James E. McCarroll et al., "Deployment and the probability of spousal violence by US Army soldiers." *Military Medicine* 165 (2000), pp. 41–44.

[9] Elizabeth Nelson, "Victims of War: The First World War, Returning Soldiers, and Understandings of Domestic Violence in Australia." *Journal of Women's History* 19(4) (2007), pp. 83–106.

[10] Sheila Meintjes, Anu Pillay, and Meredeth Turshen, *The Aftermath: Women in Post-Conflict Transformation;* Carolyn Nordstrom. *Girls and Warzones: Troubling Questions* (Sweden: Life & Peace Institute, 1997); Margaret Urban Walker, "Gender and Violence in Focus: A Background for Gender Justice in Reparations." In *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations*. Edited by Ruth Rubio-Marín (New York: Cambridge University Press, International Centre for Transitional Justice, 2009). For an overview of additional such "common sense assumptions," see Doris Buss, "Seeing Sexual Violence in Conflict and Post-Conflict Societies: The Limits of Visibility." In *Sexual Violence in Conflict and Post-Conflict Societies: International Agendas and African Contexts*, edited by J. L. Doris Buss, Blair Rutherford, Donna Sharkey, and Obijiofor Aginam (New York, London: Routledge, 2014), p. 15.

[11] See, for example: Fitzsimmons, "The Postconflict Postscript: Gender and Policing in Peace," p. 185; Bett Goldblatt and Sheila Meintjes, *Gender and the Truth and Reconciliation Commission: A Submission to the Truth and Reconciliation Commission* (South Africa: University of the Witwatersrand, 1996). Meintjes et al., *The Aftermath: Women in Post-Conflict Transformation*. Nordstrom, *Girls and Warzones*.

[12] United Nations Secretary-General, Women, Peace and Security (New York: United Nations, 2002), p. 15.

[13] In countries with high rates of violence related to arms, the percentage of women killed with arms is higher; in the United States, for example, access to weapons increases the risk of homicide in cases of domestic violence by five times: J. C. Campbell et al., "Risk Factors For Femicide in Abusive Relationships: Results From A Multi-Site Case Control Study," *American Journal of Public Health* 93(7) (2003).

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past and present violence, and the possibility of increases in that violence after conflict, requires a nuanced contextually specific assessment.

As noted in Chapter 2, the difference between *prevalence rates* and *reporting rates* is widely acknowledged as a critical distinction when researching violence against women. In general, the literature does not specify what is meant by "increases" in violence post-conflict, and often does not make clear the distinction between increased violence and increased reporting. This body of work does not always make explicit the temporal periods being compared. In other words, it is unclear whether the perceived or observed increases in violence after conflict arise in comparison with levels of violence that took place during the preceding armed conflict; or in comparison to the period of "peace" before the conflict; or indeed whether comparisons are being made between ordinary violence and conflict-related extraordinary political violence, or to the in-between conflict-influenced violence identified in this book. More importantly, it is unclear what increases in violence may mean to women who are experiencing this violence – is it the prevalence, the form, or the intensity (or all of these) of violence that increases?

Inevitably, at least on a micro scale, there are incidents and patterns of violence that emerge post-conflict – this book has already identified the ability of violence to mutate across time and in response to contextual factors. It has also documented the kinds of violence that might appear in the medium- to longer-term post-conflict environments, connected to and distinctive from conflict dynamics. In all, however, there appears to be little robust empirical evidence of qualitative or quantitative comparison that demonstrates changes or relationships between rates of gendered violence in any temporal period that precedes a "post-conflict" moment. This calls into question whether there can truly be an estimation that there are universal "increases" of violence after conflict.

It became clear during my empirical work that the way that gendered violence was being perceived and framed post-conflict was contributing to a "common good," a collectively agreed-upon and almost, at that point, "customary" assumption about that violence, which was influencing understanding and responses to it. This in turn appeared to directly determine what interview respondents considered their knowledge of that violence to be and consequently influenced how they framed their answers to my questions. I have had to directly consider what that might mean for my findings. Can a researcher take at face value that violence is increasing because respondents say it is? I include this specific chapter with the aim of drawing normative perceptions of violence into my analysis. I do so to evidence the ways in which *perceptions* and *normative framing* of violence influence our understanding of it, and in turn, can impact how we attempt to address it through post-conflict transition. This chapter also contributes to an emerging debate on the question of increases in gendered violence post-conflict. This chapter does not set out to measure the prevalence of violence before and after conflict, either quantitatively or qualitatively. As noted earlier, that data is not available, and that was not the purpose of this book. Rather, this chapter focuses on the post-conflict context as a

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distinctive moment for examining violence against women and contributes to the coming discussion on transition and justice in the next two chapters. It examines two under-researched issues: the relevance of *perceptions of violence* and of *reporting trends of violence* to how post-conflict gendered violence is understood.

The first section of this chapter presents a picture of violence against women after conflict in each case study based on available data and my interviews. The second section discusses the relationship between the prevalence and reporting of violence and proposes that a process of legal, social, and political labeling of violence occurs after conflict. The opportunities and constraints associated with the labeling process and labeling theory itself are then examined in the concluding section. Timor-Leste serves as the lead case study in this chapter.

UNDERSTANDING THE PICTURE OF VIOLENCE AFTER CONFLICT

In this section, I present an overview of the "statistical picture" of domestic and sexualized violence at the time of research in each country.[14] This is followed by an analytical account of the "discourse picture" in each site and how interview respondents viewed the relationship between the prevalence of violence and reporting trends. I then outline a set of analytical observations based on these two sets of data.

(i) The Statistical Picture

The sources and types of data on violence against women available across the three settings are not consistent. Nor is there clarity on what forms of violence are specifically counted within broader categories of harm. Comparative analysis across the three sites therefore cannot be made. Rather, the data is set out here to provide a snapshot of the ways that violence has been recorded and the resulting statistical picture on prevalence of reported violence since the end of the conflict in each site (where available, more recent statistics have been added since the empirical research was conducted to bring the picture up to date). Comparison can then be made between this data and observations made by respondents on post-conflict violence.

The Liberian conflict is estimated to have "ended" in 2003. The data becomes available four to five years post-2003, a period that could represent the move from an immediate-to-longer term aftermath period. A 2007 Liberia DHS found that 29 percent of women experienced physical violence in the twelve months prior to the study; this varied in frequency and was perpetrated by people known to women – husbands/partners, mothers/stepmothers, and fathers/stepfathers.[15] It found that

[14] Statistics on domestic violence and rape were chosen for the purposes of discussion as they were the only forms of violence consistently reported across the statistical sources gathered for this research from each country.

[15] Liberia Institute of Statistics and Geo-Information Services (LISGIS) [Liberia], Ministry of Health and Social Welfare [Liberia], National AIDS Control Program [Liberia], and Macro International

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among women who have ever experienced sexual violence, 32 percent were by current or former intimate partners (8 percent was by police or soldiers, and the study makes a link between those incidents and the period of the conflict).[16] Forty-eight percent of respondents to the study said that their husbands insist on knowing their whereabouts at all times,[17] while 49 percent have experienced some form of physical (35 percent), sexual (11 percent), and/or emotional violence (36 percent) within their intimate relationships with men.[18] Of those women who have experienced physical or sexual violence in their relationships, 94 percent had experienced it in the last 12 months, while 95 percent had experienced emotional violence in that period.[19] At the time of my research in 2010, three clinics on the outskirts of Monrovia run by Doctors without Borders (MSF)[20] received a combined total of 775 reports of sexual abuse in 2008 and 810 reports in 2009. The majority of those reporting abuse were female, and, of those, the largest age group was between 12 and 17 years old (outliers of 1 to 50 years). Up to 80 percent of those reporting were minors who experienced abuse mainly by people known to them and which involved penile rape.[21] A 2010 survey in Liberia found that most perpetrators of sexual and domestic violence were known to those reporting.[22] Data retrieved from the Liberia National Police (LNP) began at 2009 and recorded three categories of rape in that year – 162 individual rapes, 16 gang rapes, and 159 statutory rapes.[23] In 2012, the LNP received 369 reports of rape.[24] There were no specific

Inc. *Liberia Demographic and Health Survey 2007* (Monrovia: Liberia Institute of Statistics and Geo-Information Services (LISGIS) and Macro International Inc., 2008), p. 227.

16 Ibid., p. 230. 17 Ibid., p. 231.

18 Estelle Zinsstag, *Violence Against Women in Armed Conflicts and Restorative Justice: An Exploratory Analysis*. Paper presented at the In Feminism and Legal Theory Project "Conflict and Transitional Justice: Feminist Approaches," Emroy University, September 19–20 (2008), p. 232.

19 Liberia Institute of Statistics and Geo-Information Services (LISGIS) et al. *Liberia Demographic and Health Survey 2007*, p. 239.

20 The acronym is based on the organization's original French name, Médecins Sans Frontières.

21 Interview B_8; MSF (2009). Médecins Sans Frontières *2008 Sexual Violence Figures*, Médecins Sans Frontières (Belguim in Liberia, MSF 2010); Médecins Sans Frontières, *2009 Sexual Violence Figures* (Médecins Sans Frontières – Belguim in Liberia, 2010).

22 Small Arms Survey. Peace Without Security: Violence Against Women and Girls in Liberia, Issue Brief No. 3. Geneva: Small Arms Survey, 2012.

23 Government of Liberia, Monthly Crime Statistics Update for the Year 2009. Monrovia, Liberia National Police (2010). The Liberian Government's Rape Amendment Act "Sex and Related Offences Law" (2006) was promulgated on January 17, 2006. It amends the Penal Code of June 1976, Chapter 14, Sections 14.70 and 14.71: Ministry of Foreign Affairs, Liberia. *An Act to Amend the New Penal Code, Chapter 14, Sections 14.70 and 14.71 and to Provide for Gang Rape*. Monrovia, Ministry of Foreign Affairs, Approved December 29, 2005, promulgated January 17, 2006. A United Nations submission to the Universal Periodic Review for Liberia notes that: "Sections 14.70 and 14.71 of the Penal Law relating to rape (rape law) were amended and inter alia expand the definition for the offense of rape, outlaw gang rape, establish stringent penalties for rape of minors or gang-rape." United Nations Country Team Liberia, *Universal Periodic Review of Liberia: Joint Submission by the UN Country Team (UNCT) in Liberia for the UN Compilation Report; 9th Session of the UPR Working Group* (Monrovia: November 1–2, 2010), p. 2.

24 Government of the United States, Country Reports on Human Rights Practices 2012 – Liberia (USA: US Department of State, 2012), p. 16.

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statistics on domestic violence as a category by the LNP at the time of my data collection (2010). The Ministry of Gender and Development (now the Ministry of Gender, Children and Social Protection) analyzed statistics from a range of sources for November 2009–January 2010, revealing that rape was the most frequently reported form of violence, followed by domestic violence.[25] In 2011, the Ministry collected data regarding 2,383 reported incidents of sexualized violence, and, for 2012, 1,687 reported incidents of sexualized violence.[26] The 2013 Liberia National DHS found that 43 percent of women agreed there were justifiable reasons for a man to beat his wife.[27]

The first available data on violence against women in Northern Ireland are statistical records for domestic violence beginning 1996: two years after the first significant cease-fires between conflict parties, and two years before the 1998 Belfast/Good Friday Agreement that ended hostilities and that currently stands. In 1996, domestic incidents[28] involving the police stood at 6,727, climbing to 14,429 in 1998[29] – a doubling of recorded incidents between these dates. From 2004 onward, the Police Service of Northern Ireland (PSNI) adopted a new reporting system, noteworthy for how this may affect comparison over time, plus indicative of attention to data collection post-conflict. For 2003–4, there were 16,926 incidents recorded; for 2009–10 there were 24,482 recorded incidents;[30] for 2010–11, 22,685 reports; and 27,628 reports for 2013–14.[31] Crimes with a domestic motivation constituted up to 28 percent of the overall category of violence

[25] Government of Liberia. *January 2010 Report of Gender Based Violence Unit* (Monrovia: Ministry of Gender and Development, 2010). These statistics are taken from consolidated reports of governmental and non-governmental service providers dealing with violence against women.

[26] Global Network of Women Peacebuilders, *Women Count – UN Security Council Resolution: Civil Society Monitoring Report, Global Network of Women Peacebuilders* (New York: Global Network of Women Peacebuilders, 2013), p. 85.

[27] Government of the Republic of Liberia, Liberia Demographic and Health Survey (DHS) (Liberia Institute of Statistics and Geo-Information Services, 2013).

[28] "Domestic incidents" or "domestic violence" in Northern Ireland is primarily addressed by the following act: *The Family Homes and Domestic Violence (Northern Ireland) Order 1998, No. 1071 (N.I. 6)*, April 22, 1998. It is also regulated through Section 32 of: "Police (Northern Ireland) Act, (2000)"; Section 75 of the Northern Ireland Act (1998); and The European Convention on Human Rights (European Court of Human Rights, Council of Europe, November 4, 1950). See generally, for more: Northern Ireland Policing Board, *Thematic Inquiry on Domestic Abuse* (Northern Ireland Policing Board Human Rights and Professional Standards Committee, Belfast, 2009). It has been noted that within the UK there have been "very few cases taken under s.6 of the Human Rights Act 1998 that involved domestic violence" – proposed by the following author as being the result of "restrictive test of standing" within the Human Rights Act. Ronagh McQuigg, "The Victim Test Under the Human Rights Act 1998 and its Implication for Domestic Violence Cases." *European Human Rights Review* 3(2011), pp. 294–303.

[29] "Women's Aid Federation, Police Statistics." Retrieved April 18, 2011, from www.womensaidni.org/statistics/PoliceStatistics.htm.

[30] Police Service of Northern Ireland. *PSNI Annual Statistical Report: Domestic Abuse Incidents and Crimes* (April 1, 2009–March 31, 2010), (Belfast: Police Service Northern Ireland); Police Service Northern Ireland, *Domestic Abuse Incidents and Crimes (2004–2005)*, (Belfast: Police Service of Northern Ireland).

[31] Police Service of Northern Ireland, Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2013/14 (Belfast: Police Service of Northern Ireland, Northern Ireland Statistics and Research Agency, July 3, 2014).

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against persons from 2013 to 2014.[32] Calls managed by the Women's Aid domestic violence helpline increased from 3,678 in the 1995–96 reporting period to 29,402 in the 2009–10 period;[33] 38,296 for the 2010–11 period;[34] and up to 55,029 for 2013–14 period.[35] The only available published report from the Rape Crisis Centre, which was established during the period of the conflict, indicates rising numbers of calls to the center: from 566 in 1994 to 851 in 2004.[36] The PSNI statistics show 252 recorded reports of rape in 2001–2.[37] From 2010 onwards (following revision to statistical collection as a result of new legislation), recorded rape offenses rose from 533 in 2010/11 to 737 in 2014/15.[38]

The first available data on violence against women in Timor-Leste came three years after the referendum on independence. A study in 2002 found that 51 percent of women surveyed had felt unsafe in their relationship with their husband in the last 12 months.[39] Violence by perpetrators outside the family had decreased. During the 1999 political crisis 24.2 percent had experienced physical violence by a non-family member, compared to 5.8 percent post the crises, a decline of 75.9 percent. Sexual violence of this kind had also decreased by 57.1 percent.[40] A 2003 national DHS omitted questions on domestic violence on the request of the advisory committee, a missed opportunity for collecting specific data at that point in time.[41] A 2010 DHS found that women aged 25–29 experienced the highest rates of physical violence, at 39 percent, and 3 percent of women have experienced sexual violence.[42] At the time of the empirical work, reliable

[32] Ibid.

[33] Women's Aid Federation, Reach Out, Speak Out: Women's Aid Federation Northern Ireland Annual Report 2009–2010. (Belfast, Women's Aid Federation Northern Ireland, 2010), p. 27; Women's Aid Federation Northern Ireland Annual Report 2008–2009 (Belfast: Women's Aid Federation Northern Ireland, 2009), p. 22.

[34] Women's Aid Federation Northern Ireland Annual Report 2010–2011 (Belfast, Women's Aid Federation Northern Ireland, 2011).

[35] Women's Aid Federation Northern Ireland Annual Report 2013–2014 (Belfast: Women's Aid Federation Northern Ireland, 2014).

[36] Rape Crisis Centre Northern Ireland (2005). Annual Report, p. 26.

[37] Police Service of Northern Ireland, *Police Recorded Crime in Northern Ireland 1998/99 to 2010/11* (Belfast, Police Service of Northern Ireland, June 30, 2011), p. 10. Also, Northern Ireland Office, A *Commentary on Northern Ireland Crime Statistics, 2003* (Belfast, Statistics and Research Branch, Northern Ireland Office, 2003), p. 9.

[38] Police Service of Northern Ireland, Trends in Police Recorded Crime in Northern Ireland 1998/99 to 2014/15 (August 6, 2015).

[39] International Rescue Committee, "A Determination of the Prevalence of Gender Based Violence Among Conflict-Affected Populations in East Timor, Report of the Pilot Study" (Dili: International Rescue Committee, 2002).

[40] Michelle Hynes, Jeanne Ward, Kathryn Robertson, and Chadd Crouse. "A Determination of the prevalence of gender-based violence Among conflict-affected populations in Timor Leste." *Disasters* 28(3) (2004), pp. 294–321, 305–6.

[41] Ministry of Health, National Statistics Office, Timor-Leste, and University of Newcastle, The Australian National University, ACIL Australia. *Timor-Leste 2003 Demographic and Health Survey* (Newcastle, Australia: University of Newcastle, 2004), p. 43.

[42] National Statistics Directorate [NSD, Timor-Leste], Ministry of Finance [Timor-Leste]; ICF Macro. *Timor-Leste Demographic and Health Survey 2009-10*. Dili, Timor-Leste: NSD [Timor-Leste], ICF Macro, December 2010, pp. 228–32.

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police statistics on violence against women in Timor-Leste prior to 2010 were considered non-existent. During my interviews, (international UN) police officers explained that in the early UN missions, international advisors to the Timorese police established different systems of data collection in accordance with their own national practices. As a result of the regular rotation of different national contingents, systems of data collection changed regularly. None of the tracked data from this early period are therefore reliable or comparable over time. This is a critical issue for the United Nations to consider in its future peacekeeping and political missions. A new approach was instituted just prior to the time of my research, initiated by a large Australian support program to the Policía Nacional de Timor-Leste (PNTL). Police statistics were available for the first six months of 2010, which recorded 117 reports of domestic violence[43] and 13 of rape.[44] Violence against women constituted about 40–50 percent of reported crime from 2009 to 2010.[45] Public data available on the PNTL website indicates that since that time, reports of rape have varied between 9 in 2011, 14 in 2012, and 9 in 2015.[46] PRADET, an NGO providing services to victims of abuse has seen an increase in reports of cases of domestic abuse, from 1 in 2002 to 114 in 2009, and increases in sexual assault from 4 in 2002 to 61 in 2009.[47] A study by the Asia Foundation found that 59 percent of ever-partnered women between the ages of 15 and 49 had experienced physical and/or sexual violence in relationships, while 47 percent had experienced one of these forms of violence by a partner in the previous 12 months.[48]

[43] Domestic violence has been specifically legislated for in Timor-Leste in 2010. Article 1 of the "Law Against Domestic Violence" defines domestic violence as "any act or a result of an act or acts committed in a family context, with or without cohabitation, by a family member against any other family member, where there exists influence, notably physical or economic, of one over another in the family relationship, or by a person against another with whom he or she has an intimate relationship, which results in or may result in harm or physical, sexual or psychological suffering, economic abuse, including threats such as acts of intimidation, insults, bodily assault, coercion, harassment, or deprivation of liberty." *Law Against Domestic Violence, Law no.7/2010*, Government of Timor-Leste (July 7, 2010).

[44] "Rape" is defined as an act by: "Any person who, by the means referred to in the previous article, practices vaginal, anal, or oral coitus with another person or forces the same to endure introduction of objects into the anus or vagina is punishable with 5 to 15 years imprisonment." Article 172; Article 173 sets out conditions of "Aggravation"; further related articles include "Sexual Exploitation" (Art. 174) and "Sexual Abuse" (Section IV). Rape is also included in Articles on "Crimes Against Humanity" and "Genocide", in Book II: (2009). Penal Code for Timor-Leste. *Decree Law no.19/2009*, Government of Timor-Leste. Sexual violence is captured under the "Law Against Domestic Violence" and defined thus: "Sexual violence is understood as any conduct that induces the person to witness, to maintain or participate in unwanted sexual relations, even within a marriage, through intimidation, threats, coercion or use of force, or which limits or nullifies the exercise of sexual and reproductive rights." Article 2 (b); (July 7, 2010). Law Against Domestic Violence. *Law no.7/2010*. Government of Timor-Leste.

[45] Field Notes_C_Policing Timor-Leste.

[46] Policía Nacional de Timor-Leste (November 2015). Estatístiku Krime Nasionál. See box titled "PNTL Nasionál – Krime Signifikante Hasoru Ema" for a five year comparison or reports of crimes categorized as "ofensa seksual" (sexual offenses).

[47] PRADET, 2002–2010 Statistics (Dili: PRADET, 2010).

[48] Asia Foundation, *Understanding Violence Against Women and Children in Timor-Leste: Findings from the Nabilan Baseline Study: Summary Report* (Dili: Timor-Leste, 2016).

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There are significant differences in the availability of reporting outlets across these contexts. As noted earlier, in Northern Ireland women in some areas may still approach paramilitary actors and restorative justice mechanisms for assistance, while customary justice mechanisms in Timor-Leste and Liberia are used by women in those contexts. While presenting multiple challenges, these are often preferred reporting outlets for many people.[49] Differences in the degree to which reporting of these incidents as crimes is culturally and socially accepted, and a lack of qualification for variables such as per capita population, make it difficult to compare data across these contexts. Nevertheless, it is critical to consider what might tentatively be observed from the statistics.

First, in the case of Northern Ireland, statistics are available toward the conclusion of armed violence, and, in the case of Liberia and Timor-Leste, sometime after the conflict has ended. The collection of distinct data on violence against women is a relatively new development for each site as the conflicts end. This trend does not differ greatly from other countries around the world that may or may not have experienced conflict. The United Nations has highlighted that statistical data on violence against women is only sporadically available worldwide, becoming increasingly available from the mid-1990s period.[50] Taken at face value, the numbers reported are higher for Northern Ireland than those for Liberia and Timor-Leste, contradicting the stereotypical perception that developing countries, or those that have experienced "African conflicts," are more violent. The numbers in Northern Ireland may, of course, represent better data-collection techniques, a more embedded culture of data collection and reporting, particularly in policing systems, and greater availability of resources for reporting and recording than in the other two sites.

Second, all sites demonstrate increases in the volume of violence reported to service providers over time. The statistics represent a marked increase in representation of violence from the earliest to the most recent statistics. Respondents noted that increasing confidence in newly established services and improvements to these services may account for increased reporting – perhaps reflective of the reforms that

[49] Fidelma Ashe, "Gendering Demilitarisation and Justice in Northern Ireland," *The British Journal of Politics and International Relations*, 17 (2015), pp. 665–80; Aisling Swaine, *Traditional Justice and Gender Based Violence in Timor-Leste* (Dili: The International Rescue Committee, 2003); Annika Kovar and Andrew Harrington. *Breaking the Cycle of Domestic Violence in Timor-Leste: Access to Justice Options, Barriers and Decision Making Processes in the Context of Legal Pluralism* (Dili: United Nations Development Programme, 2013); Sharon Abramowitz and Mary H. Moran, "International Human Rights, Gender-Based Violence, and Local Discourses of Abuse in Postconflict Liberia: A Problem of 'Culture'?," *African Studies Review*, 55, 2 (2012), pp. 119–46; Shai André Divon and Morten Bøås, "Negotiating justice: legal pluralism and gender-based violence in Liberia," *Third World Quarterly*, 38, 6 (2017), pp. 1381–98.

[50] United Nations, *The World's Women 2005: Progress in Statistics* (New York: Department of Economic and Social Affairs of the United Nations, 2006), p. viii; United Nations, The World's Women 2010: Trends and Statistics (New York: Department of Economic and Social Affairs of the United Nations, 2010), pp. 129–30.

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take place during post-conflict transitions.[51] There is also evidence that there have been improvements in statistics collection that may offer stronger data.[52] Furthermore, there are factors specific to each context that may influence the statistics. In Northern Ireland one respondent noted that,

> I was looking at PSNI stats for example and there was a massive increase in reported incidents in West Belfast and so your gut instinct is "wow, is there something happening in West Belfast" and then you've got to sit back in Northern Ireland and think is it maybe just that that community is gaining confidence in the police in that area . . . you've got to weigh all of these things.[53]

West Belfast, a predominantly Nationalist/Republican area of the city, was largely disengaged from the formal criminal justice system during the conflict, and the reporting of crime to policing structures for the duration of the conflict was minimal (see more in Chapters 3 and 4).[54] Under the peace process, and as a result of initiatives taken by political representatives of Nationalist/Republican communities, political relations between these communities and the PSNI were reinstated in 2007.[55] Significant efforts were made to improve police relations with these communities, and of course, with the end of the conflict, the police had more time and resources to spend on issues such as domestic violence.[56] A 2007 study on crime-reporting trends in Northern Ireland found that the greatest increase in crime reporting came from Nationalist/Catholic areas.[57] This study also found that the increase in recorded crime – in this case for the 2005–6 period – was due to an increase in *reporting* of crime rather than an increase in crime itself.[58] Significantly, the study found that changes may have occurred in people's experiences of crime, prompting more reporting.[59] The critical question remains whether the increased numbers of reports of violence represent increased violence or increased reporting. One author, for example, cites the MSF statistics in Liberia as indicating increases in

[51] Interview A_4, Interview A_14. [52] Interview A_16. [53] Interview A_4.

[54] The reasons for this were: (1) members of the Nationalist/Republican community failed to recognize the legitimacy of the Royal Ulster Constabulary (RUC), and (2) in Republican communities local communities were subject to paramilitary intimidation and threats that prevented them from accessing the formal policing structures. Jonny Byrne and Lisa Monaghan, *Policing Loyalist and Republican Communities: Understanding Key Issues for Local Communities and the PSNI* (Belfast, Institute for Conflict Research, 2008), p. 20.

[55] Ibid., p. 29.

[56] Neil Jarman, "From War to Peace? Changing Patterns of Violence in Northern Ireland, 1990–2003," *Terrorism and Political Violence*, 16, 3 (2004), pp. 420—38.

[57] Northern Ireland Policing Board, *Research into Recent Crime Trends in Northern Ireland* (Belfast: Northern Ireland Policing Board, 2007), p. 5.

[58] Ibid., p. 5. The report predicted increased reporting for the following years as confidence and use of policing grows in Catholic areas and that "less serious" crimes would now be more likely to be reported, which is presumed by this author to be a result of the absence of political crime associated with the conflict and speaks to the problems associated with hierarchies of violence already identified in this research.

[59] Ibid., p. 5.

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violence following the Liberian conflict,[60] whereas in my discussions with MSF staff, they offered alternative explanations, which I will discuss later in this chapter.

Third, the data shows that there are differences in the forms of violence that predominate in the statistics of each country. In Northern Ireland and Timor-Leste, the highest frequency of reported gendered violence is domestic violence. For Liberia, the highest is rape. Of course, relying on the statistical data that is available may only provide a sketch of violence rather than a full picture. It remains unclear if, in Liberia, sexual abuse is a more common form of violence than other forms of domestic violence or whether this trend is indicative of data collection itself; or indeed as a result of public service strategies focused on and that encourage reporting of *sexual* harms, particularly when there is an absence of statistics available for domestic violence rates in Liberia.

(ii) The Discourse Picture

In this section, I explore the relevance of the lexicon employed by professionals to discuss violence against women and the ways in which contagion of language and framing can paint its own picture of violence. There was an uncertainty evident among interview respondents when they described the picture of post-conflict violence they were seeing through their work. When asked to describe current gendered violence in the post-conflict era, interview respondents in all three sites[61] more often than not described how violence against women had increased after the conflict.[62] This prompted me to ask further questions about what they meant, to be clear on whether they were referencing an increased prevalence of violence itself or an increased reporting of violence, or both. Extracts from interviews demonstrate that, in each of the three contexts there exists confusion or at least conflation between these two issues, and ambiguity over the way that violence is depicted. In Timor-Leste, this excerpt from a conversation with two respondents is demonstrative of discussions with many respondents there:

RESPONDENT 1:	I think violence has increased . . .
AUTHOR:	The violence?
RESPONDENT 1:	Yes. . .
RESPONDENT 2:	Violence has increased, women are speaking out . . .
RESPONDENT 1:	Because they are now beginning to know about and understand it.

[60] Aili Mari Tripp, "Legislating Gender-Based Violence in Post-Conflict Africa." *Journal of Peacebuilding and Development* 5(3) (2010), pp. 7–20.

[61] The respondents referred to in this section are largely service providers involved in service provision to victims/survivors of violence who may or may not be involved in collecting data relevant to their work.

[62] If they did not raise the issue unprompted a question on this issue was asked.

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RESPONDENT 2: People have access to information ... there are people that give support, family or friends give support to her to speak out, if they receive this support it is easier to speak out. But, people who do not learn about this issue and do not receive support, they are silent.[63]

It is apparent that while violence is described as being on the rise, the explanation for this increase is due to increased reporting by women. A similar pattern emerged in an interview in Liberia:

RESPONDENT: I think the violence after war is more than before war ... even though it happened before the war, but after the war it was more than before.
AUTHOR: Really? In what way, in number or in the type of violence?
RESPONDENT: In numbers. Because all the violence that is going on now was going on before but as I say just had not reported it ... See, at that time they had no way of reporting because there was no way that someone will sit and listen to the problem and be able to give them redress or take legal action. But now that a woman can come and complain we have to go through or put it through the process of law, they are coming in with reports, that is the only difference.
AUTHOR: That's the only difference?
RESPONDENT: Yes ...
AUTHOR: So, then just to clarify, do you think that reporting has increased or actual violence has increased?
RESPONDENT: Reporting has increased because we have somebody to carry the report, yeah.[64]

The confusion over what is meant by speaking about *increased violence* versus *increased reporting* is obvious here. So too is the conflation of these the two issues in these contexts, inadvertently or otherwise. This was also evidenced by a number of interview respondents in Liberia, such as one who noted that "violence is still on the increase, because before people were not used to reporting, but people are reporting the rape cases now."[65]

In Northern Ireland, the lack of clarity between increased violence and increased reporting was also raised:

RESPONDENT: Well, there is an increase in domestic violence, but, you know, what can we put that down to? Was there an increase in these areas that now can come forward, is it about partners [social

[63] Interview C_19. [64] Interview B_14. [65] Interview B_12.

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services] coming out . . . is it because we have a better service, is it because we have a better police service who are not, who are very much in a coordinated inter-agency approach, it's hard to put . . . but there is an increase in domestic violence.

INTERVIEWER: Do you think there is an increase in prevalence as opposed to an increase in reporting?

RESPONDENT: I think there's both. I think the problems that we have were always there, I just think there is reporting, there's media, there's everything else, you know . . . I think you just didn't have reporting, you didn't have the mechanisms . . . I don't think it's any more dangerous I just think that it's all being talked about now . . . I think there is an increase in reporting.[66]

Respondents also differed in the timeframes they were comparing. Some referenced increases when comparing violence that occurred before and after the conflict; others compared the post-conflict violence with what happened during the conflict, noting that some of the egregious abuses that women experienced during the conflict were not being reported now, indicating changes between during-conflict and post-conflict forms of violence.[67] Lack of clarity over whether the debate in their country referred to increased violence or increased reporting was also evident. While most respondents could ultimately easily distinguish between the two, they continued to use a lexicon that portrays a picture of *increasing violence*. One interview respondent in Liberia commented on the confusion about what the term "increases" meant:

> I think what people are actually saying is . . . that reporting of violence against women has increased and so while the issue of violence against women is still there, it is still high, but compared to before the war years, and even during the war years, it has dropped. What is happening now is that it is being reported more.[68]

Some clarity was also evident in the views of police officers in Liberia and Timor-Leste who were interviewed for this research. These respondents felt that there are increasing numbers of people coming forward to report violence as a result of awareness-raising campaigns.[69] In the context of overall crime trends, international/UN police officers in Timor-Leste noted that they did not see and did not expect to see gendered violence increase, and, as a result, it would be untrue to say that violence was increasing.[70] International/UN police officers in Timor-Leste also felt that the reported crime rates per capita were not very high when compared to Europe, and that, overall, Timor-Leste had

[66] Interview A_2. [67] Interview B_2. [68] Interview B_16.
[69] Interview B_14; Field Notes_C_Policing Timor-Leste. [70] Field Notes_C_Policing Timor-Leste.

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low crime levels.[71] Even when factors such as the lack of infrastructure and communications facilities are taken into account, Timor-Leste has far fewer recorded incidents of abuse in comparison to Northern Ireland, a region with a similar-sized population.[72] The police officers did note, however, that every "serious case" in Timor-Leste becomes escalated in the public eye through high-profile reporting in the media and the involvement of a multitude of agencies who want to be seen to be taking action. As a result, it can appear as if there is a high level of serious cases of violence in the country.[73] A study on violence against women in Timor-Leste in 2005 noted that international organizations often used a statistic – that domestic violence constituted 45–50 percent of all reports to police[74] – to "otherize" the violence in Timor-Leste as being extreme, without realizing that similar trends exist in other (including Western) countries.[75]

From all of these examples, a discourse is observable that circulates and perpetuates a story of increasing and alarming levels of violence against women. Any incident of violence is alarming. However, the difference between what violence is thought to look like and the actual prevalence of violence requires further consideration for the purposes of theory, policy, and practice. It is striking that, in each site, many respondents referred to an almost inherent or assumed link between the violence women experienced after conflict and the violence to which women were subject during the conflict, but they were not clear about what the connection may or may not be. There was also some lack of clarity in the difference between reporting and violence rates. Service providers described violence as increasing, conflating increases in violence and increases in reporting without deliberately differentiating between the two, but they seemed, for the most part, to understand the difference when questioned. If there is increased reporting of violence, yet the discourse in each site says that there is increased violence, why is this so? What are the factors that could influence more reporting? What are the factors that may prompt the perception of increased violence? And what might that imply for how violence against women is understood and addressed through transition? These are the questions I grapple with in the next section.

[71] Field Notes_C_Policing Timor-Leste.

[72] The population of Northern Ireland in 2009 was estimated at 1.789 million (taken from Northern Ireland Statistics and Research Agency: www.nisra.gov.uk/publications/default.asp10.htm, accessed April 29, 2011); Highlights of the 2010 census in Timor-Leste estimated the population at 1,066,409: 2010: Government of the Democratic Republic of Timor-Leste, Highlights of the 2010 *Census Main Results in Timor-Leste* (Dili, Ministry of Finance, United Nations Population Fund, 2010).

[73] Field Notes_C_Policing Timor-Leste.

[74] UNIFEM, Gender Profile of the Conflict in Timor-Leste, United Nations Development Fund for Women (UNIFEM, 2005), p. 7.

[75] UNFPA, Gender-Based Violence in Timor-Leste: A Case Study, United Nations Population Fund (UNFPA, 2005).

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THE RELATIONSHIP BETWEEN THE PREVALENCE OF VIOLENCE, REPORTING, AND THE LABELING VIOLENCE IN POST-CONFLICT CONTEXTS

Worldwide, violence against women is primarily understood to be a normative aspect of human society and behavior – not something that "happens," but just a "way of the world."[76] It is so pervasive that we don't see how it colors women's daily lives – in the ways that women routinely plan their route home at night, in the ways that they portend to dress, in the ways that they unconsciously plan to be safe in their relationships. When there is an attempt to upend this understanding, a critical part of the process is to name it as something else, something that is not acceptable, so that it can become categorized as such. "In order to be able to speak about something one must be able to name and define it."[77] Here I first explore the significance of changes to how violence is named and understood after the conflicts in Liberia, Northern Ireland, and Timor-Leste, prompting a "labeling" process post-conflict. This is then followed by a consideration of the relationship between labeling, reporting, and estimates of prevalence of gendered violence.

Labeling Post-Conflict Gendered Violence

Law is a primary site of naming and re-categorization. Law and its related policy processes inform and work as a discourse to name and determine political and social understandings of violence. Socio-political processes, such as successive government priorities, also play a role and over time will undulate in whether and how the oppression of women is deemed sufficiently political for legal action.[78] Issues such as violence against women are therefore subject to legal, political, and socio-cultural definitions that will inevitably determine what the experience of violence may, in official terms, mean for women in different social contexts. There is a debate within research circles on how to define violence against women and the impacts of definitions on both the understanding of that violence and the reporting of it.[79] There is often a normative as well as a practical gap between victim/survivors' association of actual harms and those categorized by law and policy as violence, crime, and violation. This is reinforced by social norm processes that normalize

[76] Urban Walker, "Gender and Violence in Focus: A Background for Gender Justice in Reparations," p. 27.

[77] Liz Kelly and Jill Radford, "'Nothing Really Happened': The Invalidation of Women's Experiences of Sexual Violence." In *Women, Violence and Male Power: Feminist Activism, Research and Practice*. Edited by Marianne Hester, Liz Kelly, and Jill Radford (Buckingham and Philadelphia, Open University Press, 1996), p. 20.

[78] Charlotte Bunch, "Transforming Human Rights from a Feminist Perspective." In *Women's Rights, Human Rights: International Feminist Perspectives*, edited by Julie Peters and Andrea Wolper (New York: Routledge, 1995), p. 14; Alice Edwards, *Violence Against Women Under International Human Rights Law* (New York: Cambridge University Press, 2011), p. 66.

[79] United Nations Security Council Resolution 1820, S/RES/1820 (2008).

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gendered violence, blame victims/survivors, and uphold the idea of "serious" versus non-serious harm. In the aforementioned debate, there is a consensus that "unless women clearly label hurtful behaviors as 'criminal' in their minds, they tend not to report them on a survey of criminal behavior."[80] How violence is defined legally, politically, and socially will determine how it is understood, and, ultimately, whether and how women come to understand their experience of it in respect to reporting it themselves.

As an overarching legal discourse, international law and politics have, in recent times, facilitated a reinterpretation of gendered violence along these lines. Chapter 2 described how defining this violence as a "gender-based" abuse in the 1990s marked a turning point through which the violence women experience became redefined and legitimized within international rights frameworks.[81] Recognition of the sexualized violence that took place during the Balkan wars, the subsequent statutes developed for the ad hoc UN-sponsored international criminal tribunals (ICTY and ICTR) and the permanent ICC, and the subsequent jurisprudence, all have been key in determining that these constitute international war crimes, crimes against humanity, and genocide.[82] The repositioning of women's sexual abuse in conflict as a crisis in need of urgent attention over the last decade has resulted in an explosion of international normative legal and policy responses.[83] The UN Security Council's WPS resolutions have come to frame an international response now employed by multiple international organizations.[84] International law has played a significant role in the development of an international and collective discourse that has labeled violence against women in a particular way. The adoption of the term "gender-based violence" (GBV) within humanitarian and

[80] Walter S. DeKeseredy and Martin D. Schwartz (2011). "Theoretical and Definitional Issues in Violence Against Women." In *Sourcebook on Violence Against Women*. Edited by Claire M. Renzetti, Jeffrey L. Edleson, and Raquel Kennedy (Bergen: Sage, 2011), p. 4.

[81] See: United Nations General Assembly (December 20, 1993). Resolution 48/104, *Declaration on the Elimination of Violence Against Women* (DEVAW), United Nations General Assembly.

[82] Miranda Alison, "Wartime Sexual Violence: Women's Human Rights and Questions of Masculinity." *Review of International Studies* 33 (2007), pp. 75–90, 83; United Nations, "Rome Statute of the International Criminal Court," United Nations Treaty Series, vol. 2187, No. 38544 (United Nations, International Criminal Court, July 17, 1998); United Nations Security Council Resolution 827, Statute of the International Tribunal for the Former Yugoslavia, S/RES/827 (1994). United Nations Security Council Resolution 955, Statute of the International Tribunal for Rwanda, S/RES/955.

[83] Dianne Otto, "Remapping Crisis Through a Feminist Lens," *University of Melbourne Legal Studies Research Paper No. 527* (2011). Available at SSRN: http://ssrn.com/abstract=1762947, p. 22. These include the issuing of, to date, the five UN Security Council's resolutions on women's experiences of conflict and its associated violence noted in next footnote.

[84] United Nations Security Council Resolution 1325, S/RES/1325 (2000); United Nations Security Council Resolution 1820, S/RES/1820 (2008); United Nations Security Council Resolution 1889, S/RES/1889(2009); United Nations Security Council Resolution 1888, S/RES/1888 (2009); United Nations Security Council Resolution 1960, S/RES/1960 (2010); United Nations Security Council Resolution 2106, S/RES/2106 (2013); United Nations Security Council Resolution 2122, S/RES/2122 (2013); United Nations Security Council Resolution 2242, S/RES/2242 (2015).

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peacebuilding parlance and programming is particularly indicative of this. Acronyms "indicate solidification of knowledge about them, a stabilization of meaning,"[85] so that both national and international organizations increasingly employ a language and policy framework that applies specific meaning derived from this term.[86]

The effects of "justice norm cascades" have been explored by scholars interested in the impacts of international legal norms on domestic jurisdictions.[87] If "norms cascades are collections of norm-affirming events,"[88] then international legal and policy frameworks that now define and capture GBV have a role to play in how these issues are framed domestically. The inclusion or exclusion of language or of particular forms of harm, for example, within international treaties and soft law has a direct impact on what the post-conflict transition process comes to regard as the toolbox of international rights norms applicable domestically.[89] In a commentary on women's status in post-conflict Liberia, Veronica Fust noted that studies examining post-conflict contexts tend to omit the influence of international actors.[90] I concur and argue here that the evolution of normative frameworks on violence against women and their application to post-conflict settings by international and domestic actors is relevant to understanding the discourse as well as the perceived reality of post-conflict gendered violence.

In Timor-Leste and Liberia, for example, changes took place in the ways that violence was seen and understood after the conflict had ended. In Timor-Leste, this process was described as follows:

> When Timor gained its independence, the United Nations came and saw that there was violence that women were experiencing, outside of the violence associated with the conflict. The UN and international organizations began helping to address the problem of domestic violence, to prevent it. So, many campaigns appeared, and the women's movement and those who were human rights activists . . . everyone spoke about the need to address domestic violence.[91]

[85] Carol Harrington, *Politicisation of Sexual Violence: From Abolitionism to Peacekeeping*. Surrey (Burlington: Ashgate Publishing, 2010), p. 5.

[86] The term "gender based violence" is now evident in diverse a range of organizations at local grass roots levels. For example, in the range of organizations now members of the "GBV Prevention Network" based in Uganda (http://preventgbvafrica.org/member-directory/); and is evident as a central policy approach in international organizations and networks, for example in the Irish Joint Consortium on Gender Based Violence (www.gbv.ie).

[87] Ellen Lutz and Kathryn Sikkink, "The Justice Cascade: The Evolution and Impact of Foreign Human Rights Trials in Latin America." *Chicago Journal of International Law* 2 (2001), pp. 1–33; Kathryn Sikkink and Carrie Booth Walling (March 27, 2006). Errors about Trials: The Emergence and Impact of the Justice Cascade. *Princeton International Relations Faculty Colloquium*.

[88] Lutz and Sikkink, "The Justice Cascade," p. 4.

[89] For more on Liberia, see Aisling Swaine, "Practicing Women, Peace and Security in Post-Conflict Reconstruction." In *International Law and Post-Conflict Reconstruction Policy*, edited by Matthew Saul and James Sweeney (New York: Routledge, 2015).

[90] Veronika Fuest, "'This is the Time to Get in Front': Changing Roles and Opportunities for Women in Liberia." *African Affairs* 107(427) (2008), pp. 201–24, 218.

[91] Interview C_12.

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While a strong women's movement worked ardently on women's rights during the conflict in Timor-Leste,[92] the role that international organizations played thereafter is notable. Similarly, in Liberia, international humanitarian organizations arrived at refugee and IDP camps and "they brought in the terminology, even the child knows 'GBV,' 'GBV.'"[93] The international package of terminology and post-conflict programming brings with it the international normative rights framework. The contemporaneous "transnational relevance"[94] of human rights on a global level imparts a new lens through which attention to violence against women after conflict in both of these contexts may be viewed.

The "human rights framework does not displace other frameworks but adds a new dimension to the way individuals think about problems."[95] This new dimension introduced a new way of conceptualizing the violence experienced by women and became a key factor in prompting women to seek redress. In Timor-Leste, one service provider noted that,

> After the conflict, violence continued . . . but people did not speak out about it. After the establishment of women's organizations, after the appearance of human rights and organizations that worked on human rights and especially after women's organizations began socialization programs about women's rights, then many cases of violence began to appear and were brought to women's organizations, to the police.[96]

The "arrival" of "rights" in Timor-Leste meant that the current attention to violence against women is effectively viewed in comparison to a pre- and during-conflict period in which rights were not perceived to have existed:

> The big problem was that no-one knew what human rights were . . . I think it was only when Timor gained its independence that we realized that women had rights, that men had rights, that children had rights . . . Now, people always speak out "he committed violence, he did this. . ." I think there have been these changes.[97]

To state that people had no rights, in this context, means that the concept of individual rights was not a feature of the legal, social, cultural, and political paradigms in which violence was understood. It may be that prior to the arrival of a rights discourse, "there was no discourse available . . . within which women could have revealed their experiences while preserving their dignity."[98]

[92] Irene Cristalis and Catherine Scott, *Independent Women: The Story of Women's Activism in East Timor* (London: Catholic Institute for International Relations, 2005).

[93] Interview B_13.

[94] Paul Stenner, "Subjective Dimensions of Human Rights: What Do Ordinary People Understand by 'Human Rights'?" *The International Journal of Human Rights* 1 (2010), pp. 1–19, 1.

[95] Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago and London: University of Chicago Press, 2006), p. 180.

[96] Interview C_1. [97] Interview C_3.

[98] Ruth Seifert, "War and Rape: A Preliminary Analysis." In *The War Against Women in Bosni-Herzegovina*. Edited by A. Stiglmayer (Lincoln, London: University of Nebraska Press, 1994).

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The discourse on women's experience of violence in Northern Ireland during the conflict predominantly focused on ordinary domestic violence in the home. This focus may have emerged from the need for divergent women's activists to find common ground on a non-conflict specific issue, despite the competing nationalisms of the conflict.[99] Service providers in Northern Ireland framed domestic violence in line with the international Euro-American women's movement,[100] thereby void of "an acknowledgement of the conflict."[101] It also pre-dates the contemporary adoption of international frameworks dealing with GBV. The term GBV has not, therefore, taken hold in Northern Ireland (because international organizations have not brought it in),[102] but the introduction of new definitions is evident in other ways.

The issue of gendered violence "didn't really emerge because . . . of the massive attention on the ongoing political violence."[103] During the conflict, policing and health services were noted to be primarily focused on incidents and outcomes of the "political terrorism," while "domestic terrorism was seen as something that was kind of minor and could wait."[104] A change occurred after the conflict, however, where,

> resources had to be reoriented . . . they needed to revise intelligence and pieces of equipment for domestic violence which had been unheard of . . . So they reoriented themselves to a violence that was always there but people thought it was new violence because you had new equipment starting to deal with it and being able to record, photograph it and video it in a way that they just never would have used that stuff before.[105]

With the cessation of conflict, resources such as policing were readjusted and ordinary violence became subject to increased attention. In the absence of political conflict, "domestic violence is seen as their bread and butter work . . . and now they also have legislation that they can work by."[106] Domestic violence was captured under specific legislation in 1998, following the signing of the peace agreement and the end of the conflict.[107] Responding to domestic violence has become a policing priority within Northern Ireland and has become redefined and repositioned in police services within the hierarchy of violence. There is a utilitarian purpose underlying the shift in focus to domestic violence, as it helps ensure the police forces are funded and continue to exist. This shift is also an opportunity to enhance services and responses to domestic violence for women

[99] Assessment based on Interview A_12, Interview A_16, and Interview A_17.

[100] Interview A_16. This respondent felt that while the UN was not present in Northern Ireland, the EU was a big influence in terms of the progressive equality legislation emanating from Europe, third party involvement in the peace process and the provision of funding to women's movements under these. In this sense, she felt that Northern Ireland was not very different from Liberia or Timor-Leste.

[101] Interview A_12. [102] Interview A_16. [103] Interview A_17. [104] Interview A_16.

[105] Interview A_16. [106] Interview A_3.

[107] The Family Homes and Domestic Violence (Northern Ireland) Order 1998. *1998 No. 1071 (N.I. 6)* (April 22, 1998).

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and has opened up space for women to report abuse. As a result, there is increased visibility of sexualized violence as part of intimate partner/domestic violence in Northern Ireland. The new naming of sexualized violence was compared to the debate over whether there is increased violence or increased reporting, as "in recent years women have been more open about talking about their sexual violence and I think it's a bit like talking about the reporting – it's always been there and . . . women, disclose it more readily now."[108]

Some organizations in Northern Ireland have only recently begun to ask "the sexual violence question" when assessing women's experiences of violence in the home.[109] Asking the question means that answers are gathered. The act of naming sexualized violence and asking the question opens up space for women to speak about experiences of sexual assault within their domestic violence. This increased reporting does not necessarily signify a rising level of sexualized violence, just that the question is being asked and data is being gathered on those responses. It also affirms that the categories of "sexual" and "domestic" are not mutually exclusive, but rather are interrelated and interact.

Social and political changes also make a difference. For example, in Northern Ireland there are increasing numbers of elderly women reporting to shelter services who "in the past . . . would never have left relationships before."[110] Also, as noted in the previous chapter, community-level work in Northern Ireland has become the purview of male ex-paramilitary members. A new restorative justice program established in a Nationalist community at the time of the peace agreement was overwhelmed with reports of domestic violence and sexual abuse. The program provided an avenue for reporting that had not previously been there.[111]

In order for violent acts to become defined as a legal or rights issue, the rights concept itself needs to become part of "local legal consciousness."[112] The absorption of international standards of law and the cascade effect are most evident in the legal framing of violence and women's status that took place in all three settings. Timor-Leste ratified CEDAW four years after the end of its conflict,[113] and Liberia developed a National Action Plan for the implementation of UN Security Council Resolution 1325 (2000) six years after the end of its conflict.[114] Northern Ireland has gone through iterations of legislation on domestic violence, and the UK government reports to the UN human rights system on standards set out under its ratification of CEDAW. Law may be regarded as a

[108] Interview A_6. [109] Interview A_6. [110] Interview A_2. [111] Interview A_9.

[112] Engle Merry, *Human Rights and Gender Violence*, p. 179.

[113] Timor-Leste in fact ratified all seven human rights treaties in 2004, four years after the end of the conflict, two years after full independence. For details, see: Annemarie Devereux and Catherine Anderson (2007). "Reporting Under International Human Rights Treaties: Perspectives from Timor Leste's Experience of the Reformed Process." *Human Rights Law Review* 8(1): 69–104.

[114] Government of Liberia, *The Liberia National Action Plan for the Implementation of United Nations Resolution 1325* (Ministry of Gender and Development, 2008).

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"product of society ... responsive to political and cultural forces,"[115] and the need to bring about changes in law to accompany social change cannot be overemphasized.[116] In Timor-Leste, the new rights parlance brought in by international organizations stimulated much debate on the "problem" of domestic violence and the need to define it as a "public crime" under a specific domestic violence law.[117] The law on domestic violence was passed in 2010, preceded by significant consultation, awareness-raising, and education messaging accompanying the development of the law over a ten-year period.[118] In Liberia, the penal code was amended in 2006 to specifically criminalize rape and gang rape, which was advocated for by activists because of the prevalence of sexualized violence that the country had experienced during the conflict.[119] In Northern Ireland, once the conflict had ended, policing and health resources could be redirected toward "ordinary" crime, establishing a norm of understanding and response to this issue. In all settings, significant and specific frameworks and response services were put in place post-conflict. In Timor-Leste and Liberia, this also implied a new language of GBV – a phraseology that is both ubiquitously audible and visible in legal discourse, the everyday public lexicon, and the media.

As noted in Chapter 2, Aili Mari Tripp has documented a range of factors that "explains why countries coming out of conflict have been more attentive to GBV than non-post-conflict countries."[120] These include "changing international norms and practices,"[121] which affect the local. The "transnational growing concern" has, in turn, heightened attention to issues such as violence against women since the 1990s.[122] The post-conflict transition is a window of opportunity for political, legal, and social change to take place. Tripp has documented that, by 2010, eleven out of thirteen post-conflict countries had adopted legislation on violence against women, significantly changing the understanding of this violence and the availability of response services and reporting outlets.[123]

[115] Martha Albertson Fineman, *The Neutered Mother, The Sexual Family and Other Twentieth Century Tragedies* (New York: Routledge, 1995), p. 25.

[116] Ibid., p. 17. [117] Based on the author's own experience with the process.

[118] Law Against Domestic Violence. *Law no.7/2010*. Government of Timor-Leste (July 7, 2010).

[119] Ministry of Foreign Affairs, Liberia. *An Act to Amend the New Penal Code, Chapter 14, Sections 14.70 and 14.71 and to Provide for Gang Rape*. Monrovia, Ministry of Foreign Affairs, Approved December 29, 2005, promulgated January 17, 2006. See the following information by the Association of Female Lawyers of Liberia who drafted and advocated for the law: Lois Bruthus, "Zero Tolerance for Liberian Rapists," *Forced Migration Review*, 27 (2007), p. 35.

[120] Tripp, "Legislating Gender-Based Violence in Post-Conflict Africa," p. 13. [121] Ibid., p. 13.

[122] Rashida Manjoo (April 23, 2010). Report of the Special Rapporteur on Violence Against Women, its Causes and Consequence, Rashida Manjoo, A/HRC/14/22, UN Human Rights Council, p. 10. See, for example: The Nairobi Declaration on Women's and Girls Right to a Remedy and Reparation (2007).

[123] Tripp, "Legislating Gender-Based Violence in Post-Conflict Africa," pp. 9–11.

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Knowing one's legal rights makes a difference in how violence is perceived and responded to. One interview respondent in Liberia noted that knowledge of rights leads to talking about where and when rights are violated:

> With the awareness that people are getting ... there is more people reporting because if people don't know their rights they will never talk about it ... But with the awareness that is going across, you see women coming up to complain ... women are going to the police to report ... So you see that there is an increase.[124]

Respondents to this research drew comparisons between the post-conflict context on the one hand, and the pre- and during-conflict contexts on the other, with regard to the ways in which violence against women was addressed and understood. Before the conflict in Timor-Leste, "[w]omen were silent. She could experience violence, but was not aware that it was something that she should be speaking out about."[125] In Liberia "before the war violence against women was not treated as such... it would not get reported."[126] Similarly, in Liberia, "because the awareness was not there they didn't really think it to be *harm*. But instead it was tradition. But now being that the awareness is there, they have seen instead that it was harm."[127]

"If one suppresses and silences [the experience of violence], it means that in a cultural context, women's experience and therefore women's subjectivity is being extinguished."[128] Bringing women's subjectivity to the fore through the distinct legal, political, and social reframing of violence redefines the meaning of this violence. It also introduces a new discourse in which it may be situated. In effect, in the contemporary post-conflict contexts examined in this study, the adoption and absorption of international legal norms, and the development of domestic law and policy, has led to a process of *labeling and/or relabeling* violence experienced by women.

Pausing to draw from my pre-, during-, and post-conflict framework of the previous chapter, we can see that violence is perceived and understood differently across each phase according to how it is labeled and defined. For all three sites, violence against women before conflict was not framed as "violence," a crime, or a rights violation. Rather, incidents and cycles of abuse that are now named as domestic violence were once a "natural" part of many marital relationships. During conflict, some forms of violence become labeled as "conflict-related" through international law regimes, and, if subject to international prosecution, may be defined as a war crime, crime against humanity, or genocide.[129] With the introduction of international norms in Liberia and Timor-Leste, and the increased opportunity for

[124] Interview B_13. [125] Interview C_17. [126] Interview B_16. [127] Interview B_13.
[128] Seifert, "War and Rape: A Preliminary Analysis," p. 66.
[129] For an overview of relevant judgments to this effect, see: United Nations, Review of The Sexual Violence Elements of the Judgments of the International Criminal Tribunal for the Former Yugoslavia, The International Criminal Tribunal for Rwanda, and The Special Court for Sierra Leone in the Light of Security Council Resolution 1820 (New York: United Nations Department of Peacekeeping Operations, 2010).

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regulation with the cessation of the conflict in Northern Ireland, gendered violence became repositioned as a rights and public policy issue of priority to public systems post-conflict.

Approaches taken to understanding gendered violence during and after conflict play a significant role in how that violence comes to be understood. These post-conflict contexts, specifically Liberia and Timor-Leste, experienced a rapid and prolific relabeling process. The conflicts in both of these contexts effectively cut these sites off from the international norms cascades of the 1990s, on account of the breakdown of the rule of law, the inability for normal services to function, and so on. For Northern Ireland, the Western European mantle on domestic violence was adopted but given little room to expand due to the ongoing conflict and political pressures on state services. Since the end of conflict in all three sites, not only has space opened up to address these issues, but in the cases of Liberia and Timor-Leste, a very large international presence meant that the push for, and adoption of these norms has been rapid. For Northern Ireland, space has opened up since the cessation of the war for private violence to become visible, and for that early labeling of violence to prompt enhanced data-collection techniques and response services. New forms of violence become visible and relevant to post-conflict discourses. An issue that was not defined socially and politically as violence prior to those conflicts has now suddenly been relabeled and redefined as such.

These developments have been significant in all three contexts. In Liberia and Timor-Leste, however, they have been accompanied by a "panic" as such, about the existing or perceived levels of violence against women. The intense visibility of the issue on posters and public service announcements in both these contexts reflects this dynamic and means that not only has violence been reconceptualized, but ordinary men and women are now being *told* that this violence is wrong.[130] This hyper-discourse and alarm may or may not reflect reality. Those working on the issue are redefining violence in accordance with international definitions; this is certainly what the data-collection services are trying to do. There appears to be little by way of acknowledgement of the gaps between the lexicon of increased violence and the perceptions of the data that shows growing numbers of reported violence; however this clearly represents a acknowledgment of the gap between the perception that violence is increasing and a reality that many service providers actually understand this to be increased reporting. It may be that the rhetoric of increased violence is what is required in order to secure an appropriate response from state service providers.

[130] For example, posters in Liberia depict cartoon images of women with conversation bubbles that say "*Don't touch ma body*" as a rebuke to the sexual advances of a male character; and another where a woman is depicted as saying "*My friend take your hands off me*"; Others depict graphic rape scenes with a red cross through them with the message not to commit rape. Timor-Leste has images of domestic violence and more Western stylized UN products which relay messages about reporting domestic violence.

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The rhetoric of "increased violence" is more effective in justifying the need for domestic legal responses and services and for attention to the issue by donors.

This rhetoric does not, and should not, detract from the experience of violence in and of itself prior to, and outside of, it being labeled a rights violation. I stress the need to acknowledge the pain experienced by victims/survivors that is always felt and identifiable, regardless of how the act of harm is officially framed or personally understood. The importance of labeling is that it helps to define an incident as "lying outside the normal."[131] It is simply that "human rights ideas . . . offer a radical break from the view that violence is natural and inevitable in intimate relations between men and women."[132] New labels, or a process of relabeling existing harms as something else, "provide social definitions, make visible what is invisible, define as unacceptable what was acceptable"[133] and make it possible to name, understand, and give voice to it. This process is about "getting women to realize that they have been through something that isn't normal, because a lot of them don't even realize."[134]

Labeling, Reporting, and Prevalence of Violence – What are the Linkages?

A process of labeling the harms experienced by women has taken place in the transition from during-conflict to post-conflict in each site. Labels matter. They inform how violence is seen and understood. Of interest to my analysis are the linkages drawn between this process of labeling violence, *the increased reporting* of violence, and claims of *increased prevalence* of violence by those determining the parlance of post-conflict gendered violence in each context. A range of factors that drive labeling are set out here to further explore the relevance of labeling to understanding post-conflict gendered violence.

First, there appears to be a connection between the forms of violence categorized as during-conflict violence and the violence that receives attention post-conflict. In all three sites, there is an assumption that the conflict's gendered violence has led to high levels of the same gendered violence post-conflict. In Liberia, for example, the current period's violence appears to be assessed solely through the lens of what is thought to have occurred during the conflict. The label attached to violence during conflict may carry over to inform how it becomes labeled post-conflict. The inordinate focus on sexualized violence during conflict that I previously noted may preclude a contextually informed determination of what constitutes the violence of concern post-conflict. Chapter 2 highlighted that mass rape in war is not a new phenomenon, but reporting and awareness of it is.[135] It has been noted that labels

[131] Liz Kelly, *Surviving Sexual Violence* (Minneapolis: University of Minnesota, 1998), p. 140.
[132] Engle Merry, *Human Rights and Gender Violence*, p. 180.
[133] Kelly, *Surviving Sexual Violence*, p. 139. [134] Interview A_1.
[135] Claudia Card, "Rape as a Weapon of War," *Hypatia* 11(4) (1996), pp. 5–18, 5.

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such as "rape" can become a "powerful political word" in sites such as post-genocide Rwanda, where this term and concept was "circulated actively and often graphically in newspaper reports, radio broadcasts and social debate."[136] In her work assessing the visibility of sexual violence in the Rwanda Tribunals, Doris Buss notes the "hyper-visibility" of sexual violence in these contexts.[137] This hyper-visibility may carry over and become applied to post-conflict violence as a result of the hyper-discourse about during-conflict violence.

While Liberia has as a result adopted laws against rape, there has not been equal attention and policy development with regard to domestic violence. The lack of attention to domestic violence as a result of the hyper-visibility of sexualized violence is a critical factor to consider. It reveals how the labeling process has the potential to obscure attention from one form of violence by focusing on another. In Liberia, the attention to sexual abuse has resulted in what may be an over-emphasis on rape, to the effect that women's organizations observe: "sometimes we look at rape, rape, rape and over-see the whole thing, we talked about rape, rape, rape but ... there is a lot of domestic violence that is going on but right now, the crime is rape."[138] The crime is indeed rape – Liberia passed a "rape law" that was developed largely in response to, and that is seen in the context of, the sexualized violence that women experienced during the conflict.[139] One NGO described how "over the period of our years of work here was mostly rape, people were not reporting domestic violence cases." However, when they developed specific tools and methodologies to work with communities on domestic violence, "we started to get more domestic violence cases than rape cases. So, the story changed around ... it was because of the tool that we were using."[140]

Service providers in Liberia described domestic violence as an urgent and pressing concern for women.[141] Recent research in Liberia has also found that "rape is almost certainly far less widespread than other forms of violence against women, such as domestic abuse, and that tackling rape is only the start of the battle for women's rights."[142] "The public nature of the violence against women during the war made it possible for many Liberians to begin to speak openly about it" – which may also mean that only this form of abuse gets public attention after conflict.[143] There is a sharp contrast between the hyper-focus on sexualized violence and the

[136] Chiseche Mibenge, "Gender and Ethnicity in Rwanda: On Legal Remedies for Victims of Wartime Sexual Violence." In *Gender, Violent Conflict and Development*, edited by Dubravaka Zarkov (New Delhi: Zubaan Books, 2008), at p. 147.

[137] Doris Buss, "Rethinking 'Rape as a Weapon of War'." *Feminist Legal Studies* 17 (2009), pp. 145–63, 153.

[138] Interview B_10. [139] Bruthus, "Zero Tolerance for Liberian Rapists." [140] Interview B_7.

[141] Interview B_18.

[142] Christopher Herwig, UNMIL: International Engagement in Addressing Violence Against Women (Action Aid, 2007), p. 5.

[143] Shana Swiss, Peggy J. Jennings, Gladys V. Aryee, Grace H. Brown, Ruth M. Jappah-Samukai, Mary S. Kamara, Rosanna D. H. Schaack, and Rojatu. S. Turay-Kanneh, "Violence Against Women During the Liberian Civil Conflict," *Journal of American Medical Association* 279(8) (1998), pp. 625–29, 626.

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adoption of specific legislation, and a lack of attention to broader forms of violence with correlated gaps in legislation and policy. As noted by violence researchers,

> if we limit our operational definitions of intimate male-to-female violence to the limited realm of criminal law and acts that people perceive to be covered there, then we will uncover relatively less intimate violence against women. If we use broader definitions of conflict and violence, the amount of violence uncovered is many times higher.[144]

The prevalence and serious nature of domestic violence in post-conflict Liberia may simply not be known, because it has not received the same amount of legislative response and public campaigning as has the issue of rape. Feminist scholarship has noted how law focuses on the public acts, often ignoring the private,[145] and risks essentializing women as sexual objects of sexual vulnerability.[146] There is little evidence that the law is responsive to the fluctuations in violence identified in the previous chapters, thereby missing a whole range of violence that women may identify after conflict.

Similarly, in Timor-Leste there was a strong response in terms of legislation, service provision, and awareness-raising on domestic violence compared to a lesser discourse on rape and sexualized violence. Domestic violence is, therefore, much more visible as a public criminal, policy, and social issue. In the Timor-Leste context, the Indonesian regime had left the territory and, as such, it was acceptable to think that the "conflict violence" was gone. Instead, focus shifted to violence in the home, which post-conflict reform processes have determined to be the critical gendered violence needing attention. Some women's organizations are, however, criticized for neglecting (what some would consider) a pressing need to campaign for accountability for the sexualized violence committed during the conflict. This violence is occluded in favor of the issue for which international donors are funding, i.e. domestic violence.[147] A discourse that links violence to conflict, or depicts increases in violence, serves a purpose and may be used to push for specific, self-interested policies.[148]

The absence of a discourse of "conflict" in any sense in Northern Ireland, or of CRVAW akin to that in Liberia and Timor-Leste, means that there was little identification of gendered conflict-related violence in the post-conflict context. The exclusion of women's experiences of gendered violence from the human rights rhetoric used by activists in their political campaigning on the conflict in Northern Ireland is also worth noting.[149] Domestic or other forms of violence in the

[144] DeKeseredy et al., "Theoretical and Definitional Issues in Violence Against Women," p. 5.
[145] Fionnuala Ní Aoláin, "Exploring a Feminist Theory of Harm in the Context of Conflicted and Post Conflict Societies." *Queen's Law Journal* 35(2009), pp. 219–44, 241–42.
[146] Ibid., pp. 240–41. [147] Interview C_15.
[148] Alison Brysk, "The Politics of Measurement: The Contested Count of the Disappeared in Argentina." *Human Rights Quarterly* 16(1994), pp. 676–92, 678.
[149] Following the passing of the 1998 Human Rights Act, the European convention on Human Rights was adopted into UK domestic law. Ronagh McQuigg notes that decisions by the European Court on

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post-conflict context has not been linked to the conflict at all by government actors, as evidenced by the absence of language on conflict-related gendered violence or the application of instruments such as Resolution 1325 (2000) within the government's policy and programming. The post-conflict discourse on violence against women remains locked into this paradigm so that the issue of ordinary domestic violence discussed during the conflict remains the predominant discourse after the conflict. It is only since 2010 that women's organizations have started to point a spotlight on the conflict's gendered harms. In 2015, an outside human rights organization began asking questions and researching whether sexualized violence, of the kind associated with conflicts worldwide, was actually a feature of the Northern Ireland conflict.[150]

Second, *the labeling of violence within data collection makes (certain forms of) violence visible*. Statistical data collection on violence either improved (Northern Ireland) or was created in the aftermath of conflict (Timor-Leste and Liberia). Measuring "something – or at least to claim to do so – is to announce its existence and signal its importance and policy relevance."[151] In Liberia, statistics on sexualized violence, but not domestic violence, are available through outlets such as policing. This impacts what comes to be known about gendered violence in the post-conflict context. In addition, the absence of data on gendered violence before the conflict must be considered. The lack of data on labeled forms of violence against women prior to each conflict means that, in the post-conflict era, the prevalence of violence holds no place in "cultural memory."[152] When any data on this issue becomes known after conflict, it will be assessed relative to what was known before. A discourse easily evolves in which current gendered violence is "new," is related to the conflict (because it was first named as a harm during the conflict), and is increasing (because we are hearing so much about it now).

Research in a similar vein by Geoffrey Dancy is instructive in this respect. He highlights that the increased reporting procedures under international treaty law have resulted in increased knowledge and data about the human rights record of those countries which are actively reporting under treaty requirements – rather than this data representing the "worst abuses" by these particular countries. Dancy's work finds that, after conflict, it "is not necessarily that abusive behavior becomes more entrenched, but that, as a result of developing international legal

Human Rights are relevant in considering that "Domestic violence is now clearly established as a human rights issue," and cites six cases in which the Court's judgments set out state parties' "positive obligations in this area." McQuigg, "The Victim Test Under the Human Rights Act 1998 and its Implication for Domestic Violence Cases." Also for reference: Human Rights Act (1998).

[150] Concept note for this study on file with author.

[151] Peter Andreas and Kelly. M. Greenhill, "Introduction: The Politics of Numbers." In *Sex, Drugs and Body Counts: The Politics of Numbers in Global Crime and Conflict*, edited by Peter Andreas and Kelly M. Greenhill (Ithaca, London: Cornell University Press, 2010), p. 1.

[152] Seifert, "War and Rape: A Preliminary Analysis," p. 69.

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processes, we come to know more."[153] Dancy underlines the need to "question the certainty with which data-inspired theory-building has proceeded."[154]

I echo this concern and propose that the ways in which current international discourses entrench perceived certainty about increases in post-conflict gendered violence needs further inquiry. A more in-depth and nuanced assessment of the complexities of violence needs to undertaken in respect to the influence that international normative developments have within transitional contexts. The social value attributed to the measurement of violence after conflict must be contextualized in relation to both the absence of pre-conflict statistics and the socio-political and legislative changes that have taken place within each setting after conflict. Data processes serve to label violence in very specific ways, which come to inform what is known about violence more generally.

Third, *the labeling of violence leads to increased reporting of violence*. "Changing opportunity structures" that present post-conflict enabled different approaches to addressing gendered harm.[155] These include the development of the rule of law and the aforementioned legislation and policy pertaining to gendered violence, response services, programs addressing violence, the availability of funding from international donors, and the impact of broader advocacy on women's rights. MSF in Liberia found that 40 percent of those who reported to their clinics in 2009 did so as a result of the organization's awareness-raising, and 35 percent came through police referral.[156] In 2010, 55 percent came forward through the organization's awareness-raising and 28 percent came through police referral.[157] Clearly, MSF's outreach efforts to advertise its sexual assault services in communities, including public service announcements and information-sharing to those attending clinics for regular health services, made a difference in the reporting of those kinds of incidents. Once again, it is important to note that a focus on one form of violence through awareness-raising campaigns may result in that form of violence being more readily reported over other forms. Awareness of the availability of services is noted elsewhere, such as in Haiti, to have influenced increased reporting of violence by women.[158] The establishment of services for women who experience violence helps women to think of themselves as having human rights. At the same time, the human rights discourse at the international level creates space for these services to exist within state processes.[159] As violence becomes labeled and understood as

[153] Geoff Dancy What, and How, Do We Know About International Human Rights Law? Research Note (2011: unpublished, copy with author), p. 3.
[154] Ibid., p. 40. [155] Tripp, "Legislating Gender-Based Violence in Post-Conflict Africa," p. 13.
[156] MSF (2010). 2009 Sexual Violence Figures Médecins Sans Frontières – Belguim in Liberia, p. 4.
[157] MSF (2009). 2008 Sexual Violence Figures Médecins Sans Frontières – Belguim in Liberia, p. 4.
[158] Nadine Puechguirbal, W. Loutis, and N. Man, Haiti: The Gendered Pattern of Small-Arms Violence Against Women. In *Sexed Pistols: The Gendered Impacts of Small Arms and Light Weapons*, edited by V. Farr, H. Myrttinen, and A. Schnabel (Tokyo, New York, Paris: United Nations University Press, 2009), p. 131.
[159] Engle Merry, *Human Rights and Gender Violence*, p. 218.

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something other than normative, the propensity to report violence and seek help increases (in this regard, there is the necessity to ensure that the creation of reporting and demand is met with sufficient service provision and those reporting are not exposed to danger or irresponsive services[160]). The provision of information and education on rights has been critical to ensuring that the labeling of violence is understood by all and reporting ensues. In Timor-Leste "[b]efore … there was limited information, they did not know their rights. But now, you see that there is information available through newspapers, through radio, through television."[161] This has meant that in Timor-Leste "now there are many people making many complaints. You can see month by month that domestic violence is high. The statistics are high and we did some promotion and socialization work to communities and you can see that they are coming forward."[162] In Liberia, "more women are reporting now than before. It's because of the awareness that we have … that violence against women is a crime, so women are coming out to report the cases."[163]

The act of labeling creates space for women to reassess their experience of violence and to act on it if they so desire. "Creating a context within which a woman feels she is able to report is a big thing."[164] Building awareness and a vocabulary around this issue helps to lift the sense of isolation some women feel in their experience of gendered abuses.[165] The impact of relabeling violence and creating a context in which women can report it has been seen to create change in attitudes and behaviors related to the tolerance of violence. Violence in the home is no longer being ignored by families and neighbors who are witnesses to it.[166] Even "children are walking to police station[s] … to the neighbours and reporting violence against women."[167] This means that in both Liberia and Timor-Leste, "the reportage of violence against women is extremely high now so it looks like violence against women is high, as opposed to before."[168]

Fourth, *context-specific interpretation of labels may influence what violence is reported and becomes visible*. In Liberia and Timor-Leste, the high and increasing number of reported incidents of sexual abuse of minors is notable. It became apparent during my empirical research that the socio-cultural context and how abuse is defined influences propensity for reporting. For example, for some individuals and communities, there is a tension between the perceived vulnerability of adult women versus that of young girls. This can mean that in terms of social understanding and acceptance, "rape is only against a child, a small child."[169] The rape of children is viewed as more "serious" than that of women,[170] and more child

[160] Aisling Swaine, "Effective Responses for Gender Based Violence," *Addressing GBV in Post-Conflict & Fragile States: A Case Study of Sierra Leone* (Dublin: Irish Joint Consortium on Gender Based Violence, 2011).

[161] Interview C_9. [162] Interview C_16. [163] Interview B_17. [164] Interview A_4.
[165] Interview A_4. [166] Interview B_6. [167] Interview B_16. [168] Interview B_16.
[169] Interview B_7.

[170] Peace A. Medie, "Fighting Gender-Based Violence: The Women's Movement and the Enforcement Of Rape Law In Liberia." *African Affairs*, 112 (2013), pp. 377–397, 381.

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abuse is thus being reported.[171] This belief, prevalent across many socio-cultural contexts, has been identified as a factor preventing women from reporting.[172] It appears to be the case that "people report children more, but it is really happening to the women too. The women too can be sexually abused, most of the women don't want to be stigmatized so they cannot report."[173]

Service providers in Liberia felt that not all women were reporting the abuses they experienced and that there was a greater tendency to report abuse of children, who were more quickly assumed to be "innocent" and to require intervention to counter longer-term physical and social harm.[174] A similar phenomenon has been noted in other places, such as in Haiti, where it is considered easier to report a case of violence against a young girl who will be perceived to be innocent, rather than that of an adult woman who will be blamed for the attack.[175] This evidence also underlines a fact which many feminist scholars have identified: that rape is the only crime in which the (adult) victim must prove her innocence.[176] Even in a context such as Liberia, where rape has been labeled within legal frameworks, it may be "merely one normative construct competing with other, equally valid, options ... and one of multiple discursive systems."[177]

As feminist scholars have also noted, labeling violence may be "only a first step in challenging existing ideas."[178] The notion of shame continues to influence how sexual abuse of both children and adults is dealt with. The "rape[s] of children are reported frequently because adults are ashamed to go."[179] In Liberia, there appears to be a distinct difference in the social value attributed to the sexual abuse of children compared to women. This is predicated on a child's assumed virginity, which discourages women from reporting their own experiences of abuse.[180] For adult women in Liberia, "rape" as a concept may simply not exist. Service providers explained that "people say: 'As old as you are, who would rape you, you already have four or five children, how can you say that you are raped, how is that possible?' So,

[171] Interview B_3. [172] Interview B_13. [173] Interview B_12. [174] Interviews B_8; B_10; B_11.

[175] Nadine Puechguirbal, Wiza Loutis, and Natalie Man, Haiti: The Gendered Pattern of Small-Arms Violence Against Women, p. 121. Jennifer Green has found that in the United States 90,863 sexual assaults were reported to police in 2001; however, 240,980 rapes were recorded in a crime victimization survey in the same year. She cites reasons such as embarrassment linked with the assault, the need to relive painful experiences, and guilt as reason why women may not report worldwide: Jennifer L. Green. "Uncovering Collective Rape: A Comparative Study of Political Sexual Violence." *International Journal of Sociology* 34(1) (2004), pp. 104–5.

[176] See, for example, a discussion on feminist engagement with the burden of proof and the defense of consent here: Katherine T. Bartlett, "Feminist Legal Methods," *Harvard Law Review* 103(4) (1990), pp. 829–88, 842.

[177] Albertson Fineman, *The Neutered Mother, The Sexual Family and Other Twentieth Century Tragedies*, p. 16.

[178] Jill Radford, Liz Kelly, and Marianne Hester, "Introduction." In *Women, Violence and Male Power: Feminist Activism, Research and Practice*, edited by Mariannce Hester, Liz Kelly, and Jill Radford (Buckingham, Philadelphia: Open University Press, 1996), p. 4.

[179] Interview B_18. [180] Interview B_3.

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people don't even believe the adult's story usually, they tend to be more sympathetic to child survivors than to adult survivors."[181]

Some respondents, however, felt that both the incidents of child abuse and the reporting had increased, even though there is still evidence of confusion between reporting and prevalence.[182] There are again context-specific nuances to consider. Respondents cited children's increased vulnerability because they are left home alone all day in shared accommodations while their parents are out trying to generate income;[183] the abuse of children by school teachers which was "very very common . . . in one of our counties we have over 25 girls pregnant by just school teachers";[184] and the ease in attaining children who "are less expensive, or . . . the children is the one that they can get easily to carry into their room and have them the way that they want to."[185] Documentation of child abuse demonstrates similar findings – that children are vulnerable to abuse everywhere, from their homes to schools to places of worship.[186]

Some interview respondents also noted the abuse of children as part of ritual violence in the post-conflict phase.[187] A 2011 study on the causality of gendered violence in post-conflict Liberia identified links between the targeting of children and ritualized practices noted in earlier parts of this book. Interview respondents in that study cited a belief that younger children's blood is pure and can bestow power and capital gain through ritual, prompting the rape of children.[188] Here we see recurring and connected causality of ritualized violence in the post-conflict context (see the appearance of ritualized violence during conflict in earlier chapters) that informed violence occurring before and during the conflict. What matters is whether the post-conflict dynamic is understood within the context of the wider practice of ritualized violence, or whether it is deemed to have a peculiar character because of Liberia's conflict history.

UNICEF has estimated that more than half of all rape reports in Liberia are of young girls,[189] and my interview respondents felt that at least 70 percent of the reports made to three clinics were regarding the abuse of children. There is no doubt that there are high levels of child abuse taking place in Liberia, and we must consider the longer-term effects of cycles of abuse, which have been documented as having specific intergenerational impact.[190] It is also clear that for a girl, "as she gets older, she is less likely to

[181] Interview B_3. [182] Interview B_1. [183] Interview B_17. [184] Interview B_17.
[185] Interview B_10.
[186] David Koch, Protecting Girls and Women from Sexual Violence in Post-War Liberia (Monrovia: UNICEF, 2008).
[187] Interview B_10.
[188] Government of the Republic of Liberia/United Nations Joint Programme on Sexual and Gender Based Violence, In-depth Study on Reasons for High Incidence of Sexual and Gender Based Violence in Liberia – Recommendations on Prevention and Response (UN, 2011), pp. 45–47.
[189] Stephen Lewis, "Peace is a Mere Illusion When Rape Continues. Remarks Delivered at the Wilton Park Conference: Women Targeted or Affected by Armed Conflict: What Role for Military Peacekeepers?" (2008) Retrieved September 10, 2008, from www.pambazuka.org/en/category/comment/50445.
[190] Katherine Pears and Deborah M. Capaldi, "Intergenerational transmission of abuse: a two-generational prospective study of an at-risk sample," *Child Abuse and Neglect* 25(11) (2001), pp. 1439–61.

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report."[191] The absence of a contextualized approach to assessing trends in reporting violence against children compared to women means that the picture of violence and the discourse inspiring it may be distorted.

Fifth, *the media plays a role in determining how and what violence, both during and after conflict, is labeled and made visible*. The issue of sexualized violence in conflict is now standard fare in media coverage[192] and is commonly known to the general public in ways that it never was before. The publicity this violence now receives may contribute to its increased visibility and its resulting recasting as a crisis.[193] The media may also begin reporting violence against women after conflict because it is now seen as a newsworthy story. One respondent in Northern Ireland described how during the conflict "you would never have seen a news report about domestic violence, it just wouldn't have happened."[194] While there may have been some references to this violence in the media, and certainly women's organizations drew attention to it, the lack of media attention will have relegated it in favor of the currency of the wider political violence. This may have enhanced the sense of isolation felt by women experiencing abuse and decreased their likelihood to take action.[195] After the peace agreement, however, one organization found that "for about five years non-stop we were doing at least one television interview a month, four or five radio interviews and one full-length documentary . . . it was almost like a saturation of it."[196] In the vacuum created by the conflict's end, the media space must be filled by another "crisis" or newly labeled critical issue. The aforementioned research report on crime trends in Northern Ireland notes that the media has taken a role in shaping the population's perception of crime rates and in creating a fear of crime disproportionate to actual levels.[197] The increased contemporary attention to the issue not only enables messaging to reach the public, but may also contribute to a further perception of the increased prevalence or relevance of the issue to a post-conflict society.

Finally, *conflict-time violence may appear in the rates of post-conflict violence, adding to prevalence rates*. At the time of my empirical research, service providers in Liberia found that women were reporting past, and not just immediate-interim, experiences of violence to health clinics. In Liberia, a clinic noted that, while they are few in number, women

> come to our service and it happened during the war . . . we ask them, how did you hear about us? So, most of them they say it's the awareness, so either the radio or we have a drama team also going all over Monrovia, even in our facilities talking about rape . . . So, lots of them they were in the clinic because they came for their children and then they heard about this and they followed the social worker afterwards. The

[191] Interview B_13. [192] Buss, "Rethinking 'Rape as a Weapon of War'," p. 146.
[193] Otto, "Remapping Crisis Through a Feminist Lens," p. 22. [194] Interview A_4.
[195] Interview A_4. [196] Interview A_4.
[197] Northern Ireland Policing Board, Research into Recent Crime Trends in Northern Ireland (Belfast: Northern Ireland Policing Board, 2007), p. 6.

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> social worker actually says, the message is "even if it happens during the war, come . . ." They can still cry, they can still feel it . . . still flashbacks and not easy to tell the story even after a period of time. And, they want to get treatment. Now, as a psychologist, I can hear this "I want to get a treatment" . . . it's em, it means that, I still consider this as a kind of sickness that I am still carrying and time didn't heal it and . . . "I need the treatment" . . . and we provide this, but I told you it is only prevention, the rest will only be talking about it.[198]

The labeling of this violence by service providers, and awareness-raising on this newly labeled harm called "sexual violence" by governmental and non-governmental actors and service providers, has encouraged people to reassess the violence they experienced in the past. This prompts an understanding and affirmation of that past event as a violent act and makes coming forward for support acceptable. Some women in Liberia who experienced abuse during the conflict were now, at the time of this research (seven years post the end of the conflict), coming forward for assistance. These numbers are included in the statistics of recorded violence against women *after conflict*. These reports, therefore, are contributing to the post-conflict rape statistics even though this was not a rape that occurred in the post-conflict context.[199] In addition, an interview respondent noted, "I think that space creates that reflection that allows that to happen. I do think that people are reporting more, I think that's true."[200]

Another potentially important factor to consider is the time that is required to reflect on and become ready to report an experience. This is underlined by the Timor-Leste experience. During my research, some women were at that time, ten years after the conflict's end, indicating a readiness to now speak about their experiences of sexualized violence during the conflict.[201] But it is too late for many women, as the truth commission has completed its work, and despite civil society campaigns, much doubt hangs over whether there will ever be criminal accountability for the abuses that occurred during the conflict.[202]

This is also the case in Northern Ireland (see Chapter 4). As evidenced earlier, ten years after the peace agreement, in 2009, a number of newspaper reports have emerged through the testimony of women on abuses by paramilitary members. In 2010, a service provider published one of the first public papers about sexualized abuse and the conflict.[203] Additionally, in Timor-Leste, the stories of women who were captured by the Japanese during World War II only began to emerge into public knowledge in the post-Indonesian period, when the issue of sexualized violence began to gain public traction as described. Time may be required for the issue of violence against women to become publicly acknowledged for fear of armed

[198] Interview B_8.
[199] This was clarified as being the case with the respondent in question.
[200] Interview B_8.
[201] Interview C_15.
[202] Interview C_15; A civil society campaign, "Timor-Leste National Alliance for an International Tribunal" continues to advocate for international criminal justice for the Indonesian atrocities.
[203] Andrea Murphy, An Argument for a Gender Focus in the Transitional Debate (Belfast: Relatives for Justice, 2010).

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actors to dissipate, and for trust to develop in both transitional justice processes and in reformed and new governance institutions after conflict. Time is required for the actual and perceived legitimacy of these structures to be established, after which people may feel ready to approach them with sensitive and personal issues. Time also may be required for women, particularly those who are now heads of household, to return from displacement, to re-establish their lives, to generate livelihoods and ensure that they and their children and wider families are receiving the basic practical survival necessities. The need to secure basic needs will trump the desire to seek strategic and rights-based accountability for abuses – time is required for lives to recalibrate and for women to generate readiness to speak about their experiences. A combination of time, and the embedding of appropriate labels and meaning to violence, alongside building availability of and trust in services are key factors in encouraging women to come forward and speak about both past and current abuses.

THE POWER OF LABELING

Where and how do women position themselves in relation to the new discourse and visibility of violence that results from labeling? A changing understanding of ordinary violence, of the harms that were not harms before conflict, will present new dynamics of power in individual and community relations. In her theory of "shifting subjectivities," Sally Engle Merry notes that when violence becomes "defined as a human rights violation, gendered violence becomes a crime against the state that the state must punish."[204] This redefinition of violence may mean that women reposition themselves in relation to the state rather than the family.[205] Taking action to report violence may challenge a prevailing social order, particularly in cultures where women are strongly defined within paternalistic paradigms. A confused understanding of the opportunities (and consequences) this new discourse offers may result, particularly as "[p]ossibilities are contained by the contexts in which they arise."[206]

For example, in Timor-Leste, women who have begun reporting violence as a result of the new domestic violence law have been dismayed when, as a result, husbands were prosecuted and they were "abandoned" by their husbands once they were released from prison.[207] Some women may understand reporting as a means to simply stop the violence, without a specific intent for formal punishment such as imprisonment. The act of reporting in this context may not represent a desire to end the relationships from which they attain, and must retain, a subjective and systemic positioning as a "married woman" and the secure socio-cultural status and

[204] Engle Merry, *Human Rights and Gender Violence*, p. 180. [205] Ibid., p. 184.
[206] Albertson Fineman, *The Neutered Mother, The Sexual Family and Other Twentieth Century Tragedies*, p. 14.
[207] Interview C_18 and observations from field work and author's experience in-country.

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socio-economic support that this importantly provides. In such contexts, a woman's decision to report is systemic rather than individualistic and contrasts sharply with universal notions of individual rights that underpin the new discourse labeling has brought about. The "liberal legal idea of the 'individual rights-bearer'... has been said to rest on an implicit notion of the physically *separate* ('autonomous') person,"[208] which, as a concept, may be completely at odds with local understandings of what violence is and how to deal with it. The difference between the potential of labeling and the way in which it is construed and adapted locally is significant. The power to label and the power to act on a new label represent a whole new dynamic within which "transnational cultural flows and their relationship to local cultural spaces must be further understood."[209]

In this respect, a number of feminist authors have questioned the transnational relevance of international norms.[210] It is often forgotten that the barrage of new labels and concepts confronts a pre-existing and comprehensive socio-cultural system that has its own way of understanding and dealing with these issues, even if those do not conform to international standards. The same dynamic is true for the interactions between international and domestic law. New international definitions, such as the broadened definition of rape that resulted from the ICTR *Akayesu* judgment,[211] or the idea that rape can exist in marriage (which is subject to controversial debate in Liberia),[212] may or may not be acceptable in domestic settings. In Timor-Leste, "[t]hese terms that people used created a lot of confusion... people understand "baku malu" (beating) ... they know these tetum words, but that legal terminology, they don't understand ... Only since we gained independence have we heard these different terms from the foreigners ... it creates confusion."[213]

The "new terms" are regarded as "UN terms," not Timorese terms. As described in the opening chapter, while I was conducting research in Timor-Leste in 2003, Timorese community leaders would describe how the United Nations had brought something called "domestic violence" to their country. In Liberia, men have been heard to say that "the white people bring their thing here ... we have been living our life before and now your people want to come to change our culture."[214]

[208] Joanne Conaghan, "Reassessing the Feminist Theoretical Project in Law." *Journal of Law and Society* 27(3) (2000), pp. 351–85, 36, citing Robin West, "The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory." In *At the Boundaries of Law: Feminism and Legal Theory*, edited by Martha Albertson Fineman and Nancy Sweet Thomadsen (New York: Routledge, 1991), p. 115.

[209] Engle Merry, *Human Rights and Gender Violence*, p. 19.

[210] Pamela Scully "Gender-Based Violence and Female Vulnerability: A Critical Reflection on Peacebuilding and Development in Post-Conflict Societies." *Journal of Peacebuilding and Society*: www.peacewomen.org/sites/default/files/hr-vaw_vulnerablewomenhrdiscoursesexualviolence_scully_2009_0.pdf; Engle Merry, *Human Rights and Gender Violence*; P. Scully, "Vulnerable Women: A Critical Reflection on Human Rights Discourse and Sexual Violence." *Emory International Law Review* 23(2009), pp. 113–24.

[211] Prosecutor V. Akayesu. *Case No. ICTR 96-4-T*, ICTR.

[212] Field Notes_Liberia (September 2, 1998). [213] Interview C_2. [214] Interview B_10.

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Internationals are blamed for changing women's behavior while there is little examination of men's own actions.[215]

South Africa had a similar experience. Research found that men felt that there had been overwhelming attention to issues of gendered equality since the end of apartheid and that, as a result, the transition had disproportionately benefited women, who now had substantially more rights than before.[216] It also found that *only some women* may have benefited from the state's new legislative and normative standards.[217] This becomes evident when rural and urban settings are comparatively examined in terms of reporting outlets, response services, access to education, and other newly available resources that influence the extent to which some women gain access to, and benefit from, the labeling process.

It is questionable whether the terminology used actually means anything to those on the receiving end. In Liberia,

> you could ask a ten year old what is SEA [Sexual Exploitation and Abuse], and I don't know if they really understand what it stands for but they'll know the concept around it and they'll know what it is, and that's because there has been a huge flooding of information here with bizarre use of very project level speak.[218]

The "project-speak"[219] of international organizations carves out a new space for this violence to be seen and it comes to dominate the discourse on violence against women after conflict. In a context such as Liberia, where there are sixteen different languages in use,[220] where it is difficult or "rude" to use the word "sex,"[221] where "rape is not understood by everybody,"[222] and where there is no commonly understood word for rape,[223] the tension between international legal terminology and the need to create labels that bring about social and legal change with traction is evident. The introduction of human rights concepts and the resistance to social change that this creates often evokes arguments about the need to defend one's culture.[224] Who holds the power to determine what culture is and how it is defined should, of course, be questioned. "Those who have hegemony in a culture have the power to name

[215] Interview C_22.

[216] Brandon Hamber. "We must be careful how we emancipate our women": Shifting masculinities in post-apartheid South Africa. *Re-Imagining Women's Security: a Comparative Study of South Africa, Northern Ireland and Lebanon Round Table; 12–13 October 2006*, United Nations University, New York, pp. 8–10.

[217] Ibid., p. 10.

[218] Interview B_13.

[219] Here the respondents are referring to the parlance that is assumed by those involved in running international development programs. The terminology of international development is framed around the project cycle model, with the language of that work seeping into the day-to-day lexicon.

[220] Interview B_1.

[221] Interview B_18. Sex is referred to as "man and woman business" on many posters in the offices of some Liberian service providers.

[222] Interview B_8.

[223] Swiss, et al., "Violence Against Women During the Liberian Civil Conflict," p. 626.

[224] Engle Merry, *Human Rights and Gender Violence*, pp. 6, 13.

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things."[225] That violence is naturalized prior to (and even after) labeling has occurred is symbolic of the formal power and privileges extended to men to enforce and determine social norms.[226]

There are also limitations to the labeling process. As a result of the proliferation of the aforementioned international legal and policy instruments, a standard for defining gendered violence has emerged against which policy and practice interventions on the ground are measured. While the term "gender-based violence" encapsulates a wide range of named harms, it may not yet include violences that women may want to define for themselves. In both Liberia and Timor-Leste, interview respondents frequently mentioned a form of abuse they called "abandonment."[227] As one respondent put it, in Timor-Leste,

> we have cases of abandonment ... it is a form of domestic violence where the husband abandons the wife and goes and lives with another woman and has children with her. Others are among young people who develop relationships and then the boyfriend does not want to be associated with the woman when she has a child.[228]

The situation is similar in Liberia, where a man may "[d]eny his wife support" when he leaves to establish a new relationship. These kinds of experiences occur frequently in both contexts where the social flux during and following conflict has an impact on the social norms regulating interactions between men and women. After conflict, women's subjective positioning, as described before, may not have substantively changed. Yet attitudinal changes relating to sex and relationships may leave women who are dependent economically and for social standing on marital relationships, in more vulnerable positions.[229] Regardless of whether it may be defined as a criminal or a civil matter, Timorese and Liberian women perceive men's abandonment of women and children as a form of abuse, a violence which has disastrous impacts on women's health, wellbeing, and emotional, economic, and social status. In Liberia, a staff member of an international organization describes her debate with a representative of her organization's US headquarters regarding the need to address abandonment as follows:

> [The representative said,] "abandonment is not domestic violence, it's not GBV," and I said "No, it depends on the sense in which it is being used." I said that here [in Liberia] it is gender based violence because the woman depends on the man for

[225] Seifert, "War and Rape: A Preliminary Analysis," p. 67.
[226] Albertson Fineman, *The Neutered Mother, The Sexual Family and Other Twentieth Century Tragedies*, p. 15.
[227] In Timor-Leste, one NGO dealt with 23 cases of abandonment in 2009, and in Liberia abandonment counted as the third most frequently reported violence after rape and domestic violence for the November 2009 to January 2010 period in nationally generated statistics.
[228] Interview C_19. [229] Interview B_1, Interview B_10.

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> financial support. I mean it is division of labor, they are going to work and earn money but the woman stays at home and then clean up and cook and then take care of the children and everything so he is supposed to share with her but what they do is that after they have the children they leave their children without support, the mother is not prepared and then they walk away.[230]

"Abandonement" is not generally included in international definitions of "GBV". This example affirms that international labels may not translate universally across cultures. The practices and forms violence and abuse take, and the meaning applied to them, may differ. Enforcing uniformity may result in an impoverished understanding of what may constitute violence in each context. Even within international feminist efforts, there is evidence of how disparities in power may shape "the kind of cultural flows that take place."[231] For example, in Timor-Leste, the tensions between the women's movement and the international "experts" on women's rights who came into the country after the conflict have been documented.[232] In this power struggle, the ability to label violence sits firmly with the most powerful. This may determine what forms of violence become labeled within law and resulting policy and those which remain excluded.

Of relative concern is the confusion within international institutions over these labels and concepts. In many contexts where the United Nations operates, including Liberia and Timor-Leste, international staff use different terms. As I have personally observed in my professional and research capacities, some UN personnel working on policy and programs addressing violence against women will use the term "GBV" and others will use "SGBV" (Sexual and Gender-Based Violence); NGO staff were observed as only using "GBV." This may not matter. However, confusion flourishes among the local organizations scrambling to use the right terms to explain an issue that they already know and experience, but are now required to frame in a particular way to secure funding from international institutions. Many Timorese and Liberian personnel of service-providing organizations I spoke with admitted that they had only recently learned of, and begun using, this new terminology. Their first contact with formal framing of concepts of violence and rights was when they began working with international organizations that came into their country during and after the conflict. A further layer of elitist labeling power is created when elite and educated women from this context become the personnel of these organizations, a power-base to which only some women get access to. Yet, their knowledge may be based on a confused interpretation of the international normative frameworks utilized by international personnel. This in itself creates further complexities when confronted by the attitudinal and socio-cultural investments fueling the resistance to social change by power-holders.

[230] Interview B_7. [231] Engle Merry, *Human Rights and Gender Violence*, p. 21.
[232] Cristalis and Scott, *Independent Women: The Story of Women's Activism in East Timor*; Hilary Charlesworth and Mary Wood, "Women and Human Rights in the Rebuilding of East Timor." *Nordic Journal of International Law* 71 (2002), pp.325–48, 342–43.

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CONCLUSION

Evidenced here is a direct correlation between the way that violence is labeled legally and socio-politically, trends in reporting, and a discourse in all three post-conflict contexts that frames reporting trends as representative of increased violence. While increased reporting may indeed represent increased violence, my discussion here overwhelmingly indicates that after the conflict in each site, there has been (i) an increasing influence of international legal norms (in differing ways for Northern Ireland) and the adoption of domestic legal frameworks on specific forms of gendered violence; (ii) a resulting change in local understanding and positioning of violence against women in public policy and discourse; (iii) an increased and increasingly professionalized service provision where women could report; and (iv) an increase in reporting in response to these changes.

The international community's definition of "normal" rates of violence is actually tolerant of very high levels of violence against women.[233] It may be that the alarm is only sounded when violence appears to be irregularly high, peculiarly innovative, or labeled as a crisis. Such alarm has, to date, only occurred in response to the mass, public, visible, sexualized violence that takes place during conflict. This trend seems to carry over into the aftermath of a conflict, such as in Liberia, where the lens that illuminated sexualized violence during conflict continues to be applied after conflict. As systems and programs are established, recording and reporting procedures are also developed. This results in a new positioning of the issue in social and legal discourse and in more readily available data on this violence than ever before. Research that has examined the reporting of violence against women during conflict has found that "the limitations on the data derive from three main areas: victims' silence, non-governmental organization bias and news source bias."[234] This research has identified links between the violence labeled during a conflict and the violence that gets attention after conflict, and a reliance on reporting trends to paint the picture of violence. The reliance on victims to report abuse is particularly concerning, not just in placing the burden on those who experience abuse to come forward and tell the story of that violence, but also in failing to ensure proactive steps are taken to ascertain and track patterns in and respond to the empirical reality of gendered violence following mass political violence.

The relevance of increased reporting and the conditions that may increase reporting behaviors requires more consideration in representation of post-conflict violence. A post-conflict context may experience fluctuations in violence in response to contextual factors (see Chapter 5). There of course may, and often will, be

[233] Lori Handrahan, "Conflict, Gender Ethnicity and Post-Conflict Reconstruction." *Security Dialogue* 35(429) (2004), pp. 429–45, 440.

[234] Green, "Uncovering Collective Rape: A Comparative Study of Political Sexual Violence," pp. 97–116.

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instances and events where violence may indeed increase in form and/or intensity for individual women and this requires specific attention and nuanced understanding. The labeling and redefinition of violence that takes place after conflict may thereby have a greater influence on perceptions of the post-conflict landscape than at least I had originally expected. An international medical professional that I interviewed in Liberia noted that there exists an almost clichéd understanding circulating among service providers that post-conflict gendered violence is increasing as a result of the conflict.[235] In a policy context that is eager to establish and ascertain the connection between violence during and after conflict, it is not clear whether the potential for increased violence against women after conflict is a cliché, a widely accepted assumption, or a fact. Until more data is available and is assessed from a contextual and non-biased perspective, it remains questionable what the trends may actually represent. It is clear, however, that our understanding of violence after conflict, the picture that academics and practitioners alike have of violence, relies on statistics that are gathered by agencies to whom women may or may not choose to report and for whom statistics represent an opportunity to further agendas. It is important that reporting trends are not assumed to depict the reality of a situation, but that the reality and the experiences of violence are ascertained correctly in order to appropriately tailor responses.

The assessment of post-conflict violence against women in this chapter does not aim to discredit the importance of measurement in evaluating human rights violations such as violence against women.[236] As Alison Brysk notes, "[s]tatistics unquestionably can be helpful when used in an intelligent way and by a user who can put them in context."[237] Otherwise, the implications of measurement are not sufficiently contextualized and may result in a skewed picture. For example, if we were to compare a country such as Liberia, where the World Health Organization has estimated that 77.4 percent of women were raped during the conflict,[238] and one like Northern Ireland, which has had comparatively little measurement of conflict-related sexual violation, then Northern Ireland may not figure anywhere on the barometer of conflict-related violence against women. However, my qualitative and contextual assessment of this violence reveals that conflict-related gendered violence *was* present in Northern Ireland – it simply was not labeled as such. And the work of Dara Cohen and Amelia Hoover-Green, as discussed in Chapter 3, call into question the validity of the UNWHO data.[239] The politics and problems of measurement and labeling are thus evident.

[235] Interview B_8.

[236] Brysk, "The Politics of Measurement: The Contested Count of the Disappeared in Argentina."

[237] Robert J. Goldstein, "The Limitations of Using Quantitative Data in Studying Human Rights Abuses." Human Rights Quarterly 9 (1986), pp. 607–27, 627.

[238] Sexual and Gender-Based Violence and Health Facility Needs Assessment, Liberia. Monrovia, United Nations World Health Organization (2004).

[239] Dara Kay Cohen and Amelia Hoover-Green, "Dueling Incentives: Sexual Violence in the Liberian Civil War and the Politics of Human Rights Advocacy," *Journal of Peace Research* 49, no. 3 (2012).

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The argument made in this chapter also does not aim to completely set aside the work of many feminist scholars and activists who have postulated that violence after conflict increases. As I have already argued in Chapter 5, violence is a fluctuating phenomenon that peaks and troughs according to the presence of aggravating and regulating contextual factors. As identified in the previous chapter, there are reasons why violence may increase or, in fact, decrease. Explanations as to why violence may increase after conflict include the "[i]nternalisation of violent mechanisms on conflict resolution, accumulated and unresolved feelings of male impotence and frustration, male anxiety around the empowerment of women … or simply increased vulnerability of women"[240] as a result of the conflict. Conditional factors related to the conflict may act as a multiplier for the risk of ordinary violence in its aftermath.[241] One interview respondent felt that combatants may not, "think much of what he is doing to her in comparison to what he is doing outside as part of his combatant role and sees that domestic violence is less of a crime … particularly when law is only catching up with defining it as a crime."[242] Another respondent working with ex-police officers on addiction issues noted that, "they had lashed out as a result of what they had seen and had to deal with in the Troubles."[243] It was noted that, "[t]here is a link – because of the psychosocial problems, people are trying to deal with trauma and now they just use violence."[244]

An alternative view was also expressed. Some respondents felt that this argument provides an excuse for a very simple explanation to this violence – that our societies tolerate certain levels of violence and the exigencies of conflict are simply creating deeper levels of enabling factors.[245] A study assessing displacement's impact on domestic violence within a refugee population in Kenya highlights stressors that may affect trauma and violence levels.[246] While indicative of the kinds of contextual factors that can influence fluctuations of violence, this must be understood as specifically relevant to communities living in demanding camp settings and therefore cannot be used for a general post-conflict assessment of violence. The processes of escalation and de-escalation of violence are important to consider in preventing and responding to violence.[247] This also reiterates the earlier point that contextual factors will influence fluctuations in violence, and each particular setting will have its own range of factors.

[240] Ruth Rubio-Marín, "The Gender of Reparations in Transitional Societies." In *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations*, edited by Ruth Rubio-Marín (New York: Cambridge University Press; International Centre for Transitional Justice, 2009), p. 117.

[241] Urban Walker, "Gender and Violence in Focus: A Background for Gender Justice in Reparations," p. 55.

[242] Interview A_15. [243] Interview A_18. [244] Interview B_1. [245] Interview A_1.

[246] Rebecca Horn, "Exploring the Impact of Displacement and Encampment on Domestic Violence in Kakuma Refugee Camp." *Journal of Refugee Studies* 23 (2010), pp. 356–76.

[247] George Elwert, Stephan Feuchtwang, and Dieter Neubert (eds.), *Dynamics of Collective Violence: Processes of Escalation and De-Escalation in Violent group conflicts* (Berlin: Duncker and Humblot, 1999).

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It is also important to note that the fluctuating nature of violence means that it is also known to increase in response to specific events. A clinic in Liberia described how there were certain times of the year when there were spikes in reports of violence associated with social events. It was noted that "when they have a holiday, like at Christmas, Independence day . . . a special celebration, you see that people are going against women sexually. And the next day we would see cases."[248] This was verified by a medical practitioner who noted that his Liberian colleagues "tell you 'oh its normal' it's the independence, we expect a raise of numbers. So, maybe rape is part of the party."[249] Another practice was noted to occur in a particular area of the country in which during a certain festival women will "be in tents or whatever and any man who goes through those tents can just sleep with them, it's like a festive season. . .. You have people in government who will come and park their cars."[250]

A clinic staff member in Liberia noted that "we have months that it can increase, like in holidays . . . After the celebration you would see that it increases."[251] This is commensurate with experiences elsewhere, such as in Ireland, where reports of sexual assault to the Dublin Rape Crisis Centre increase over Christmas and other holiday periods.[252] In the United States, weekends, national holidays, and the dates associated with national football tournaments bring increased reports of partner violence.[253]

It is important to recognize the value of women's qualitative descriptions of violence. There is an over-emphasis placed on quantification such that, "[i]n practical and political terms, if something is not measured it does not exist, if it is not counted it does not count."[254] A feminist assessment of after-conflict violence would allow more space and credibility for women's own articulation of their experiences of violence and how they qualitatively define what is and is not happening to and with violence in their lives. My research concretely reaffirms that violence against women is consistently prevalent and fluctuates according to conditional factors before, during, and after conflict. Whether increasing or not, responding adequately to the issue may be about ensuring that both quantitative and qualitative measurements of violence inform an understanding of that violence. Critically, this should include advancing understanding of how awareness-raising works to prompt reporting and ensuring that the creation of demand is met on the supply chain end with safe and adequate services. The question, therefore, should not be whether violence increases, but how various forms and fluctuations in violence can be made visible, labeled, addressed, and ultimately prevented.

[248] Interview B_11. [249] Interview B_8. [250] Interview B_2. [251] Interview B_11.

[252] Kevin Flude. *A Literary Companion to the Pre-History and Archaeology of London* (D.A Horizons, London, 1992).

[253] Randy J. McCarthy, et al. "What Difference Does a Day Make? Examining Temporal Variations in Partner Maltreatment." *Journal of Family Psychology* 28(3) (2014), pp. 421–28.

[254] Andreas and Greenhill, "Introduction: The Politics of Numbers," p. 1.

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PART IV

Justice, Transition, and Transformation

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7

Transitions and Violence After Conflict: Transitional Justice

INTRODUCTION

Public international law has come to occupy an increasingly integral role in the negotiation, agreement, and making of peace.[1] Extending through post-conflict transition, law plays a significant function in multiple facets of post-conflict reform and peacebuilding. This is nowhere more apparent than in the emergent idea that there is a need to "deal with the past" and account for the harms, violations, and disruption to the social order caused by belligerents and parties to conflict. Transitional justice bridges politics with the idea of justice, and while not always a happy marriage, the dynamic between the two is considered pivotal to bedding down the cessation of hostilities. The creation of a new dispensation for the post-conflict context going forward is thereby (to varying degrees) expected and offered through justice mechanisms. That dispensation is on the one hand rooted in the idea of securing accountability for the past violence experienced. In so doing, it is thought to provide appropriate acknowledgment of harm, providing victims/survivors with a sense of justice. On the other, it arises through the potential that acknowledgment offers in creating something new, an order in which past events are addressed and the roots of conflict and its harms are no longer a reality or a potential.

I now take the discussion of violence elaborated over the previous chapters and consider what might happen to that undulating volume of violence in respect of the moment and process of transition. I consider whether Transitional Justice, in its role in facilitating peacebuilding and transition, adequately deals with the three major aspects of violence identified in this book: the variation to and the in-between possibility of violence; ambulant nature of violence and its connective and distinctive relationship to violence outside of and before conflict and the labelling of violence. In this chapter I first discuss gender, justice and accountability and advances made toward understanding what transitional justice should and could mean for women and their experiences of harm in conflict. This is followed by analysis of two facets of Transitional Justice: the first is Truth Telling processes that that have taken place in

[1] Christine Bell, *On the Law of Peace: Peace Agreements and the Lex Pacificatoria* (Oxford, New York: Oxford University Press, 2008); Aisling Swaine, "Law and Negotiation: A Role for a Transformative Approach?," *Global Policy* 7, 2 (2016): 282–87.

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Liberia, Northern Ireland, and Timor-Leste; followed by examination of early sites of international criminal justice. I briefly examine whether and how these mechanisms have engaged the complexity of women's experiences of wartime violence, comparatively assessing developments against the three major themes of violence discussed across the book (variation to and in-between violence; ambulant violence and its connective and distinctive relationship to violence outside of and before conflict and the labeling of violence). This chapter examines the texture of the transition from conflict to peace through the mode of transitional justice, and how that engages with the panorama of violence identified in the earlier chapters.

GENDER AND JUSTICE

"While law is intended to be a neutral set of rules to govern society, in all countries of the world, laws tend to reflect and reinforce the privilege and the interests of the powerful, whether on the basis of economic class, ethnicity, race, religion or gender. Justice systems also reflect these power imbalances."[2] Through feminist appraisal, the apparent and supposed neutrality of the architecture of legal norms at structural levels, and the justice chain at systems levels, is in fact exposed as based on the default generic human covertly coded masculine.[3] Feminist critique of law and legal norms identifies the ways in which laws may be overtly discriminatory, i.e. provisions in laws that prohibit women's rights or lack of specific actions to tackle violations of women's rights; and covertly discriminatory, i.e. through their reflection of the gendered social ordering, the laws respond to normatively masculinized definitions and conceptions of harm and rights.[4] Despite the increasing adoption of legal frameworks with capacity to respond to CRVAW (as set out in Chapter 2), gaps in accountability and justice within post-conflict transition endures for women.

"From the perspective of civil society recovering from mass violence, justice may be sought as redress for crimes, but also as a way of coming to terms with the past and building a new future."[5] The complex processes of recovery, healing, and creating a new social, cultural, political, legal, and economic dispensation post-conflict are critical in both acknowledging past inequalities and harms, and establishing newly agreed norms going forward. This process is critical for women: in acknowledging the depth and range of harms they have experienced during conflict; in generating understanding of the normative gendered basis that enabled those harms; and in establishing a post-conflict

[2] UN Women, "Progress of the World's Women: In Pursuit of Justice" (New York: UN Women, 2011).

[3] Terrell Carver, "Men and Masculinities in International Relations Research," *Brown Journal of World Affairs* xxi, no. I (2014).

[4] For an overview of feminist critique of international law, see Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester: Manchester University Press, 2000).

[5] Wendy Lambourne, "Transitional Justice and Peacebuilding After Mass Violence," *The International Journal of Transitional Justice* 3 (2009), p. 29.

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dispensation that tackles the structural inequalities that inform enduring gendered violence in women's lives in the immediate and longer-term aftermath.

Through the turn to Transitional Justice, international law norms, and the concept of and need for justice itself have become pivotal facets in this process. "[K]ey issues of exclusion, discrimination and neglect arise for women when the role of law during negotiation and in the facilitation of post-conflict transition is examined"[6] however. Justice measures do play a critical role in transition. Whether they achieve the full potential of both adjudicating harm in ways responsive to the realities of that harm, and influencing changes to the causal basis of that harm, remains questionable. Critique prevails of the absence and neglect of a gendered understanding of justice post-conflict, as well as its capacity to really see, make visible, and provide redress for the ways that women experience harm. For example, there is an expectation that through mechanisms such as trials and truth commissions, victims/survivors will be satisfied that justice has been achieved and will reconcile with both high-level and low-level perpetrators. This raises distinctive challenges for women whose experiences of harm, as has been shown across this book, may resonate beyond a singular act in time. It also presents problems for women who, as noted in Chapter 5, are expected to reconcile with those who may have egregiously sexually harmed them and live in their proximity. These challenges do not even capture the particularities of women's experiences of conflict-related violence – their rootedness in structural inequalities and gendered violence that long pre-date the eruption of conflict, yet fully inform how women experience that conflict. It is questionable whether the project of equality of redress and of preventing further gendered harms for women after conflict can be hinged on the ways that many transitional justice mechanisms are currently conceived. The modes of transitional justice and politics underpinning processes of change are deeply gendered and they are increasingly critiqued for not doing enough to counter the exclusion of women and the way that harms arise for women. Determining whether a transition is working for women requires a more nuanced understanding of the factors that influence violence against women across peace and conflict as begun in this book. An examination that starts from women's experiences of violence, rather than what legal frameworks offer, challenges current approaches and offers a means for reconsidering the potential that transition has in determining a post-conflict endowment responsive to the reality of how and why women endure gendered harm across peace and conflict.

I propose here a modest framework for the ways that gender and justice could be practically conceived and brought forward in these mechanisms. I set it out here as a basis for the ways that I analyze and critique the modes of transitional justice discussed in the following two sections of this chapter. For the successful achievement of gendered justice, i.e. justice that responds to the gendered order in which conflict, conflict harm and transitional processes are based, justice mechanisms need to engage with gender in both 1) substantive and 2) procedural ways. From a substantive perspective: the

[6] Swaine, "Law and Negotiation," p. 282.

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normative frame to law and justice must reflect gender and equality norms, and account for the ways that the gendered social order influences how law is conceived. This includes for example, provisions within the law for the specific harms that women experience and the ways that they will experience them; the mandate of a justice mechanism, such as a truth commission, should set out the relevance of a gendered understanding of the conflict and of harm to the role of the commission in truth and reconciliation. From a procedural perspective: the ways that the justice mechanisms are set up and operate should reflect norms of non-discrimination and equality. For example, oversight bodies, governance structures, and leadership of the justice modality should equally include men and women; those who participate, those who are classified as victims/survivors, should equally include men or women. Specific provisions should be included within the mandate and operations of these mechanisms to overcome exclusions (of actors, i.e. men and women; as well as experiences, i.e. gendered harm and its impacts) and ensure gender-responsive justice procedures. Underpinning these approaches is recognition of and response to the impossibility that legal frameworks, justice, and accountability can be gender neutral, rather measures are taken to counteract the implicit and unconscious bias inherent to the ways that justice is conceived. These kinds of substantive and operational measures are at the heart of commitments to advancing gender equality found in peace agreement provisions and the policies adopted in transitional governance architectures, international frameworks such as CEDAW and the UN Security Council WPS resolutions, and the broader policy of ensuring gender-responsive peacebuilding measures set out by the UN. I follow now with a critical gender analysis of the substantive and procedural aspects of contemporary approaches to transitional justice across the three case studies.

TRANSITIONAL JUSTICE AND THE VIOLENCE OF THE THREE CASE STUDY SITES

Evidenced by the multiple types of mechanisms of justice employed globally to date, post-conflict societies grapple with the best means through which to achieve stability, reconciliation, and accountability. Some are unwilling or elect not to undertake distinct justice processes. Northern Ireland, for example, remains engaged in an ongoing debate for and against establishing formal processes for dealing with the past. A number of judicial and quasi-judicial processes have been established by the Northern Ireland Assembly and British Government. Domestic law has been used as a medium to pursue justice through, for example, a number of public criminal inquiries that have examined high-profile murders that took place during the conflict.[7] Policing reform and subsequent police-led processes of truth recovery have also been attempted. For example,

[7] These include the Billy Wright Inquiry, the Rosemary Nelson Inquiry, and the Robert Hamill Inquiry, and the inquiry into the events of Bloody Sunday: Transitional Justice Institute, "Inquiries Observation Project"; see: http://transitionaljustice.ulster.ac.uk/events_news/new_inquiries_observation_project.html; "The Rosemary Nelson Inquiry Report" (UK House of Commons, May 23, 2011); Committee on the

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The Historical Inquiries Team was established within the PSNI in 2006 to investigate 3,268 killings that took place between 1969 and the signing of the 1998 Belfast/Good Friday Agreement,[8] but its activities ceased in 2014 due to inadequate funding. There have also been a number of initiatives to explore proposals for truth telling that have met with opposition from some political leaders.[9] The most significant,[10] in 2007, was a British government-formed independent consultative group[11] with a mandate to undertake a community-wide consultation and produce recommendations for ways to deal with the past.[12] From 2013 to 2015, British and Northern Irish political leaders turned to negotiation to address divisive issues remaining because of gaps in dealing with the past, which ultimately culminated in the Stormont House Agreement (2015).[13] The Stormont House Agreement establishes a set of new institutions, such as a Historical Investigations Unit, an Oral History Archive, and services for victims.[14] Gaps in attention to gender issues have been evident throughout these processes, prompting civil society actors to develop the "Gender Principles for Dealing with the Legacy of the Past" for this most recent iteration of mechanisms.[15]

Liberia, on the other hand, elected to establish just one mechanism, a quasi-judicial truth process in 2005, two years after the signing of the peace agreement. The Truth and Reconciliation Commission of Liberia (LTRC) gathered more than 20,000 statements from survivors of the conflict.[16] The final report of the

Administration of Justice, "Robert Hamill Inquiry," www.caj.org.uk/robert-hamill-inquiry; "Report of the Billy Wright Inquiry" (UK House of Commons, September 14, 2010); The Rt. Hon The Lord Saville of Newdigate (Chairman), The Hon William Hoyt OC, and The Hon John Toohey AC, "Report of the Bloody Sunday Inquiry" (UK: House of Commons, 2010).

8 Northern Ireland Human Rights Commission "Dealing with Northern Ireland's Past: Towards a Transitional Justice Approach" (Northern Ireland Human Rights Commission, 2013), p. 7.

9 Northern Ireland Human Rights Commission "Dealing with Northern Ireland's Past: Towards a Transitional Justice Approach," p. 13.

10 An earlier process was undertaken by the Healing Through Remembering project, which consulted widely on possible ways forward for truth and reconciliation in Northern Ireland. See outcome report: Healing Through Remembering, "The Report of the Healing Through Remembering Project" (Belfast: Healing Through Remembering, 2002). A critique of this process from the perspective of women's interests and inclusion can be found in Catherine O'Rourke, "The Law and Politics of Gender in Transition: A Feminist Exploration of Transitional Justice in Chile, Northern Ireland and Colombia" (University of Ulster, 2009).

11 Northern Ireland Office, "Hain Announces Group to Look at the Past," Northern Ireland Office, www.nio.gov.uk/hain-announces-group-to-look-at-the-past/media-detail.htm?newsID=14484.

12 Taken from the mandate of the consultative group as outlined in the final report of the consultation process: Robin Eames and Denis Bradley, "Report of the Consultative Group on the Past" (2009), p. 22.

13 The Haas-Sullivan talks ended without agreement in December 2013. BBC News. Northern Ireland: Richard Haas talks end without deal, December 31, 2013, www.bbc.com/news/uk-northern-ireland-25556714. Accessed December 31, 2013.

14 "Stormont House Agreement, Model Implementation Bill" (September, 2015).

15 Legacy Gender Integration Group, "Gender Principles for Dealing with the Legacy of the Past" (Belfast: Legacy Gender Integration Group, September, 2015).

16 The mandate of the LTRC is here: "Web Page Of: Truth and Reconciliation Commission Liberia," http://trcofliberia.org/.

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LTRC included recommendations for prosecutions of named individuals and parties to the conflict and for lustration procedures for many sitting members of government, including the current president.[17] This generated great controversy given the prevailing perception among parties to the Liberian peace agreement that the truth commission replaces any need for criminal accountability.[18] The SCSL indicted Charles Taylor, who was one of the leading protagonists in the Liberian conflict, for his involvement in the conflict in Sierra Leone[19] – a point which is both lauded and bemoaned by those who wish to see him, and others, held to account through criminal accountability for the events in Liberia itself.[20] When the LTRC report was published, President Ellen Johnson Sirleaf responded to its recommendation on reparations for victims by stating that this could not be an option for a country in which all citizens have been affected by the conflict in some way.[21]

Mixed modalities were employed in Timor-Leste. These formal and informal mechanisms were established against the backdrop of a pluralist legal system, where local or "traditional" justice measures form the bedrock of the population's engagement with justice as a concept and a practice. A quasi-judicial truth process was established in 2002 with both formal and informal legal modalities. The Commission for Reception, Truth and Reconciliation (better known as the CAVR – Comissão de Acolhimento, Verdade e Reconciliação de Timor-Leste) held a broad mandate to establish the truth and to enable reconciliation for "less serious" crimes occurring in Timor-Leste between 1974 and October 1999.[22] It had a mandate to investigative the events within this time period, and in so doing, to promote the restoration of dignity and reconciliation at the community

[17] Paul James-Allen, Aaron Weah, and Lizzie Goodfriend, "Beyond the Truth and Reconciliation Commission: Transitional Justice Options in Liberia" (International Centre for Transitional Justice, 2010), pp. 10–11.

[18] Priscilla Hayner, "Negotiating Peace in Liberia: Preserving the Possibility for Justice" (Centre for Humanitarian Dialogue, International Centre for Transitional Justice), pp. 15–16.

[19] Mike McGovern, "Liberia: The Risks of Rebuilding a Shadow State," in *Building States to Build Peace*, ed. Charles T. Call and Vanessa Wyeth (Boulder, London: Lynne Rienner Publishers, 2008), pp. 337–38.

[20] Joaquin Sendolo, "Campaign for Hybrid War Crimes Court Intensifies," *Daily Observer* February 23, 2010. Criminal accountability is outstanding, with commentators estimating that the pursuit of criminal justice procedures for Liberia's conflict poses too high a risk and would undermine the current fragile peace context, a decision over which was largely left to the incoming elected Government to decide upon: Human Rights Watch "Liberia at a Crossroads: Human Rights Challenges for the New Government, A Human Rights Watch Briefing Paper" (Human Rights Watch, 2005), p. 2.

[21] "Liberia won't pay reparations to civil war victims," African Review, September 17, 2010, www.africareview.com/News/-/979180/1012588/-/ib7uh8z/-/index.html. Accessed December 10, 2015.

[22] Established in 2001 under the following: UNTAET, "Regulation No. 2001/10 on the Establishment of a Commission for Reception, Truth and Reconciliation in East Timor, *UNTAET/REG/2001/10*," United Nations Transitional Administration in East Timor (UNTAET, July 13, 2001). See: The Commission for Reception, Truth and Reconciliation (CAVR). "Chega! The Final Report of the Commission for Reception, Truth and Reconciliation (CAVR). Volume I, II, III and IV."

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level.[23] There were also attempts to establish formal criminal legal accountability, which many Timorese interest groups continue lobbying for because of other mechanisms' repeated failure to deliver what they consider to be adequate accountability outcomes.[24] These other mechanisms have included: a Human Rights Court for the Crimes Committed in Timor-Leste, established by the Indonesian Government in Jakarta to investigate crimes between January and October 1999, in which only two Timorese actors were charged and later released;[25] the UN-sponsored Special Panels of the Dili District Court, with a Court of Appeal (a hybrid tribunal), and a supporting Serious Crimes Unit which examined "serious criminal offences"[26] committed before and after the popular consultation in 1999 (which is criticized for its narrow timeframe, substantive focus, inefficiency,[27] and lack of attention to sexualized violence, securing only one conviction of rape as a crime against humanity);[28] and the establishment in 2008 of a Serious Crimes Investigation Team to resume the investigative functions of the former Serious Crimes Unit, with investigatory power only (prosecutions led by the Timor-Leste Office of the Prosecutor General who took over its functions when it was shut down in 2012).[29] A bi-national Commission of Truth and Friendship was established between the

[23] Susanne Alldén, "Internalising the Culture of Human Rights: Securing Women's Rights in Post-Conflict East Timor," *Asia-Pacific Journal on Human Rights and the Law* 1, no. 1–23 (2007), p. 14.

[24] Sisto dos Santos, "Timorese Call on the UN Security Council to Ensure Accountability for Crimes Against Humanity," www.etan.org/news/2011/02anti.htm; "Timor Hau Nian Doben: Timor-Leste National Alliance for an International Tribunal," http://timorhauniandoben.blogspot.com/2010/02/timor-leste-national-alliance-for.html.

[25] Alldén, "Internalising the Culture of Human Rights," p. 14. Government of Indonesia, "Presidential Decree No 96/2001 on the Ad Hoc Human Rights Court on East Timor" (2001); Susan Harris Rimmer, *Gender and Transitional Justice: The Women of East Timor* (London and New York: Routledge, 2010), chapter 4, for an overview of the court and its outcomes. Elizabeth Stanley, *Torture, Truth and Justice: The Case of Timor-Leste* (London and New York: Routledge, 2009), p. 99.

[26] The Special Panels held jurisdiction over charges of genocide, war crimes, and crimes against humanity, and could deliver judgment of cases of murder and sexual violence. When it was established, its jurisdiction covered the period of January 1 to October 25, 1999: p. 92.

[27] At the time of its closure in 2005, the Special Crimes Unit had indicted 391 people in 95 separate indictments. 309 accused remain outside the jurisdiction of Timor-Leste: Caitlin Reiger and Marieke Wierda, "The Serious Crimes Process in Timor-Leste: In Retrospect" (International Centre for Transitional Justice, 2006), p. 21.

[28] The Serious Crimes Unit stated that women declined to come forward, even though a team to look at these crimes was set up very late in the process: Galuh Wandita, Karen Campbell-Nelson, and Manuela Leong Pereira, "Learning to Engender Reparations in Timor-Leste: Reaching out to Female Victims," in *What Happened to the Women? Gender and Reparations for Human Rights Violations*, ed. Ruth Rubio-Marín (New York: Social Science Research Council, 2006), p. 315. According to Stanley, the Special Panels and the Serious Crimes Unit that support it failed to recognize the gendered nature of crimes, undermined women's ability to come forward and did little to provide a framework and precedent where ongoing crimes of this nature against women can be successfully addressed within the fledgling Timorese national justice system: Stanley, *Torture, Truth and Justice*, p. 92.

[29] United Nations Mission in Timor-Leste (UNMIT) "Serious Crimes Investigation Team," http://unmit.unmissions.org/Default.aspx?tabid=184; United Nations Security Council Resolution 1704, S/

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Governments of Timor-Leste and Indonesia in 2005 to "establish the conclusive truth in regard to the events prior to and immediately after the popular consultation."[30] The process and its report have been widely criticized by civil society organizations, the Catholic Church, and the United Nations for effectively granting immunity for violations and were generally perceived as a means to placate calls for criminal accountability.[31] The Commission's final report does acknowledge that Indonesia was responsible for systematic violations in Timor-Leste, including sexualized violence.[32] There have been growing calls for reparations for victims, which was recommended under both the CAVR and TFC reports. The CAVR provided small-scale, urgent reparations to limited categories of victims as part of its programming.[33] A National Reparations Program bill and a Bill Establishing the Public Memory Institute have been presented to and debated at the Timorese parliament since 2010 and ultimately became stalled.[34] The Committee on the Elimination of Discrimination Against Women, in response to the Timor-Leste Government's 2015 CEDAW report, made strong recommendations that the country expeditiously adopt the bill for the National Reparations Program and Public Memory Institute and tackle impunity for violence against women. This requires implementation in accordance with CEDAW, meaning that it would be in line with the Convention's non-discrimination norms.[35] In effect, this requires the government to ensure provisions for formal and substantive equality measures across all aspects of these provisions.

These three settings offer insight into the degrees to which transitional justice measures may be taken forward. Northern Ireland's process has been limited to public inquiries focused on individual incidents and, thus far, has made minor efforts at establishing truth-telling or wider community-led public accountability mechanisms compared to the other sites; Liberia has had a truth-telling process without accompanying criminal accountability; and Timor-Leste has had

RES/1704 (2006); International Center for Transitional Justice and Judicial System Monitoring Programme, "Impunity in Timor-Leste: Can the Serious Crimes Investigation Team Make a Difference?" (International Centre for Transitional Justice, Judicial System Monitoring Programme, 2010).

30 Megan Hirst, "An Unfinished Truth: An Analysis of the Commission of Truth and Friendship's Final Report on the 1999 Atrocities in East Timor," *Occasional Paper Series* (International Centre for Transitional Justice, 2009), p. 12.

31 Stanley, *Torture, Truth and Justice*, p. 128. 32 Hirst, "An Unfinished Truth," p. 5.

33 Wandita, Campbell-Nelson, and Pereira, "Learning to Engender Reparations in Timor-Leste: Reaching out to Female Victims." See also "Urgent Reparations" in: CAVR, "Chega! The Final Report of the Commission for Reception, Truth and Reconciliation." Volume I, II, III and IV.

34 Amnesty International, "Timor-Leste: Submission to the United Nations Committee on the Elimination of Discrimination Against Women" 62nd Session, Pre-Sessional Working Group, (Amnesty International, March 9–13, 2015), p. 12; United Nations Committee for the Elimination of All Forms of Discrimination Against Women (CEDAW), "Concluding Observations on the Combined Second and Third Periodic Reports of Timor-Leste, CEDAW/C/TLS/CO/2–3, Advance Unedited Version." November 20, 2015.

35 United Nations Committee on the Elimination of Discrimination Against Women, "Concluding Observations" para 19.

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concurrent, multiple, and hybrid processes of truth telling and criminal accountability processes. Most common across the sites are truth seeking and formal legal criminal accountability. These are also the mechanisms that are most prolific globally, both at the country level (truth commissions) and at broader global levels (the International Criminal Court and ad hoc tribunals), and through which feminist scholars have identified critical spaces where narratives of women's experiences of conflict are now most prolifically becoming available.[36] The following section assesses both truth processes and international criminal trials in relation to the findings of this book. I undertake a brief analysis of select modalities of justice through the gender analysis framework I set out earlier (assessing the substantive and procedural aspects of these modalities). I also consider general attention to gender norms and discriminations more widely as critical in establishing the approaches taken to gendered harms. The analysis is two-pronged. The first takes place at the level of the country setting. I discuss one modality in each site for the purposes of furthering my comparative analysis of violence in these three settings. How do post-conflict transitional justice measures engage with the gendered violence identified in each site, and the need for gendered approaches to justice and accountability? Processes related to truth telling are examined in respect of violence in those sites. Second, to complement the micro-level view, I discuss macro global level developments in respect of international criminal law. I examine the very early advances in criminal justice to assess where future potential lies for engagement with the way that CRVAW was identified in this book. For both sections, I frame the discussion around the three themes of violence identified across the book (the variation to and in-between violence; ambulant violence and its connective and distinctive relationship to violence outside of and before conflict and the labeling of violence).

(i) Truth Telling

The UN Independent Expert on Impunity set out the "inalienable right to know the truth about past events" in an updated report on impunity approved by the UN Human Rights Commission in 2005.[37] "Truth" as a process and an end may be pursued through various forums, with Truth Commissions now the most popular option through which to facilitate truth telling and establish agreed accounts of conflict events. Truth Commissions are perceived to serve a number of functions, including acknowledging abuses of the past, countering impunity, promoting reconciliation, and mitigating against the perpetration of future abuse.[38] Truth Commissions "provide an authoritative acknowledgement of

[36] Doris Buss "Rethinking 'Rape as a Weapon of War'," *Feminist Legal Studies* 17 (2009): 145–63.

[37] Diane Orentlicher, "Report of the Independent Expert to Update the Set of Principles to Combat Impunity" (New York: United Nations Economic and Social Council, February 18, 2005).

[38] Priscilla Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (New York: Routledge, 2011), pp. 20–23.

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previous harms,"[39] and their impact can be far-reaching in opening up space for, and creating, a discourse that extends beyond the commission itself.[40] Because of its potential "to grapple with both the history and the future of gender power relations,"[41] truth telling is a critical avenue through which broad-based understanding of harms could be advanced. These characteristics intersect with this chapter's central aim of exploring transitional justice's role in expanding understanding of women's experiences of harm during and after conflict. In order to examine whether and how that potential has been exploited, the following section analyzes one example of the ways that truth has been engaged with in each case study setting comparative to the knowledge on violence generated by the book.

The Truth Commission in Liberia: Obscuring Variations in Violence in the Liberian Conflict

Across the previous chapters, we have seen that throughout the Liberian conflict, women and girls experienced multiple forms of harm, including sexualized violence by combatants and private actors, gang rape, sexual slavery, domestic violence in different ways across time, sexual exploitation and abuse, and physical and ritualistic violence that included physical mutilations. These represent a broad range of harms, and some women experienced all or multiple forms of harm. Chapter 2 discussed the challenges that arise with the contemporary preoccupation and conflation of women's experience as "rape as a weapon of war" and Chapter 4 demonstrated the variation in the harms that can in fact occur. The challenges that monolith conceptions of violence present in terms of outcomes for women are evident in an examination of the outcomes of the LTRC.[42] The mandate of the LTRC was to address impunity, investigate and promote accountability for human rights violations that occurred within the conflict, and foster reconciliation.[43] The LTRC's founding statute also outlined procedural requirements for mainstreaming gender

[39] Stanley, *Torture, Truth and Justice*, p. 57.

[40] Ibid., pp. 57–58, citing: Mark Osiel, *Mass Atrocity, Collective Memory, and the Law* (New Brunswick: Transaction Publishers, 2000).

[41] Tristan Anne Borer, "Gendered War and Gendered Peace: Truth Commissions and Postconflict Gender Violence: Lessons from South Africa," *Violence Against Women* 15, no. 10 (2009).

[42] Helen Scanlon and Kelli Muddell, "Gender and Transitional Justice in Africa: Progress and Prospects," *African Journal on Conflict Resolution* 9, no. 2 (2009), p. 26. The particular problems that present in the privileging of civil and political rights violations over social and economic violations eschewed by such an approach have been noted also: Evelyne Schmid, "Liberia's Truth Commission Report: Economic, Social and Cultural Rights in Transitional Justice," *Praxis: The Fletcher Journal of Human Security* XXIV (2009), p. 16.

[43] "Agreement on Ceasefire and Cessation of Hostilities Between the Government of the Republic of Liberia and Liberians United for Reconciliation and Democracy and the Movement for Democracy in Liberia" (Accra, Ghana, August 18, 2003), p. XIII. Matiangai Sirleaf, "Regional Approach to Transitional Justice? Examining the Special Court for Sierra Leone and the Truth and Reconciliation Commission for Liberia," *Florida Journal of International Law* 209 (2009), pp. 210–11.

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and gendered violence within the LTRC's work.[44] In response, the LTRC organized and held specific hearings focused on women's experiences of the conflict, took steps to ensure women's participation in these forums and produced a specific annex on women and the conflict to the final report.[45] However, substantively, the LTRC statute presented some challenges in respect to how it provided for its work on gender. The construction of "gender" was problematic within the process – gender was conceived as pertaining only to "women"[46] and its approach to women was in the composite "women and children" category of vulnerable persons. It missed the opportunity to set out gender as an analytical concept that would underpin how the LTRC understood and approached the very nature of the conflict and of its violence, and specifically, women's gendered and systemic experience of that conflict and its violence.[47] The construction of harm and victimhood was also problematic – the overall LTRC process recorded twenty-three types of violations. These included harms of a sexual nature, which were rape, sexual abuse, gang rape, sexual slavery, and multiple rape. It also included cannibalism, forced recruitment, abduction, and others. These are named as broad categories, and specific parties to the conflict are named as the perpetrators.[48] The typology presented does not however demonstrate the overlap in the ways that women experienced harm. For example, abduction and

[44] "An Act to Establish the Truth and Reconciliation Commission (TRC) of Liberia," The National Transitional Legislative Assembly (May 12, 2005). "Section 24: The TRC shall consider and be sensitive to issues of human rights violations, gender and gender based violence thus ensuring that no one with a known record of human rights violations are employed by the TRC and that gender mainstreaming characterizes its work, operations and functions, ensuring therefore that women are fully represented and staffed at all levels of the work of the TRC and that special mechanisms are employed to handle women and children victims and perpetrators, not only to protect their dignity and safety but also to avoid retraumatization." In total there are nine provisions in the statute that require attention to gender issues. For commentary see: Anu Pillay, "Views from the Field: Truth Seeking and Gender: The Liberian Experience," *African Journal on Conflict Resolution* 9, no. 2 (2009), pp. 94–95. As such, these provisions were fulfilled through the appointment of four female commissioners out of nine; the creation of a gender unit overseen by a dedicated Commissioner on gender; a gender committee of external stakeholders to advise and support its work; the drafting of a Gender Policy; the appointment of an international gender advisor and specific mechanisms to ensure that women's experiences of the conflict were included in the process. For a summary of the provisions, also see: Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict" (Monrovia, 2009), pp. 10–11.

[45] Anu Pillay, Marpue Speare, and Pamela Scully, "Women's Dialogues in Post-Conflict Liberia," *Journal of Peacebuilding and Development* 5, no. 3 (2010), p. 89. Anu Pillay and Lizzie Goodfriend, "Evaluating Women's Participation in Transitional Justice and Governance: A Community Dialogue Process in Liberia," *Conflict Trends*, 2 (2009). Forty-seven percent of statements gathered by the LTRC were from women: Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume II: Consolidated Final Report" (Monrovia: Liberia Truth and Reconciliation Commission), p. 273.

[46] This also ultimately failed to illuminate the range of gendered abuses which men experienced, including sexual abuses: James-Allen, Weah, and Goodfriend, "Beyond the Truth and Reconciliation Commission," p. 6.

[47] Pillay, "Views from the Field," p. 94.

[48] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume II: Consolidated Final Report," pp. 262, 264.

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forced recruitment will for many women have also meant rape; the act of abduction might also have included acts of ritualized harm and forced consumption of bodies as family members are killed; acts of cannibalism did include acts of rape as I discussed in Chapters 3 and 5. The LTRC report largely produced a picture of women's victimization to monolith ideas of sexualized violence.[49] This outcome was noted in the annex on women to the main report. It states:

> given that more than half of the statements taken were from women, it is clear that an analysis of only direct sexual violence perpetrated against women does not reveal the full extent of the human rights violations that women experienced directly and indirectly. While men comprise a larger category of victims than women overall, it is not accurate to assume that this means that women were less affected. What it shows is that women and girls have been subjected to a far wider range of human rights violations than sexual violence and abuse, and that recovery plans must therefore be far more encompassing to take that into account.[50]

This annex also notes that "women are significantly overrepresented among rape victims and victims of sexual slavery and sexual violence, as might be expected, relatively more male than female victims show up for sexual abuse. This is due to the definition of sexual abuse which included stripping victims naked and humiliating men sexually."[51] This observation coincides with the same observations that I have made in several places in this book – in Chapter 3, how the ways that we define and frame violence will determine the data we collect and what we come to "know" about what has occurred; Chapter 6, how the labeling of violence determines what people report and identify as their harm. These observations present three analytical considerations in respect of the discussion on CRVAW across this book.

First, *the LTRC report conflates forms of harm*. It's broad definition of "sexual abuse" includes "everything from genital touching to forced nudity," effectively "amalgamating" the range of abuses inherently encompassed in this category.[52] In so doing, the report missed the opportunity to depict a disaggregated and comprehensive picture of women's variant experiences of the conflict, outside and within the category of sexual abuse and incidents of strategic rape. This was despite the range of provisions and mechanisms in place within its overall mandate to address "gender." The victims of such violations were also not disaggregated on the basis of sex, thereby missing the opportunity to document male victims of such harms.

Second, the LTRC report *reinforces dichotomies in harm as set out in the boundaries evident in international law*. As Evelyne Schmid argues, the LTRC "neglects the opportunity to address violations committed by private citizens against private citizens" because of the narrow approach it takes to the applicability of human rights

[49] Pillay, "Views from the Field," p. 95.

[50] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume Three, Title 1: Women and the Conflict" (Monrovia, 2009), p. 30.

[51] Ibid., p. 31.

[52] James-Allen, Weah, and Goodfriend, "Beyond the Truth and Reconciliation Commission," pp. 14–15.

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law.[53] She notes that states have a duty to protect citizens from violations by non-state actors, and, therefore, the LTRC process should have considered failures in this regard.[54] As its report states, the LTRC employs domestic criminal law for "egregious" domestic crimes – a category in which rape is included.[55] The LTRC could have taken an expanded approach and encompassed domestic crimes committed by private citizens which the report notes but does not enumerate for gendered harms.[56] The problem of dichotomies in law and their impact in the lack of strategic and practical outcomes for women are apparent here – evident in the reinforcement of hierarchies of harm (as discussed in Chapter 2), and the boundaries that are drawn between "private" and "public" harms, that in fact may have been experienced all at once for women. For accountability and justice to be experienced, must women draw lines between one harm and another, and seek redress for one harm separate to another, even where they may have been connected?

The report also failed to cite the relevance of the promulgation of specific legal regulation for rape in 2006. This could have been incorporated into the LTRC and its report in a way that drew connections between the assault of women in the conflict and the need to address these issues outside of conflict also.[57] Underlining that the events of the conflict were and are linked to the harms that women experience outside of the conflict would promote an understanding of the gendered connections in violence as well as their distinctiveness during war. Furthermore, the LTRC recommends the establishment of a domestic criminal court and two prosecutorial measures to address the violations that occurred in the conflict. The first prosecutorial recommendation entails a list of specific individuals and domestic crimes to be tried, and the second calls for the creation of a special category of sexual crimes – although all of those named appear to be members of fighting factions as opposed to private citizens.[58] The report also recommended granting amnesties to anyone fully confessing to their actions and demonstrating genuine remorse, which would directly contravene Security Council Resolution 1820, which states that there may be no amnesties for crimes of sexualized violence.[59]

Third, *the LTRC report compartmentalizes forms of harm*. The employment of broad categorizations also means that, while the variations in forms of violence are documented to a degree, the experiences that were captured were depicted as

[53] Schmid, "Liberia's Truth Commission Report," p. 13. [54] Ibid., p. 13.

[55] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume II: Consolidated Final Report," p. 54.

[56] Ibid., p. 254.

[57] "An Act to Amend the New Penal Code, Chapter 14, Sections 14.70 and 14.71 and to Provide for Gang Rape," ed. Ministry of Foreign Affairs (January 17, 2006).

[58] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume II: Consolidated Final Report," pp. 357–58. And James-Allen, Weah, and Goodfriend, "Beyond the Truth and Reconciliation Commission," p. 18.

[59] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume II: Consolidated Final Report," p. 18. See: United Nations Security Council Resolution 1820, S/RES/1820 (2008), op. 4.

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discreet incidents, or compartmentalized into singular or particular abuses. The report does not demonstrate the variation of harms to which women may be subject in a singular incident, or over a range of time. As demonstrated in earlier chapters, individual women may have experienced multiple rapes, mutilation, violence in their home, sexual exploitation, witnessing the abuse of family members, and being forced to take part in cannibalistic acts at once or over a range of time. Yet, the report does not convey the fact that individual women potentially experienced a multiple abuses in one incident, nor does it make clear the connections between these violences. For example, as mentioned, acts of forced cannibalism are discussed in several places in the report, but separate from accounts of specifically gendered harms, even though cited statements do mention both.[60] As a result, it is not made clear that many women who were raped were also subject to the forced consumption of the bodies of loved ones (or other violences), although, as I have demonstrated, there is often a direct link between these disparate acts of violence stemming from the perpetrators' belief that they would enhance their virility as fighters.[61]

The presentation of statistical analysis on these violations heard by the LTRC also underscores a compartmentalized approach in respect of women and men's harms.[62] At the same time as the LTRC was conducting its broad hearings, it also established the aforementioned adjunct process to record the specific experiences of women through dialogues held across the country.[63] This expanded documentation of women's experiences is available in the aforementioned annex to the main report.[64] Relegating the breadth of women's experiences to the annex, relegates them entirely. This approach arose, in part, because the initial report was drafted earlier than, and outside of, the dialogues with women (and the drafting of the "women and conflict" annex).[65] They may also, however, reflect the aforementioned problems of the ways in which concepts of gender and equality were interpreted within the overall process. Anu Pillay notes that, while the LTRC's mandate addressed the specific concerns of "women and children," it was not explicitly linked to the issue of gender equality "as the overarching goal."[66] The LTRC's

[60] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume II: Consolidated Final Report." For example, see pp. 254–55, 262.

[61] United Nations World Health Organization "Sexual and Gender-Based Violence and Health Facility Needs Assessment, Liberia" (Monrovia: United Nations World Health Organization, 2004), pp. 18–19. Stephen Ellis, "Liberia: 1989–1994: A Study of Ethnic and Spiritual Violence," *African Affairs* 94 (1995), p. 186.

[62] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume II: Consolidated Final Report," p. 201.

[63] Pillay, Speare, and Scully, "Women's Dialogues in Post-Conflict Liberia."

[64] Pillay, "Views from the Field," p. 98.

[65] Volume One of the report was released in December 2008; an unedited version of Volume II, the Final Consolidated Report was released in June 2009, followed by the "edited" version in December 2009 along with Volume II which constitutes the appendices to the report. See: "Truth Commission: Liberia – Digital Collection," United States Institute of Peace, www.usip.org/publications/truth-commission-liberia.

[66] Pillay, Speare, and Scully, "Women's Dialogues in Post-Conflict Liberia," p. 94.

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failure to address "gender as an analytical tool meant overlooking the reason why women were targeted for particular violations."[67] As has been underlined by several authors,[68] the LTRC report, and this book, gender inequalities and the conditions facing women prior to a conflict are highly relevant in gathering a comprehensive picture of the violations they experienced, both public and private.[69] Recognition of gender inequality as one of the key contextual factors affecting violence is absent from the overall assessment. This creates categories and compartmentalized versions of the violence that miss both the structural basis of these abuses and their variant forms and sources.

Dealing with the Past in Northern Ireland: Labeling Women out of Truth

In Northern Ireland, CRVAW encompassed multiple forms: isolated incidents of sectarian rape, sexual abuse on women and children in the home by paramilitary actors, sexual assaults, harassment, and abuse by state actors in security apparatus, strip-searching and invasive reproductive harms in detention, domestic violence by paramilitaries, and punishments for perceived sexual transgressions. As noted, Northern Ireland has thus far not established a specific truth-telling processes. The most significant attempt[70] to recommend mechanisms toward a formal process was made in 2007, when the British government formed an independent consultative group with a mandate to undertake a community-wide consultation and produce recommendations for ways to deal with the past.[71] Among its recommendations, the report proposed the creation of an independent "Legacy Commission" with the purpose of reviewing and investigating historical outstanding cases, recovering information, and providing minor reparations for victims. Its recommendations were harshly criticized by victims and victim's groups,[72] and ultimately, only a few of the Commission's recommendations were acted upon.[73] It remains, however, the most significant process with respect to potential public engagement on narrative

[67] Pillay, "Views from the Field," p. 95.

[68] Scanlon and Muddell, "Gender and Transitional Justice in Africa: Progress and Prospects," p. 27.

[69] Truth and Reconciliation Commission, "Truth and Reconciliation Commission Report: Women and the Conflict," p. 58 and elsewhere throughout the report.

[70] An earlier process was also undertaken by the Healing Through Remembering project which consulted widely on possible ways forward for truth and reconciliation in Northern Ireland. See outcome report: Healing Through Remembering, "The Report of the Healing Through Remembering Project" (June 2002).

[71] Taken from the mandate of the consultative group as outlined in the final report of the consultation process: Eames and Bradley, "Report of the Consultative Group on the Past," p. 22. A critique of this process from the perspective of women's interests and inclusion can be found in Catherine O'Rourke, "Socio-Economic Issues and the Absence of the Gender Dimension," in *Reflecting on the Report of the Consultative Group on the Past, Seminar Report, 14th and 15th May, 2009* (Belfast, Committee on the Administration of Justice).

[72] Ibid., p. 17.

[73] See, for example, conferences such as: Hannah's House, "Exploring a Feminist Analysis of Truth Recovery: Creating a Better Future" (Dublin, February 11, 2010); "Seminar on Truth Recovery"

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formulation for the Northern Ireland context. Here, I examine relevant issues arising from the Consultative Group's report in terms of both my research findings and the lessons of relevance to the coming implementation of the Stormont House Agreement.

The first observation to be made of the Consultative Group's report is that in and of itself, the report is *a testament to the exclusion of women in transitional contexts*. It *excludes women* and women are entirely invisible. The report has been noted to "[deny] women any stake in the past"[74] or, indeed, any role in defining what "a shared and reconciled future"[75] might look like. The second observation is that *there is no recognition that processes of dealing with the past are gendered and that justice mechanisms must operate within a gendered order that disfavours women*. There are thus no indications of whether and how the proposals for dealing with the past will take account of this. Third, there is also no recognition of *the gendered nature of the conflict and its impacts, and that harms have been experienced in gendered ways during the conflict*. There is no recommendation to ensure that a legacy mechanism takes account of these dynamics.[76] Domestic abuse is referred to once in the report, but it is solely linked to the individual experience of women and generalized perceptions of personal trauma. The reference is much too generic to get at the complexity of this issue, particularly in a setting such as Northern Ireland where the conflict has been documented to have exacerbated domestic abuse.[77] Furthermore, as Margaret Ward has noted, this reference does not disaggregate the gender of the victims and perpetrators of such abuse.[78] Even those abuses that could be labeled as gendered "political violence" in the conflict (such as strip-searching of female prisoners and sexualized assault in detention[79]) have not received any reference in the report. These abuses have been effectively labeled out of the report, and, as such, labeled out of a preliminary narrative of the conflict itself.

Fourth, the report *obscures the potential for wide-ranging harms to be made visible and invokes hierarchies of harm* as relevant to processes of dealing with the past. The report's recommendation that a future Legacy Commission focus on inquiries into "deaths" implies narrow "legal definitions of harms" and works to obscure the

(Belfast, February 24, 2011); and the work of organizations such as "Healing Through Remembering" which has undertaken a long process of examining and proposing ways forward toward truth recovery and dealing with the past in Northern Ireland – see their website: "Healing Through Remembering," www.healingthroughremembering.org, and their publications on the same including: Kieran McEvoy, "Making Peace with the Past: Options for Truth Recovery Regarding the Conflict in and About Northern Ireland" (Belfast: Healing Through Remembering, 2006).

74 O'Rourke, "Socio-Economic Issues and the Absence of the Gender Dimension," p. 270.

75 Eames and Bradley, "Report of the Consultative Group on the Past," p. 134.

76 O'Rourke, "Socio-Economic Issues and the Absence of the Gender Dimension," p. 43.

77 Eames and Bradley, "Report of the Consultative Group on the Past," p. 87.

78 Margaret Ward, "Socio-Economic Issues and the Absence of the Gender Dimension" (paper presented at the Reflecting on the Report of the Consultative Group on the Past, Belfast, Northern Ireland, May 14 and 15, 2009), p. 40.

79 See Chapter 3 of this book.

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potential for wider ranges of harms to receive any attention.[80] The hierarchical promotion of some harms above others (as identified in Chapter 4) is known to affect the outcomes of such a process.[81] It can, as in the Northern Ireland case, mean that the violence that does not fit into the narrow category recommended by the report remains invisible. Women's organizations have sought to "redefine the violence to be addressed by transitional processes in a more gender-sensitive and feminist-informed manner" by highlighting "the manifold ways in which the conflict exacerbated women's experience of gender-based violence within the home."[82] As described in Chapters 4 and 6, if violence is not labeled, reported, or defined in some way – in this case, as having intricate connections to the exigencies of a conflict – then it will likely remain invisible and not counted in the narrative of a conflict. Northern Ireland illustrates a clear example in this respect, where women's experiences of violence have largely remained outside of the official, and still disputed, conflict narrative. Without recognition in such processes, women's experiences of conflict-related violence identified in this study remain divorced from, and will never be assigned meaningful significance in efforts to determine an agreed narrative of the conflict. Naming only particular violations as conflict-related excludes a myriad of violence that women themselves might define as central to their conflict-time experience.[83] This recalls and reinforces the findings cited in Chapter 4, wherein women from Northern Ireland perceived the violence they experienced in their homes during the conflict to be of lesser importance than that occurring in the public spheres or in other conflicts. This perception will continue and the outcomes of transition will not work for women, unless post-conflict processes work to overturn hierarchies that minimize women's gendered experiences of conflict violence. The silencing and invisibility of CRVAW in Northern Ireland, as identified in Chapter 4, is not only perpetuated by the Consultative Group's report, but remains a risk for any future processes.

Fifth, the report *makes no space for women to come forward to speak about their experiences of the conflict.* Chapter 6 of this book references the experiences of women in Timor-Leste, who, ten years after the conflict ended, are now expressing the desire to come forward and talk about their experiences. It is only since 2009 that reports of sexualized abuses committed by paramilitary members have begun emerging in the Northern Ireland media, and such abuse is increasingly being reported to support services.[84] Given that some time has already passed for women in Northern

[80] O'Rourke, "The Law and Politics of Gender in Transition: A Feminist Exploration of Transitional Justice in Chile, Northern Ireland and Colombia," pp. 270–71.

[81] Fionnuala Ní Aoláin and Catherine Turner, "Gender, Truth and Transition," *UCLA Women's Law Journal* 16 (2007), p. 239.

[82] Catherine O'Rourke, "The Shifting Signifier of 'Community' in Transitional Justice: A Feminist Analysis," *Wisconsin Journal of Law, Gender & Society* 23, no. 2 (2009), at pp. 280, 281.

[83] Ní Aoláin and Turner, "Gender, Truth and Transition," p. 256.

[84] Also, Interview A_13. Also: Andrée Murphy, "An Argument for a Gender Focus in the Transitional Debate" (Belfast: Relatives for Justice, 2010).

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Ireland, the challenge going forward may be to ensure that processes are created that provide the space for women to speak when and where they choose. Spaces are required for women to come forward when they are ready, and accountability processes need to acknowledge and enable labeling of violence commensurate with women's wishes. This includes labeling the variations and in-between violence identified in Chapter 4 as conflict-related and thereby relevant to processes for dealing with the past.

Sixth, *the consultative process itself is detached from the commitments made by the governments of Northern Ireland and the United Kingdom to implement international frameworks* such as CEDAW and specifically, UN Security Council Resolution 1325 (2000).[85] The WPS resolutions focus specifically on the impacts of conflict on women and the need for member states of the UN to ensure that all peacebuilding processes address gendered concerns. While Resolution 1325 (2000) did not exist at the time that Northern Ireland's peace agreement was being developed in 1998,[86] it did when this process consultative was taking place, as did Resolutions 1820 (2008) and 1889 (2009). The UK's commitments to CEDAW and its non-discrimination norms, of course span all of this period. The WPS instruments all specifically spell out the need for attention to CRVAW and justice and accountability for the same in peacebuilding and transitional justice measures.[87] In addition, at the time that Northern Ireland was undertaking the consultative process on dealing with the past, the United Kingdom had already developed a national action plan on Security Council Resolution 1325 (2000), which it had adopted in 2006.[88] The government has since reviewed this plan and adopted two further iterations of it, the latest covering 2014–17.[89] All versions of these plans exclude Northern Ireland as the United Kingdom has consistently denied applicability of the WPS resolutions to

[85] Ward, "Socio-Economic Issues and the Absence of the Gender Dimension," p. 39.

[86] Noted by women attending the Irish Government's project on "Cross-Learning on UN Security Council Resolution 1325," between women from Northern Ireland, Liberia, and Timor-Leste. Taken from field notes from attendance at these conferences. For full assessment of the process see its report: Aisling Swaine, "Voices of Experience: Cross-Learning Process on UN Security Council Resolution 1325" (Dublin: Irish Department of Foreign Affairs, 2010). Also note that the non-existence of the resolution is also not considered by this author (or the women cited here) to constitute a reason for the exclusion of women's concerns from this or other peace and transition processes.

[87] United Nations Security Council Resolution 1325, S/RES/1325 (2000), op.11 and United Nations Security Council Resolution 1889, S/RES/1889 (2009), op. 3.

[88] The first UK national action plan was in 2006: "UK National Action Plan UNSCR 1325" (London: Foreign and Commonwealth Office, 2006). This was followed by a revised version in 2010, which was further revised in 2012: "UK Government National Action Plan on UNSCR 1325, Women, Peace and Security, 2010-2013" (London: DFID, Foreign and Commonwealth Office, Ministry of Defence, 2010 and 2012). A third iteration of the plan was issued in 2014: "United Kingdom National Action Plan on Women, Peace and Security, 2014-2017" (London: Foreign and Commonwealth Office, 2014). For general comment on national action plans and some reference to the first UK plan see: Aisling Swaine, "Assessing the Potential of National Action Plans to Advance Implementation of United Nations Security Council Resolution 1325" *Yearbook of International Humanitarian Law* 12 (2010), pp. 347–77.

[89] "UK National Action Plan on Women, Peace & Security: 2014-2017."

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the Northern Ireland context, preferring instead to interpret its commitments to the WPS agenda, problematically, as solely within the remit of its foreign policy.[90] The lack of attention to Resolution 1325 (2000) in this consultative process and its report echoes wider lack of implementation of the resolution across transitional processes as they are developed in Northern Ireland.[91] "Gendered" notions of post-conflict transition should be inherent to these processes, with or without soft law instruments such as Resolution 1325 (2000). The UK government's refusal to apply the resolutions to the context of Northern Ireland on an ongoing basis, however, ensures that it cannot influence future processes that may be adopted and may be similar to the one described here.

This analysis points to the entrenched exclusion of gendered understanding of the conflict and of women's experiences of harm within this process. With the adoption of the new Stormont House Agreement and future rounds of negotiation pending, an opportunity arises to ensure that these exclusions are not reiterated. It has been noted that truth processes, for example, may serve to silence women and/or that women's silences should be read as significant tomes.[92] The former may become the case in Northern Ireland, where the opportunity for women to have their harms recognized as linked to the conflict may be silenced by the structural exclusion of women from processes of dealing with the past. The dispute over the nature of the Troubles itself is also relevant to consider. As demonstrated in Chapter 4, the nature of women's experiences of gendered harm disrupt the clear dichotomy that is drawn in legal and political processes between public and private harms. It is then difficult for the "in-between" harms to become recognized or find purchase in a process such as this charged with dealing with the past. If the situation itself, i.e. the political violence, is not actually defined as a conflict because of how the UK government approaches the events that took place in Northern Ireland, how can the harms women suffered be defined as such? And how can the process of labeling post-conflict enable women to name and report their harms as "conflict-related" without prior recognition of the wider political setting in which their gendered harms were committed?

Women are further silenced by transition processes that, from the inception stage, do not acknowledge women as having gendered experiences to share should they wish to do so. While this study has illuminated and labeled a range of women's experiences in Northern Ireland as conflict-related, these experiences remain vacant of a formal redefinition through the modalities of transitional justice. The aforementioned "Gender Principles for Dealing with the Legacy of the Past" has already

[90] Swaine, "Assessing the Potential of National Action Plans to Advance Implementation of United Nations Security Council Resolution 1325," pp. 427–28.

[91] Ibid., pp. 427–28.

[92] See generally: Nthabiseng Motsemme, "The Mute Always Speak: On Women's Silences at the Truth and Reconciliation Commission," *Current Sociology* 52 (2004). And Fiona Ross, *Bearing Witness: Women and the Truth and Reconciliation Commission in South Africa* (London: Pluto Press, 2003), p. 50.

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identified that experiences of victimhood are "highly personal, complex, and gendered experiences" and that individual stories and their complexity should be given appropriate gender-sensitive attention.[93] This points to the need for processes of dealing with the past to pay attention to what this book has evidenced: the need to label variant connective and distinctive harms that require formal recognition in respect of the political context in Northern Ireland.

The Truth Commission in Timor-Leste: Ambulant Power and Violence

In Timor-Leste, women are known to have experienced a range of conflict-time harms: mass and strategic sexualized violence, sexual violence and torture in detention, sexual slavery, forced marriages. The truth process in Timor-Leste, the CAVR held a broad mandate to establish the truth of such harms, specifically regarding "less serious" human rights violations occurring in Timor-Leste between 1974 and October 1999.[94] Commentators have noted that its most significant role became the implementation of Community Reconciliation Procedures (CRP). These were community-level ceremonies that facilitated dialogue between "perpetrators" (who volunteered their participation) and "victims" of transgressions, to reintegrate and reconcile past offenders with their communities.[95] The CRPs were designed on the basis of "local law"[96] processes of reconciliation in Timor-Leste, generally known as the "Nahe Biti" process, common in divergent forms across Timorese communities.[97] They also drew from aspects of criminal and civil law. While the CRPs have been praised for being relevant to indigenous Timorese culture by consisting of local, familiar means of justice and reconciliation, observations can be made on the

[93] Legacy Gender Integration Group, "Gender Principles for Dealing with the Legacy of the Past."

[94] CAVR, "Chega! The Final Report of the Commission for Reception, Truth and Reconciliation." See Volume 1, Part 2, The Mandate of the Commission.

[95] See generally: Ben Larke, "'... And the Truth Shall Set You Free': Confessional Trade-Offs and Community Reconciliation in East Timor," *Asian Journal of Social Science* 37 (2009); Stanley, *Torture, Truth and Justice*; Reiger and Wierda, "The Serious Crimes Process in Timor-Leste: In Retrospect," p. 34.

[96] There exists a wide range of terminology used to describe the Timorese customary law systems that exists at local levels throughout the country. Terms from Indonesian and Tetum languages are used locally. In English, terms such as "informal law" or "customary law" or "traditional justice" are used. These terms, however, imply that these systems are not and have not been subject to change: David Mearns, "Looking Both Ways: Models for Justice in East Timor" (Australian Legal Resources International, 2002), pp. 30–32. The term "local" is used here to denote that the systems are indeed localized and within Timor differ between socio-cultural and socio-linguistic groups and is the term preferred by the author: Aisling Swaine, "Traditional Justice and Gender Based Violence in Timor-Leste" (Dili: The International Rescue Committee, 2003).

[97] CAVR, "Chega! The Final Report of the Commission for Reception, Truth and Reconciliation." See also the following for more on customary law and Nahe Biti processes: Dionisio Babo Soares, "Nahe Biti: The Philosophy and Process of Grass Roots Reconiliation (and Justice) in East Timor," *The Asia-Pacific Journal of Anthropology* 5, no. 1 (2004); Swaine, "Traditional Justice and Gender Based Violence in Timor-Leste."

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extent to which such processes can overcome their intrinsic discrimination toward women.

First, *women's equal participation as leaders or adjudicators in these processes remained challenged*, thereby impacting on the efficacy of these mechanisms to effect change in gender inequalities and the harms that women experience. The existing system of local law in Timor-Leste adopted by the CAVR is ordinarily used to regulate disruptions to the social order, and, as such, functions to preserve socio-cultural norms, including regarding the roles and expectations of women.[98] According to custom, women may never hold positions of authority or decision-making in local law forums,[99] which, in general, are patrilineal and patriarchal in nature.[100] The CAVR's mandate did recognize that there were "practical, cultural and political barriers to women's participation" in the processes offered by the commission.[101] In response, the CAVR formally authorized women's inclusion in the processes in an attempt to overcome the implicit exclusion of women characteristic of these forums. It took steps to ensure that women participated by appointing women as commissioners, as panel members, and chairs at the CRP hearings.[102]

Women's participation, however, continued to face obstacles in multiple ways. Women who took up leading roles in the process faced challenges. The *Lian Nain* or local law-holders referred to in the Introduction to this book, who oversee community justice and reconciliation process and were involved in the CRPs, were not entirely comfortable with women's presence and commented that "in the past you would have been in the kitchen cooking."[103] As Mario de Arajuo notes: "[m]en are the unchallenged decision makers in affairs relating to tradition, law, and custom."[104] While women were accepted onto the panels of these hearings, "true" holders of the law in these communities understood this as a development imposed from the outside and one which would have to be tolerated in the interests of receipt of international support.

Second, *women's equal participation in the CRP hearings themselves also faced challenges*. Women were largely under-represented among those giving testimony.[105]

98 See generally: Swaine,"Traditional Justice and Gender Based Violence in Timor-Leste."

99 See ibid.

100 See: Mario de Araujo, "Liberation for Everyone, Not Just Men: A Case Study of the Men's Association Against Violence (AMKV) in Timor-Leste," in *Gender Equality and Men: Learning for Practice*, ed. S. Ruxton (Oxford: Oxfam, 2004). Also note that although one matrilineal socio-ethic group exists in Timor-Leste, ownership of land and resources is still maintained through the male line in this group.

101 CAVR, "Chega! The Final Report of the Commission for Reception, Truth and Reconciliation." See Volume I, Part 1, Introduction, p. 26.

102 CAVR, "Chega! The Final Report of the Commission for Reception, Truth and Reconciliation." See Volume I, Part 1, Introduction.

103 Judicial System Monitoring Programme, "Unfulfilled Expectations: Community Views on CAVR's Community Reconciliation Process" (Dili: Judicial System Monitoring Programme, 2004), p. 39.

104 de Araujo, "Liberation for Everyone, Not Just Men," p. 140.

105 Larke, "... And the Truth Shall Set You Free," pp. 670–72. It must also be noted that the CAVR's thematic approach included a national hearing on women's experiences of the conflict which did

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Research in 2009, four years after the closure of the CAVR project, showed that 58 percent of respondents disapproved of the idea of allowing women to speak within local law forums.[106] There is an assumption that "women's inequality is removed once women participate equally in decision-making fora . . . [which] . . . ignores the underlying structures and power relations that contributes to the oppression of women."[107] In this case, the transitional justice processes could not change norms about the equality for women within processes that are fundamental to the arrangement of the social order in Timorese societies. The use of quantitative formal equality approaches, such as a 30 percent quota of women as commissioners, did, of course, bring about the formal participation of women to a limited degree.[108] The expectation that these could, or should, be equated with substantive equality raises the challenge that is inherent to approaches that anticipate longer-term change but are restricted by short and time-bound processes.

Due to such dynamics, stories of gendered harms will have received less airtime. In a CRP I witnessed in 2003, the husband of a woman's who was the "victim" in the hearing spoke on her behalf. He sat alongside her on the mat facing the "perpetrator." Her husband repeatedly asked the "perpetrator" why, during the conflict, he had called his wife down to the nearby barracks every evening. He avoided the question, offering excuses and the conversation went back and forth between both men. The woman remained mute. Implied in the accusation is the alleged intent behind the demand for her presence at the barracks – sexualized harassment and entertainment which was a common feature of the conflict (see Chapters 3, 4, and 5). This was not specifically named as the harm. In the socio-cultural context of this very very remote village in Timor-Leste, naming that harm has consequences for the woman in question, sullying her sexual and reproductive standing in her community. It was instead spoken about in more abstract ways. The process came to a close by the mediator declaring that agreement had been reached and the perpetrator apologized. In effect the process became a conversation between two men about authority over sexual access to the woman in question.

Third, the process also *failed to engage with the structural basis of gendered violence.* Whether engagement with local justice produces obstacles for women's equality of

much to generate a narrative of women's specific experiences of violence, however with a focus on political violence by Indonesian actors. See: The Commission for Reception, Truth and Reconciliation (CAVR). "Timor-Leste: Women and the Conflict" (Dili: Republic of Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR), 2005).

106 Silas Everett, "Law and Justice in Timor-Leste: A Survey of Citizen Awareness and Attitudes Regarding Law and Justice 2008" (Timor-Leste: The Asia Foundation, 2009), p. 44. The CAVR completed its work in 2005 and this data reflects attitudes four years later.

107 Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester: Manchester University Press, 2000), p. 231, citing: Diane Otto, "Holding up Half the Sky, but for Whose Benefit?: A Critical Analysis of the Fourth World Conference on Women," *Australian Feminist Law Journal* 6, no. 7 (1996), p. 13.

108 CAVR, "Chega! The Final Report of the Commission for Reception, Truth and Reconciliation." See Volume I, Part 1, Introduction, p. 21.

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outcome in justice remains a critical consideration for the transitional justice project broadly. The CAVR and the CRP processes were conceived by Timorese actors, and while they were praised for being culturally appropriate and relevant, a feminist perspective reveals an inherent tension. On the one hand, truth processes must be relevant to those they are meant to serve. On the other hand, rooting truth processes in local justice mechanisms means that they inevitably take their meaning from a normative system in which women are inherently discriminated against. Ben Larke notes that the "CRP may have played a role in restoring the 'natural order of things' in the communities within which it operated."[109] This is the natural order previously described from which societies derive meaning. This natural order entails "community-based hierarchies of power,"[110] which existed before and during the conflict, and which work against women's inclusion and equality. When transitional justice is administered through "established networks of power," those in less powerful positions experience the process differently than those in positions of privileged power.[111] By reinforcing this normative order of Timorese societies after the conflict, the truth processes did little to challenge the restoration of structural power claimed by men which enables their control of women, through violence or otherwise. Customary systems reassert themselves and subsequently may erode the gains women made during social upheaval or prevent women from claiming rights in the new social and political landscape that emerges during transition.[112]

The CRPs favored a focus on quantitative aspects of women's participation, such as ensuring participation quotas were met, over qualitative aspects that would require longer-term engagement but would ultimately result in real gains for women. My earlier discussions on violence across the book call for further assessment of the tension between creating reconciliation processes applicable to local contexts and ones which do not reinforce inequalities for women. They also call into question the efficacy of processes that are run for brief two-year periods. These observations are also pertinent to the Liberia context. For example, the LTRC recommended that a "traditional" "Palava Hut" system be established to facilitate a "form of justice and accountability . . . to foster national healing and reconciliation at the community and grass root levels creating the opportunity for dialogue and peace building."[113] This could effectively become the equivalent of

[109] Larke, ". . . And the Truth Shall Set You Free," p. 671. [110] Ibid.

[111] Elizabeth Stanley, "The Political Economy of Transitional Justice in Timor-Leste," in *Transitional Justice from Below: Grassroots Activism and the Struggle for Change*, ed. Kieran McEvoy and Lorna McGregor (Oxford and Portland: Hart Publishing, 2008), p. 187.

[112] Meredeth Turshen, "Engendering Relations of State to Society in the Aftermath," in *The Aftermath: Women in Post-Conflict Transformation*, ed. Sheila Meintjes, Anu Pillay, and Meredeth Turshen (New York: Zed Books, 2001), p. 84.

[113] Truth and Reconciliation Commission of Liberia, "Truth and Reconciliation Commission Report, Volume II: Consolidated Final Report" (Monrovia: Liberia Truth and Reconciliation Commission), p. 365. For a comment on this and other LTRC recommendations, see: Kwesi Aning and Thomas Jaye, "Liberia: A Briefing Paper on the TRC Report," in *KAIPTC Occasional Paper* No. 33 (Accra: Training for Peace, 2011).

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the CRP process used in Timor-Leste and, therefore, my critique of the Timor-Leste experience offers important implications for its implementation.

Overall, the truth process in Timor-Leste did little to engage with the shifting sites and sources of power that were identified in Chapter 5 as moving across and within conflict phases. As a result, the ways in which its operation and method of implementation could reinforce the "social machinery of oppression"[114] were occluded. These dynamics map onto the findings of this book, not only in relation to *continuums of power*, but also in how, over the longer term, women's experiences of the conflict become labeled within the "truth" discourse that extends from the process. While the CAVR report has documented much of women's experiences, the fundamental structural order prior to the conflict from which these abuses derived has not been adequately exposed, but rather has, to some extent, been reinforced. Additionally, the chapter of the CAVR report dealing with women's experiences of violence in the conflict is titled "Sexual Violence" – clearly implying that women's experiences were largely about sexual violence attached to the conflict, or that these were the harms that merit attention by a truth process. Also, as noted in Chapter 1, because crimes of a "serious" nature were passed from the CAVR to the criminal hybrid court-led process which failed to engage with the volume of crimes at hand, crimes of a specifically sexual nature largely fell through the accountability gap between these two mechanisms. The message that sends to communities matters, not only in signaling the seriousness of gendered harms, but in establishing a basis for addressing such harms after conflict.

On a more positive note, the final report of the CAVR made very clear recommendations that going forward, specific steps should be taken to address domestic violence in the lives of women and girls after conflict, including the adoption of specific legislation on domestic violence. It noted that in "its interaction with victims and their families, the Commission observed that domestic violence was a common occurrence in the current lives of many victims. For example, some male survivors of detention and torture told the Commission that they had fallen into a pattern of violent behaviour."[115] It further stated that "the elimination of violence against women, in both the public and private domains, is essential to break the cycle of violence and fear that characterises the lives of many women and girls" and there is need to "promote the development of a culture of equality because discrimination against women is a key contributing factor to violence against women."[116] The findings of the previous chapters emphatically underline the need for the broader pre-, during-, and post-conflict assessment of violence to underscore how processes of truth are conceived, the ways in which they create a narrative of women's experiences, and the consequences of institutional choices for women's well-being in the post-conflict context. This latter step, to connect the conflict and peacetime

[114] Paul Farmer, "Sidney W. Mintz Lecture for 2001: An Anthropology of Structural Violence," *Current Anthropology* 45, no. 3 (2001), p. 307.

[115] CAVR, "Chega! The Final Report of the Commission for Reception, Truth and Reconciliation." See Volume IV, Part 11, Recommendations.

[116] Ibid.

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violence is a significant step forward for justice mechanisms to begin the task of addressing connections and distinctions in ambulant violence.

(ii) Criminal Accountability: International Law at the International Criminal Tribunals

Criminal accountability remains one of the most contentious and complex challenges for societies in transition.[117] Notwithstanding the politics of transitional justice and its "tradeability,"[118] the use of international criminal tribunals is estimated to have become the preferred method through which to promote international accountability and justice after conflict.[119] Chapter 2 outlined the ways that the sexualized violation of women during conflict has been increasingly prohibited under the growing body of international law regulating warfare.[120] The turn toward criminal accountability in the 1990s culminated in the first significant jurisprudential developments within international criminal law on CRSV, namely through the ad hoc tribunals for the Former Yugoslavia (ICTY), Rwanda (ICTR), and then Sierra Leone (SCSL) since 2000. These courts have gone some way toward creating jurisprudence on crimes of a sexual nature. For example, up to 2010, the ICTY had completed upwards of seventy-five cases, with a third of those including incidents of sexualized violence; the ICTR had completed twenty-four cases, half of which referenced sexualized violence; and the SCSL had completed two cases, both of which included sexualized violence.[121] The ICC has since the turn of the millennium begun adjudicating cases and its first decision in the case of the Prosecutor vs. Thomas Lubanga Dyilo has left much to be desired in respect of the potential for this court to adequately address gendered harms. In this case, crimes of a sexual nature against captured children were not included in the

[117] William A. Schabas, "Introduction," in *Truth Commissions and Courts*, ed. William A. Schabas and Shane Darcy (Netherlands: Kluwer Academic Publishers, 2004).

[118] Harris Rimmer, *Gender and Transitional Justice*, p. 17, citing M. Cherif Bassiouni, "Accountability for Violations of International Humanitarian Law," in *Post-Conflict Justice*, ed. Dean C. Alexander and M. Cherif Bassiouni (New York: Transnational Publishers, 2002).

[119] Theodor Meron, "Rape as a Crime Under International Humanitarian Law," *American Journal of International Law* 87 (1993), p. 424.

[120] Article 27 of the Fourth Geneva Convention of 1949 is cited by Fiona de Londras, "Prosecuting Sexual Violence in the Ad Hoc International Criminal Tribunals for Rwanda and the Former Yugoslavia," in *UCD Working Papers in Law, Criminology & Socio-Legal Studies* (Dublin: University College Dublin, 2009), p. 2. Also published in "Prosecuting Sexual Violence in the Ad Hoc International Criminal Tribunals for Rwanda and the Former Yugoslavia," in *Transcending the Boundaries of Law: Generations of Feminism and Legal Theory*, ed. Martha Fineman (New York: Routledge, 2011).

[121] United Nations, "Review of the Sexual Violence Elements of the Judgments of the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court for Sierra Leone in the Light of Security Council Resolution 1820" (New York: United Nations Department of Peacekeeping Operations 2010), pp. 30, 46, 59.

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trial charges and in its ongoing proceedings, resulting in their exclusion from the historic first ever Order for Reparations by the ICC.[122]

Since the proliferation of international tribunals, opportunities have been both exploited and squandered in respect of addressing sexualized violence, and much critique has ensued of how trials have engaged with sexualized violence and broader gendered harms.[123] It is questionable whether the advances that have been made serve the full panoply of violence experienced by women both in respect of their being a "harm" related to conflict events, and with respect to the context of their gendered nature. On the basis of their experience working with victims in the DRC, the Women's Initiative for Gender Justice has provided expert submission to the Lubanga case and stressed that "the pervasive and pre-existing forms of violence against children including girls whether committed by militias, family members, strangers or neighbours laid the ground work for the latter large-scale forms of violence of enlistment, conscription and use" (which were the charges) in this case.[124] This important element – the pre-existing gendered order of harms – matters in this case, as it should in approaches to accountability and future prevention of these harms for women. The findings of this book demonstrate the relevance of connections to the gendered order and nature of the conflict and the necessity to see variant resulting harms. Labels attached to types of violence within emerging legal and normative frameworks have an impact on where and how violence gets addressed, or is neglected, or even rendered invisible.[125] Taking each of the three major findings of this book on in-between and variant violence, ambulant violence, and the labeling of violence, the following discussion analyzes the ways that international criminal tribunals have, and will continue to have, a significant impact on how gendered violence is viewed and understood.[126] The early decisions of the ICTY, ICTR, and SCSL are engaged with given their ground-breaking significance and the jurisprudence they have provided for the evolving international criminal justice system.

[122] Brigid Inder, "Reflection: Gender Issues and Child Soldiers the Case of Prosecutor V Thomas Lubanga Dyilo" (The Hague: Women's Initiative for Gender Justice August 25, 2011); "Situation in the Democratic Republic of the Congo in the Case of the Prosecutor V. Thomas Lubanga Dyilo – Women's Initiatives for Gender Justice Request for Leave to Submit Observations, CC-01/04-01/06" (The Hague: Women's Initiative for Gender Justice, March 8, 2013).

[123] See, for example: Chiseche Salome Mibenge, *Sex and International Tribunals: The Erasure of Gender from the War Narrative* (Philadelphia, Pennsylvania: University of Pennsylvania Press, 2013); Charlotte Ku Anne-Marie De Brouwer, Renée Römkens, and Larissa van den Herik, *Sexual Violence as an International Crime: Interdisciplinary Approaches* (London: Intersentia, 2013).

[124] Women's Initiative for Gender Justice "Presentation to Trial Chamber II: Observations of the Women's Initiatives for Gender Justice" (Women's Initiative for Gender Justice, October 11, 2016), p. 14.

[125] Jill Radford and Elizabeth A. Stanko, "Violence Against Women and Children: The Contradictions of Crime Control Under Patriarchy," in *Women, Violence and Male Power: Feminist Activism, Research and Practice*, ed. Marianne Hester, Liz Kelly, and Jill Radford (Buckingham and Philadelphia: Open University Press, 1996).

[126] Hannah Pearce, "An Examination of the International Understanding of Political Rape and the Significance of Labeling It Torture," *International Journal of Refugee Law* 14, no. 4 (2002), p. 542.

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Variations – "Rape" Versus "Variant Rape" and "Other" Violences

Law, in general, is considered by feminist scholars to "construct … a very limited definition of sexual violence, and thereby play[s] a very significant role in denying or trivializing women's experiences of male sexual violence."[127] While the ad hoc tribunals and the ICC have made significant progress in making CRSV visible and codifying it in law,[128] their approach has also had the potential to create a narrow and limited understanding of the experience of violence.[129] By failing to "make explicit that any rape committed in armed conflict is a war crime," the judgments of the tribunals have created space for the creation of an "assumption that 'lesser' rapes may be committed with impunity."[130] The findings of this book suggest that women experience rape as part of widespread political attacks, but also outside of and/or alongside these kinds of attacks. Chapter 4 demonstrated that, during conflict, there are forms of sexualized violence that occur as a result of conflict that may not meet the tailored requirements of being "tactical," or "widespread," or perpetrated collectively by parties to the conflict, as required under the criminal law statutes and as is evident in their judgments.[131] The narrow definitions of rape wrought out by international criminal tribunals may exclude acts that fall outside the definition of rape as a "weapon of war."[132] The potential for impunity for these "lesser rapes" is certainly evident where there is an absence of domestic rule of law during conflict in some states (such as Liberia), where there are gaps in access to the system, or where the system is perceived to be biased for some (such as Northern Ireland and Timor-Leste). The combination of these factors will ultimately lead to a failure to account for this type of violence, which sits outside the categorizations of rape in war defined by international law. This means that the in-between conflict-influenced sexualized violence identified in Chapter 4 falls through the cracks between the international and the domestic criminal system.

Scholars have raised concerns over why rape has not been defined as specific category of crime in and of itself in international criminal law.[133] Yet, it is not clear whether this would solve the above conundrum – particularly where there is a perceived advantage in situating rape as "equally grave" to other serious international crimes when defined within the purview of crimes against humanity and

[127] Liz Kelly and Jill Radford, "'Nothing Really Happened': The Invalidation of Women's Experiences of Sexual Violence," in *Women, Violence and Male Power: Feminist Activism, Research and Practice*, ed. Marianne Hester, Liz Kelly, and Jill Radford (Buckingham and Philadelphia: Open University Press, 1996), p. 19.

[128] Mark Ellis, "Breaking the Silence: Rape as an International Crime," *Case Western Reserve Journal of International Law* 38 (2006–7), p. 246.

[129] Doris Buss, "Rethinking 'Rape as a Weapon of War'," p. 160.

[130] Hilary Charlesworth and Christine Chinkin, "The Gender of Jus Cogens," *Human Rights Quarterly* 15 (1993), p. 334.

[131] Buss, "Rethinking 'Rape as a Weapon of War'," p. 160. [132] Ibid., p. 160.

[133] David S. Mitchell, "The Prohibition of Rape in International Humanitarian Law as a Norm of *Jus Cogens*: Clarifying the Doctrine," *Duke Journal of Comparative and International Law* 15 (2005), p. 241. Alice Edwards, *Violence Against Women Under International Human Rights Law* (New York: Cambridge University Press, 2011), p. 8.

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torture.[134] Given the debates that occurred between feminist scholars and activists over how rape should be prosecuted in the ICTY,[135] it is also not clear under what conditions rape would/could become labeled as an individual category. As demonstrated by this research, rape in conflict needs to be seen as an attack on an individual woman, as well as a collective attack on a community (and/or as a collective attack on women, as proposed by Rhonda Copelon).[136]

It is also relevant to consider violence against women that is divergent in form and may or may not include rape. The "popular public image"[137] of rape victims should not preclude the necessity for international law to address other forms of violence women experience during, and as a result of, conflict and that are perpetrated alongside or outside of political actions. As identified in Chapter 4, conflicts enable wider forms of violence and exploitation, wherein individuals take advantage of women's increased vulnerabilities and/or their own enhanced status. International law, however, is characterized by a "marked emphasis on public acts for the purposes of recording, as well as constructing, a societal narrative, while private acts are simultaneously neglected."[138] Additionally, a focus on indicting high-level officials[139] diminishes the possibility of accountability for violations by private individuals committed on an individual basis – in other words, "private" violence. As Mark Osiel notes, "'superior responsibility' ... leads subordinates to violate international criminal law and humanitarian law."[140] The combination of increasingly evident criminal aspects to violence in conflict, the recognition of "dual-purpose violence,"[141] and an implicit understanding that superiors will fall subject to international law, if at all, may prove instrumental in enabling private abuses against women during conflict to flourish.

The gap in domestic criminal accountability during and after conflict in many places is relevant here. As discussed in Chapter 4, the line between conflict violence and criminality in conflict has become increasingly blurred.[142] Emphasizing the dual-purpose of violence is important. This may be done through recognizing violence against women as a strategic tool where it is employed as such in widespread attacks, while, at the same time, recognizing

[134] Ellis, "Breaking the Silence," pp. 246–47.
[135] For an overview of these debates, see: Karen Engle, "Feminism and Its (Dis)Contents: Criminalising Wartime Rape in Bosnia and Herzegovnia," *American Journal of International Law*, no. 99 (2005).
[136] Rhonda Copelon, "Surfacing Gender: Reconceptualising Crimes Against Women in Times of War," in *The War Against Women in Bosnia-Herzegovina*, ed. Alexandra Stiglmayer (Lincoln, London: University of Nebraska Press, 1994), pp. 206–8.
[137] Cynthia Enloe, "Foreword," *Journal of Peacebuilding and Development* 5, no. 3 (2010), p. 2.
[138] Fionnuala Ní Aoláin, "Political Violence and Gender During Times of Transition," *Colombia Journal of Gender and Law* 15, no. 1 (2006), p. 844.
[139] Debra L. DeLaet, "Gender, Sexual Violence and Justice in War-Torn Societies," *Global Change, Peace & Security* vol. 20, no. 3 (2008), p. 327.
[140] Mark Osiel, *Making Sense of Mass Atrocity* (New York: Cambridge University Press, 2009), p. 33.
[141] Penny Green and Tony Ward, "The Transformation of Violence in Iraq," *British Journal of Criminology* 1 (2009), p. 1.
[142] Chapter 4, citing ibid.

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attacks on women by individual men acting on differing motivational basis. This approach would make visible the scale and depth of attacks on women outside of (and alongside) its association with political intent. It would also advance legal analysis of the dynamics in war and pick up the ways in which women become subject to politically organized goals while at the same time remaining subject to the co-existing personal and criminal goals of individual men.[143] Currently, the interconnectedness of political violence and criminality is missed. Chapter 4 identified implicit impunity (as well as legal impunity) as a variable that contributes to both political and endemic/in-between violences that take place during conflict. International criminal courts "are often unresponsive to national nuances of the societies whose members they presume to judge,"[144] clearly evident in the lack of capture of the variations to violence. The exclusion of these forms of violence from post-conflict accountability mechanisms not only relegates their significance and creates a gap in accountability for women, it also means that such perceptions of impunity may be carried over into the aftermath context to enable ongoing endemic violence.

A 2008 decision by the SCSL[145] is particularly relevant in this respect. The SCSL established "forced marriage" as a crime against humanity under the category of "other inhumane acts."[146] In the judgment, "forced marriage" is distinguished from "sexual slavery" (itself contested by some feminist scholars as a distinct category[147]). The court recognized the coexistence of the coercive sexual aspects of sexual slavery alongside the coercive domestic and labor roles forced on women through what were referred to by their captors as "marriages" – this final element also thereby recognized as constituting additional mental anguish for women.[148] This decision effectively set out a new label within international criminal law, and recognized a different dimensional aspect of women's experience of violence distinctive from what could have easily been easily otherwise categorized as "sexual slavery."

While the risks of this judgment in stereotyping gendered roles for women in marriage have been recognized,[149] the decision has also been recognized as

[143] This builds on the analysis in Chapter 4 which uses the work of Green and Ward who identify "dual-purpose" violence wherein violence that serves political goals and also personal goals may co-exist. Ibid.

[144] Osiel, *Making Sense of Mass Atrocity*, p. xi.

[145] The Special Court for Sierra Leone was established in 2000. See: United Nations Security Council Resolution 1315, the Special Court for Sierra Leone, S/RES/1315 (2000).

[146] *Prosecutor V. Brima, Kamara & Kanu, Case No. SCSL-2004-16-A*, Case No. SCSL-2004-16-A (2008). This judgment came under Article 2 (i) of ibid.

[147] See: Chiseche Mibenge, "Investigating Outcomes of a Limited Gender Analysis of Enslavement in Post-Conflict Justice Processes," *Journal of Peacebuilding and Development* 5, no. 3 (2010).

[148] See generally: Jennifer Del Vecchio, "Continuing Uncertainties: Forced Marriage as a Crime Against Humanity," in *SSRN* (Rapport Center Human Rights Working Paper Series, 2011).

[149] Jennifer Gong-Gershowitz, "Forced Marriage: A 'New' Crime Against Humanity?," *Northwestern Journal of International Human Rights* 8, no. 1 (2009), p. 60.

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situating the stereotyped expectations of women's free labor through marriage (in peacetime) as having a bearing on the potential for forced marriage during conflict (even though this is also debated).[150] The analysis made in Chapter 5, that the pre-conflict practices of marriage inform the ways that women are forced into marriage and sexual slavery by fighters in locations such as Liberia, corresponds. It also underscores the relevance of cases like this in the SCSL, where the gendered order for women prior to conflict is recognized through the new category of forced marriage and how that holds gendered and multiplier effects in respect of impacts of that harm for women. While many questions regarding "definitional ambiguities" over the "new" category of forced marriage as a crime against humanity remain,[151] this judgment nonetheless has introduced a new label into the framework and a new variation to what is formally recognized as women's experiences of conflict.

The Ambulant Nature of Violence: Capturing the Contextual Basis of Gender Violence

Chapter 5 proposed that a "continuum of power" may be an accurate means of explaining the ways in which fluctuating sites and sources of power dictate where and how violence appears during and after conflict. The relevance of gender dynamics, or the fluctuating nature of the power that informs the violence identified across the earlier chapters, are not, however, reflected in the assessments of women's experiences of violence that have emerged, thus far, under international criminal law. The narrow and limited labels and their interpretation have made invisible not only the variant range of violence women experience as explored above, but also their very contextual basis.

As Chiseche Salome Mibenge notes, rather than addressing the underlying structural and socio-cultural causes of gendered violence, the ICC and the SCLS have "simply tagged sex onto specific crimes against humanity."[152] In her assessment of the ad hoc tribunals, Doris Buss questions whether they have been useful in highlighting the "systemic gender issue *in and of itself*" through their judgments on women's experiences of conflict.[153] In relation to the *Akayesu* ruling of the ICTR, Buss notes that the labeling of this kind of rape

[150] Ibid., p. 65, citing the Separate Concurring Opinion of Justice Julia Sebutinde, and see following sections for that author's dispute with the judgments on the differences between forced marriage in conflict and arranged and forced marriage in peacetime.

[151] Ibid., p. 71.

[152] Mibenge, "Investigating Outcomes of a Limited Gender Analysis of Enslavement," p. 35.

[153] Doris Buss, "The Curious Visibility of Wartime Rape: Gender and Ethnicity in International Criminal Law," *Windsor Yearbook of Access to Justice* 3 (2007), p. 12. Italics are taken from the original script.

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as "genocide" positions it as based on inter-ethnic strife.[154] This categorization draws away from a legal redress that would assess rape as a manifestation of contextual factors underpinned by multiple, intersecting, gendered, socio-cultural, and socio-political power dynamics, as highlighted in this book.[155] Buss also highlights, in relation to the *Gacumbitsi* case, that the ICTR's view of sexualized violence as an element of genocide makes it "visible," while "gender inequality is not."[156] Nor are the economic, social, and political indicators of women's pre-conflict status evident or identified as relevant, as discussed in Chapter 5. Buss's assessment aligns with the findings of this book: that the labeling of violence that takes place in the tribunal makes for a "reductive understanding"[157] of the variances, complexities, and causalities of violence against women in conflict. Ultimately, they may serve as "a means for occluding, rather than opening up the complex dimensions of violence against women."[158] If "gender is continually transformed through its performance in legally regulated contexts,"[159] then the efforts of these tribunals thus far have not gone far enough to transform what was once considered a by-product of war to an understanding of it as a manifestation of the gendered abuse and oppression of women that takes place before, during, and after conflict.

Some feminists have questioned the utility of engaging with criminal justice processes as "they are so resistant to women's lived experiences as to make trials not worth pursuing."[160] Trials become sites where women's will and agency are ultimately denied[161] and where the private forms of violence that constitute a central component of women's vulnerability and experience of violence pre-, during, and post-conflict remain outside of legal accountability mechanisms.[162] Given that the production of law is a gendered process in itself,[163] the connection between violence and the production of law[164] means that only certain forms of violence are captured when private violence before and during conflict remain occluded.

[154] Buss, "Rethinking 'Rape as a Weapon of War'," p. 160. [155] Ibid., p. 160.
[156] *Prosecutor V. Gacumbitsi*, ICTR-2001-64-T (2004).
[157] Buss, "The Curious Visibility of Wartime Rape: Gender and Ethnicity in International Criminal Law," p. 16.
[158] Ibid., p. 5.
[159] Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago and London: The University of Chicago Press, 2006), p. 184.
[160] Harris Rimmer, *Gender and Transitional Justice*, p. 8, citing: Engle, "Feminism and Its (Dis) Contents," pp. 778–816.
[161] Ibid., pp. 812–13.
[162] Ní Aoláin, "Political Violence and Gender During Times of Transition," p. 844.
[163] See, for example, Martha Albertson Fineman, *The Neutered Mother, the Sexual Family and Other Twentieth Century Tragedies* (New York: Routledge, 1995); Charlesworth and Chinkin. "The Gender of Jus Cogens."
[164] Mitchell, "The Prohibition of Rape in International Humanitarian Law as a Norm of *Jus Cogens*," p. 221.

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Labeling: Including or Excluding Legitimate Violence and its Victims/Survivors

Not only do narrow categorizations limit legal redress for wide-ranging variants of rape and sexual violence, they may also create a perception among some victims/survivors that only a certain form of rape is legitimately eligible for legal redress. For women who have experienced harms that might not reach legal thresholds, this compounds the predicament of how to formally deal with such an experience. As seen in Chapter 4, women in Northern Ireland trivialized their experiences of violence in relation to the wider political violence that was considered more "serious." They also trivialized their experiences when compared to those of women in Liberia and Timor-Leste. If the standard of "what rape in war looks like" is equated with the kinds of events that occur only in places like the Former Yugoslavia, Liberia, or Darfur, then some women in other jurisdictions may feel that their experiences simply do not measure up to that threshold. If the law also agrees with this assertion, their suspicions will be confirmed. In a situation such as that in Northern Ireland, where the status of the conflict itself remains disputed, this status quo further entrenches the sense of irrelevance of these women's experiences to any narrative of a conflict. If CRVAW in contexts such as Northern Ireland are to be labeled as conflict-related, then the ramifications of both codifying women's abuses in narrow terms and situating criminal accountability as the preferred means of dealing with conflict-time abuses requires further analysis before we can lay claim to having secured gender justice for women.

A further legal ramification of this trend is the role that international law itself may play in labeling who counts as a victim of rape and what category of woman is attributed the status of victim and can therefore avail themselves of this legal system. While a debate over which women counted as rape victims took place among feminist scholars commenting on the approach to be adopted by the ICTY,[165] the outcome of the *Akayesu* case in the ICTR is useful to cite again. In her assessment of the *Akayesu* case and judgments, Buss has highlighted that, in the context of ruling that rape was a constituent component of the genocide in Rwanda, the systematic rape of Tutsi women on that basis was legitimized and given credence.[166] On the other hand, it renders the rape of Hutu women, also evidenced to have taken place during the genocide, invisible, because it does not fall within the category of genocidal intent.[167] Buss highlights that the narrative of rape as an instrument of genocide "impacts on what is known and knowable about sexual violence and the Rwanda genocide."[168] This underscores my earlier point about the potential for limited categorization of rape to obscure variants in forms of rape experienced by women of multi-identity status. It also underscores the latter point that the

[165] See generally, for an overview of the debate and different positions adopted by scholars: Engle, "Feminism and Its (Dis)Contents."

[166] Buss, "Rethinking 'Rape as a Weapon of War'," p. 160.

[167] *Prosecutor V. Akayesu*, Case No. ICTR 96-4-T (September 2, 1998), para 731.

[168] Buss, "Rethinking 'Rape as a Weapon of War'," p. 148.

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experience of women whose abuse may be identical to that experienced by the "real victim" but is not considered to have taken place in a "systematic" fashion, is not counted or acknowledged – either as a legal crime or as an act that occurred as part of the conflict. The label "systematic" is interpreted to mean only that occurring in the context of conflict, negating the possibility that normative abuses may take place systematically. This sends a message that law only labels certain women's experiences of rape as relevant in the assessment of rape within its remit.

CONCLUSION

It is evident that there has been only "partial visibility"[169] of the full range of violences and their contextual and fluctuating causalities and characteristics in the truth and criminal justice processes briefly assessed here. The selective approach taken by these mechanisms means that particular people and particular kinds of violence are deemed relevant, which in turn presents a picture of political violence void of analysis that posits the systemic gendered abuse of women before conflict as relevant to women's systematic abuse during conflict. While some progress has been made in securing a codification of some of the abuses that women experience during conflict,[170] there remains the risk of over-emphasizing the extreme end of a unidimensional linear spectrum across which violence is currently assessed.[171] What has been achieved has not gone far enough in responding to the ways that conflict-related harm occurs. Polarized notions of victimhood and agency do little to capture the spectrum of women's experiences that map onto the more textured picture of violence generated by this book. "The assigned label of 'victim', which was initially meant to call awareness to the experience of sexual violence, becomes a term that expresses that person's identity."[172] As a result "'[v]ictimism' [becomes] an objectification which establishes new standards for defining experience."[173] Where the ultimate victim is the woman subjected to mass rape by armed soldiers, those abuses that fall between the accountability cracks remain invisible and these lesser crimes are treated with impunity. The lesser crimes that are tolerated during war are indicative of the ways that lesser crimes are tolerated before war, signaling strongly that these same harms are the ones that will be tolerated after war. Where transitional justice processes do not address the broad-based harms that women experience alongside or in the absence of strategic rape, they can make little contribution to accounting for and preventing enduring tolerated gendered harms. Transitional

[169] Buss, "The Curious Visibility of Wartime Rape: Gender and Ethnicity in International Criminal Law," p. 13.
[170] Engle, "Feminism and Its (Dis)Contents," p. 783.
[171] Buss, "The Curious Visibility of Wartime Rape: Gender and Ethnicity in International Criminal Law," p. 9.
[172] Kathleen Barry, *Female Sexual Slavery* (New York: New York University Press, 1979), p. 45.
[173] Ibid., p. 45.

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justice mechanisms may provide some recourse but may not go far enough in engaging with the gendered order in which harms occur, as both causal of harm and critical in their prevention. Post-conflict transition for women might mean that some of the conflict-time harms will cease, but it does not mean that all will cease, nor will it prevent other and new forms of harm appearing. If we rely on these post-conflict justice modalities to truly bring about cessation of harms for victims/survivors, then they need to reach beyond the concept of transition to that of transformation, an idea truly grounded in engaging with the gendered order in which conflict and conflict-time harms occur. This concept is explored in the concluding chapter.

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8

Conclusion: Transforming Transition

INTRODUCTION

During the course of writing this book, I have had the opportunity to present aspects of its research at many universities and conferences. When I have argued about the need for recognition of the broader conflict-related harms that women experience beyond strategic rape, time and again I have been asked "But why? Why does it matter?" For centuries women have fought for basic rights and equality, and for recognition of the ways that women experience gendered violence across their life cycles. Most recently, recognition of CRSV has been achieved to some degree in international law and policy. This has been a much-needed development. As I mapped out in Chapter 2, there is evidence of CRSV spanning back millennia, yet it is only in very recent times that it has received any kind of adequate public response. The project of making CRSV visible has, however, "produced a range of omissions that are contrary to the inclusive, thick account of conflict that many feminist scholars and practitioners aimed to produce."[1] Losing sight of the original aim of broadening what can be known and understood about conflict is regressive to the broader feminist project as well as to efforts to deepen understanding of periods of armed conflict.[2] Further, as discussed earlier in this book, the gains made in establishing gender as a means for understanding the causality of that violence has begun to diminish in favor of securitized approaches mapped onto a very specific typology of strategic sexualized violence. The research that underpins this book specifically aimed to re-open that canvas and to bring gender and context-relevant and feminist analysis back to rapidly developing global responses to CRVAW.

This book has identified a much broader range, form, functionality, and character to CRVAW than acknowledged in the specific "weapon of war" paradigm, or in approaches that treat CRSV as an episodic disruption to an otherwise peaceful

[1] Doris Buss, "Seeing Sexual Violence in Conflict and Post-Conflict Societies: The Limits of Visibility," in *Sexual Violence in Conflict and Post-Conflict Societies: International Agendas and African Contexts*, ed. Joanne Lebert, Doris Buss, Blair Rutherford, Donna Sharkey, and Obijiofor Aginam (New York, London: Routledge, 2014), p. 14.

[2] Ibid., pp. 14–15.

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landscape to women's lives. Three significant features emerge. First, CRVAW is variant and multifarious. It is diverse globally and diversifies in respect to the context in which it takes place. Within one context of conflict, over time and space, women may experience multiple types of harm from multiple types of actors. Its appearance is influenced by factors that include the *opportunity* to enact violence, levels of legal and implicit *impunity* in a specific context, the selective use of *sanctions*, an actor's access to *resources* and *incentives* that will empower the use of violence and whether and how certain violent acts are understood as *instrumental* to both personal and political gains. Cross-cutting contextual factors, such as the nature of conflict itself and socio-cultural, socio-economic, and socio-political factors, in turn influence how violence will appear in response to the context it confronts. What is now known about this violence is that it may include strategic rape by armed actors. It may also include a range of sexualized violence and sexual slavery, forced rape between family members, physical mutilation and assault, various forms of reproductive harm, forced cannibalism and violent rituals performed on family members, forced witnessing of the murder of family members, capture of one's children, detention and/or capture of women, forced recruitment, psychological harm, domestic violence, threats and threats to family members, and displacement, loss of family, livelihoods, assets, and resources. These harms are enacted by parties to the conflict, as well as civilian men known and unknown to women, and take place during armed attacks or flight, in their homes, in public spaces, in refugee and displacement camps. Even where strategic rape does not occur, women may still experience harms related to or enabled by the exigencies of the conflict, by both armed and civilian actors.

Second, the ways that violence takes place during conflict is very much related to the ways that violence is directed toward women before conflict. Many of the patterns of violence pre-conflict are sustained, or mutate in some way in response to conflict's dynamics and/or who is directing that violence. At the same time, distinctive harms emerge. These may be distinctive by the way that they are tactically motivated or collective in their performance, whether by armed or civilian actors, in specifically egregious ways, or with intent that goes beyond that which is normative to recipients and onlookers to that violence. The distinctive violence is, however, related to the more expected harms, given that it only takes meaningful effect because of its basis in pre-existing norms, normative violence and the regulatory dampeners that delimit the violence that precedes them. The experience of that violence may differ for women, because it may transgress what is normative in terms of experience and outcome. By examining gendered harms in disaggregated and aggregated ways, CRVAW is revealed as ambulant and fluctuating in form, frequency, and outcome across pre-, during-, and post-conflict contexts. Common across time is the sustained presence of a range of gendered harms targeted at women from conflict to peace, mutating in response to contextual factors. There are connections between violence as well as distinctions in the way that mass conflict-time violence takes place, whether planned and systematic, or opportunistic, and patterned across time.

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Third, after conflict, the generation of new modes of framing and labeling of violence influences how that violence is seen and understood. In post-conflict contexts, violence fluctuates again and different kinds of violence will mutate in different ways, dependent on context. Some incidents of violence are new, others are a continuation of existing harms, and some forms that were distinctive to the conflict cease. The heightened attention to during-conflict violence carries over into the aftermath where particular forms of violence receive particular attention. Violence becomes redefined through a labeling process enacted through mechanisms of law, formal and informal social and policy processes. The new definitions or categorizations of violence inevitably determine a new meaning for this violence both for women subject to this violence and for wider society. This results in a new positioning of the issue in social and legal discourse and in more readily available data on this violence than ever before.The introduction of awareness-raising on specific forms of harm, the reframing and labeling of that harm *as constituting specific violations or crimes*, prompts reporting and demand for services. A narrative of increases in violence circulates in post-conflict contexts. The power of labeling creates awareness and response, while its focus on only some harms can also occlude attention to some harms over others.

Similar to the complexity to violence demonstrated here, my response to *why* it matters that these harms are made visible and, understood in this way, are also complex, multiple, and interconnected. Reductive and universalizing categorizations of women's experiences of harm have implications. They influence what forms of violence receive attention, what forms of violence women feel that they can rightly seek help for, what forms of violence are eligible for accountability post-conflict. It sends messages to women about what is and is not a "wrong" in their lives, and what they can and cannot legitimately claim as a harm. Importantly, a fulsome understanding of the basis for and meaning of that violence in context is critical if it is to be effectively prevented. It matters that all harms are visible because that is the totality of women's experiences and the longevity of violence across their lives. For too long women's experiences of violence in differing forums have been occluded. If the occlusion continues for some harms over others, then a narrow and dichotomous determination of those experiences predominates. Some harms will remain occluded and therefore be sustained. Absence of identification and labeling can mean absence of response to that harm and result in the enduring presence of violence in the lives of women. Sustaining an approach to conflict-time violence out of sync with women and their lives means sustaining the structural inequalities that cause the violence.

Mapping out and understanding the connections and distinctions between harms across time, space, and actors matters because it makes evident the mundane within the extraordinary, and that their inter-relationship matters. It is in itself extraordinary that before or outside of conflict, the persistent and highly prevalent assault of women globally is so readily tolerated and considered mundane. Within that mundanity, however, there are violent acts that reach the threshold of the

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extraordinary, as I discussed in Chapter 4 (and it remains unclear who gets to determine what is and is not an "extraordinary" act of violence). These acts are happening in private and are not readily visible in the ways that conflict-time violence happens on a mass and public scale. The problem with situating political violence as distinct is that this may "obscure the atrocity"[3] of endemic violences. It may also sever any conception of the connections between ordinary and extraordinary violences demonstrated in this book, and result in a situation in which "extreme examples [are used to] produce narrow principles."[4] Lines that are drawn between normal and abnormal experiences matter because they hide both the fact that the mundane and tolerated harms that women experience are in themselves extraordinary, and the reason why extraordinary harms occur during conflict. The theorizing of dichotomy that we find in feminist literatures is reflected in the reality of a dichotomy that is imposed on many women's lives. The sexualized assault of women in conflict is not the result of "monsters" and errant men, nor of groups of such men. Considering one set of assault as ordinary and normal and the other as aberrant negates consideration of how pre-conflict and the conflict-responsive changes in masculinities and femininities enable the assault, disciplining, and regulation of women through violent sexual relations. Armed conflict affects ordinary violence's already complex landscape, augmenting the range of harms occurring, deepening connections and distinctions between forms of violence as it mutates across time and space, and evidencing how the labeling of violence deeply affects how it is understood both during and after conflict.

I focus on how this violence is treated in transitional justice and accountability processes to demonstrate that developing a fulsome understanding of CRVAW matters to counter the production of "narrow principles." Narrowly defined laws, policies, and practices do not fully reach their potential in preventing variant harm in women's lives. I focus on justice and accountability to show that in turn, this means that women live with that "certain level of radiation that exists around [them] all of the time,"[5] never quite sure when that omnipresent threat or actuality of violence will reach toxic or extraordinary-enough levels required to invoke certain legal responses or to prompt an international outcry. The evidence in this book suggests the arrival of a transition from conflict to peace that silences the structural exclusion of women and its associated contextually informed multi-dimensional gendered violences and their inter-relational connections across the pre-, during-, and post-conflict contexts. The need for the application of this expanded understanding and the now evident complexity and causality of violence across these

[3] Rhonda Copelon, "Surfacing Gender: Reconceptualising Crimes Against Women in Times of War," in *The War Against Women in Bosnia-Herzegovina*, ed. Alexandra Stiglmayer (Lincoln, London: University of Nebraska Press, 1994), p. 205.

[4] Ibid., p. 204.

[5] Susan J. Levitt, "Rethinking Harm: A Feminist Essay," *Washburn Law Journal* 34 (1995), p. 532.

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phases to post-conflict processes urgently materializes. The hierarchies of harm that are produced by what is perceived to be "known" about CRVAW influences how international legal frameworks determine the violence that counts as relevant for procedures of justice and accountability for women. Even where CRSV enters transitional justice measures (where there exists the greatest potential for those harms to be documented and recognized), there remain gaps and challenges. As my discussion in the previous chapter demonstrated, when gender is brought into international legal and policy frameworks and mechanisms such as transitional justice, "gender" becomes transformed into something that is utilitarian for the system itself. Rather than being used as a means to generate a fulsome understanding of the gendered nature of conflict and of the structural nature of violence, reductive understandings of gender and of women's experiences of violence emerge, if they appear at all. The processes themselves, such as truth process completely omit women themselves by labeling women out of the conflict, as if they never existed in the midst of that conflict (e.g. Northern Ireland's dealing with the past process); they reduce and compartmentalize women's experiences of harm, completely missing the variations in harm and the ways that gender provides meaning and order to those harms (e.g. Liberia's truth commission); and fail to ensure that women participate and that their participation and hearing of their experiences is linked to efforts to tackle the structural discriminations that cause these exclusions and connections in violence within and outside of conflict (e.g. Timor-Leste reconciliation processes). There should be room for women to name harms in ways that make sense for them, whether as distinctive to conflict actors and dynamics, or part of the wider panoply of gendered violence to which they are ordinarily subjected. In both scenarios, the processes of accountability should approach those harms in ways responsive to how society ordinarily tolerates structural and systemic harms against women. However, it must go beyond naming in law, to procedural approaches that engage with structural conditions.

Post-conflict transition "tends to be presented as a move from madness to sanity, or from evil to good, but if we are mindful of the violence in peace and the cooperation in warfare, the transition from war to peace takes on a different complexion."[6] That violence plays a role in "deconstructing, redefining or reshaping a social order"[7] is clear. Whether women's experiences of violence in peace and in war are used to deconstruct what happened during a conflict, redefine the narrative of the conflict, and reshape the new order post-conflict is a question that this final chapter engages with. Here, the findings on violence and on transitional justice in the previous chapters are brought together to consider just whether and how transition can be a moment in which conflict-affected societies can truly work to mitigate gendered harms altogether. With this in mind, this chapter considers post-conflict justice and

[6] Keen. "War and Peace: What's the Difference?," p. 10.

[7] Jon Abbink, "Preface: Violation and Violence as Cultural Phenomena," in *Meanings of Violence: A Cross Cultural Perspective*, ed. Jon Abbink and Göran Aijmer (Oxford, New York: Berg, 2000), p. xii.

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accountability beyond its role in facilitating transition, but to considering its role and potential in transforming the structural basis of gendered inequalities and harms, and their variant manifestation and ambulant nature across peace to conflict. I first discuss transition and accountability on the basis of the findings across this book and identify three sets of tensions that simultaneously push open and close down space for transition to be transformational for women. This is followed by a discussion of how transition can move toward transformational approaches. In this section and the final conclusion, I offer some thoughts for policy and practice going forward.

TRANSITION AND ACCOUNTABILITY IN A LANDSCAPE OF COMPETING FORCES

The common wisdom underpinning the application of transitional justice mechanisms is the assumption that justice systems, and justice in itself, are pivotal to the successful restoration of societies after periods of mass violence. While a focus on justice within transition corresponds with the need to reform a society, make a break from the past, and meet victims' desire for accountability, it also serves to elevate the law and legal processes to the position of being key to the social change required after conflict.[8] Transitional justice scholars have commented that "law maintains order, even as it enables transformation."[9] Its function can be to establish a future for society, acting as a conditioner for a future that is envisioned by law's provisions.[10] The reliance on international law to regulate how peace is made,[11] to establish new norms through legislative reform, to establish governance and justice chains, and to demarcate the boundaries of past and future through transitional justice, bestows it with significant practical and symbolic effect.

Feminist scholars have debated whether justice alone can bring about the substantive gains women require in respect of such change.[12] There is a sense in the wider literature of attributing blame or responsibility to transitional justice processes for enabling post-conflict violence against women, in part due to their failure to deal adequately with the violence of the conflict and counter impunity.[13] For example, Galuh Wandita et al. comment that the lack of post-conflict gender justice in

[8] Laurel E. Fletcher and Harvey M. Weinstein, "Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation," *Human Rights Quarterly* 24 (2002), p. 601.

[9] Ruti G. Teitel, "Transitional Jurisprudence: The Role of Law in Political Transformation," *The Yale Law Journal* 106, no. 2009–2080 (2009).

[10] Phillip Allott, "The Concept of International Law," *European Journal of International Law* 10, no. 1 (1999), pp. 32–33.

[11] Aisling Swaine, "Law and Negotiation: A Role for a Transformative Approach?" *Global Policy* 7, 2 (2016), pp. 282–87.

[12] Christine Bell and Catherine O'Rourke, "Does Feminism Need a Theory of Transitional Justice," *The International Journal of Transitional Justice* 1, no. 1 (2007).

[13] Susan Harris Rimmer, *Gender and Transitional Justice: The Women of East Timor* (London and New York: Routledge, 2010), chapter 6; Galuh Wandita, Karen Campbell-Nelson, and Manuela Leong Pereira, "Learning to Engender Reparations in Timor-Leste: Reaching out to Female Victims," in

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Timor-Leste impacts significantly on women's ability to report and seek redress for ongoing violence in the new political era.[14] It is acknowledged here that impunity is a critical enabling factor to gendered violence – a factor I identified in Chapter 4 as contributing to CRVAW. Justice and punitive approaches can act as a deterrent to violence, which is one of the primary functions of criminal accountability. There is an expectation that post-conflict justice processes will establish accountability and demonstrate that there will be no impunity for gendered harms. This is a critical contribution to prevention. However, the dichotomies in law and in violence that I have discussed across this book are critical to reconsider here. Where criminal or quasi-judicial mechanisms such as truth processes are dealing with specific sets of crimes and harms perpetrated by a certain set of armed actors *only*, it is unclear how transitional justice sends a message to an affected population that there will be no impunity for *all* forms of post-conflict gendered harms. Recall some of the examples I shared in this book: Darfur, where the male leadership condemned armed actors attacking women outside camps, yet did not in any way understand that their abuse of women in their families was also a similar problem; or Timor-Leste, where the Indonesian soldiers may be the ones accused and prosecuted for CRSV, yet they have left. Does that mean that this problem that society has faced, i.e. CRSV, is one only of marauding soldiers? And once they have gone or ceased activities, then that problem is gone too? Is society agreeing and justice processes telling a reforming society that it is discrete acts of CRSV by discrete groups of men that are the problem? And thereby what happened in the conflict has little to do with our society today which is effectively absent of these actors and their violence? Even in contexts like Liberia where fighters are still present, it is only specific harms that are being framed as problematic within processes like the LTRC. While the prosecution of CRSV clearly sends a message about that harm, it is not clear if linkages to the ordinary everyday violence are wholly understood by the assumed consumers of a truth commission's messages.

Regardless, it is ambitious to expect transitional justice alone to deal with or prohibit the prevalence of violence against women after conflict, whether at increased rates or not (as discussed in Chapter 6). I am not arguing that it does not have a role in this regard. I fully believe that it does have a role in delivery of accountability and justice for women individually and collectively, and acting as a deterrent broadly speaking. It can however contribute more – and that is why *it matters how gendered harms are understood and justice is conceived and delivered*. "Tackling the causes as well as the consequences of such physical violence demands addressing the structural and everyday violence that underlies and enables it."[15] This includes through law as deterrent.

What Happened to the Women? Gender and Reparations for Human Rights Violations, ed. Ruth Rubio-Marín (New York: Social Science Research Council, 2006).

[14] Wandita, Campbell-Nelson, and Leong Pereira, "Learning to Engender Reparations in Timor-Leste," p. 316.

[15] Paul Gready and Simon Robins, "From Transitional to Transformative Justice: A New Agenda for Practice," *International Journal of Transitional Justice* 8, 3 (2014), p. 354.

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It also includes taking approaches that send clear signals about how law and justice processes conceive of women's experiences in war – as connected to the broader gendered order pre-conflict, and nominating connected harms post-conflict as problematic.

Transition occurs directly following a period of upheaval, political crisis, revolution, or conflict, and before and leading to the inculcation of a new regime of national order.[16] It has "come to mean change in a liberalizing direction."[17] Whether that liberalizing direction brings about social change and transformation that is inclusive of women and their priorities in respect of transformation remains a consideration, as does the role of transitional justice.

Transition is a moment in which change can happen. What does transition offer in respect of change? And what does it offer in terms of change that might bring about transformation to the unequal social gendered order after conflict? Particularly in the reliance on law and justice and its presumed neutrality that is actually gendered masculine? If the approaches taken to transitional justice are to successfully go beyond compartmentalized understanding of CRVAW, attention to contextual factors will be key. How do transitional justice measures engage with the social context in which they are located? And with the broader context in which the harms that it is adjudicating were located? For the purposes of examining the potential for transitional justice to bring about social change that works for women, three key "push" and "pull" factors are identified that influence the potential of transitional justice in this regard. These tensions are mapped onto the three thematic findings on violence in this book – that of variant and in-between harms beyond strategic rape, ambulant violence, and processes of labeling of violence. These push-and-pull factors are relevant in either lending themselves to opening up the space to address women's concerns, or in restricting or closing down that space during times of transition. The tensions that are created within and across these observations are then discussed in reference to whether transition may become a pivot point of positive social change for women. My assessment is based on a fulsome analysis of engagement by justice mechanisms with gender, gender norms and inequalities as well as, and because of their relationship with, gendered harms.

Push-and-Pull Factor 1: Seeing Variation and Multiplicity in Violence

Efforts to address gender within transitional justice most often focus on sexualized violence as the remedy for the inclusion of women's and gender concerns.[18] The assessment of transitional justice responses to women's experiences of conflict in the previous chapter demonstrates that there has been an overwhelming focus on a particular typology of sexualized violence. In recent times, there has been an

[16] Ruti Teitel, "Transitional Jurisprudence," p. 2013. [17] Ibid., p. 2013.
[18] Bell and O'Rourke, "Does Feminism Need a Theory of Transitional Justice," p. 26.

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expansion of legal and policy space in which these kinds of sexualized abuses are made increasingly visible and addressed. This is demonstrated, for example, through the adoption of the UN Security Council Resolutions focusing on systematic sexualized violence in armed conflict and the adoption of the Rome Statute and its provisions for sexualized forms of violence.[19] The predominance of this form of violence in public and legal discourse has ramifications, however: it has also promoted a corresponding closure of space for wider gendered, social, and economic harms that were identified in this book, to be seen and addressed. *A focus on sexualized violence pushes open space to see sexualized harms, yet closes down the space to address variant violences in conflict.*

As described in the previous chapter, transitional justice processes tend to restrict women's positioning within the administration of justice procedures. From a procedural perspective, justice processes will narrow the focus to systematic and strategic sexualized violence.[20] This will reflect a particular composition of sexualized violence. Whether feminist efforts to highlight sexualized violence have contributed to the creation of hierarchies of abuse in transition is a contentious consideration. As noted in Chapter 4, a multi-dimensional analysis of gendered harms is required, one in which the nexus between the mutation of pre-existing gender inequalities and harm and the appearance of conflict-related multi-purpose violences is disclosed.

The tension between the push of feminist concerns and the pull of restrictive procedural responses in which these concerns are addressed, becomes pivotal to whether this more nuanced version of women's experiences will be aired.[21] A key challenge is in engaging with the patriarchy of international legal and political discourse and the ways in which it supports existing and differing patriarchal discourses in each setting.[22] In this convergence comes the exclusion of women's gendered concerns. The variant range of physical harms identified in this book are not the only concern here – socio-economic harms in particular are excluded

[19] Aisling Swaine, "Assessing the Potential of National Action Plans to Advance Implementation of United Nations Security Council Resolution 1325," *Yearbook of International Humanitarian Law* 12 (2010). See UN Security Council resolutions: United Nations Security Council Resolution 1325, S/RES/1325 (2000); United Nations Security Council Resolution 1820, S/RES/1820 (2008); United Nations Security Council Resolution 1960, S/RES/1960 (2010); United Nations Security Council Resolution 1889, S/RES/1889 (2009).

[20] Doris Buss, "Rethinking 'Rape as a Weapon of War'," *Feminist Legal Studies* 17 (2009), p. 146.

[21] See, for example, work by Dianne Otto that explores the tensions associated with the need to make gains for women within masculinist international structures such as that of the United Nations: Dianne Otto, "Power and Danger: Feminist Engagement with International Law Through the UN Security Council," *The Australian Feminist Law Journal* 32 (2010). Also the work of Doris Buss, which explores the "possible limits of international criminal law as a site for feminist-inspired advocacy on violence against women," Doris Buss, "Performing Legal Order: Some Feminist Thoughts on International Criminal Law," *International Criminal Law Review* 11 (2011), p. 423.

[22] Fionnuala Ní Aoláin and Catherine Turner, "Gender, Truth and Transition," *UCLA Women's Law Journal* 16 (2007), p. 236.

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from transitional justice mechanisms.[23] In terms of their potential for promoting change, of concern is whether post-conflict judicial mechanisms can be further improved to impact on global tolerance of and impunity for the broader gendered oppression of women. It is then that the aftermath of violence can be appropriately understood and addressed both from a backward-looking and forward-looking perspective.

Push-and-Pull Factor 2: Establishing the Substantive Basis of Connections and Distinctions

The encapsulation of gendered crimes in the statutes of the international tribunals, and increasingly within truth-telling processes, indicates some progress in the ways in which legal and judicial approaches have contributed to expanding understanding of women's experiences of conflict. The employment of justice mechanisms in this respect is estimated to open up the "potential for effecting transformative politics" and promote change.[24] However, by failing to take account of the underlying power fissures, the pre-conflict structural violence, and the fluctuations of violence during and after conflict illuminated in this book, they ignore the complexity and causality of these violences. *Transitional justice pushes open a space in which women's concerns may be addressed, yet its narrow lens closes down the potential for the substantive basis of that violence and its relevance to the aftermath to be seen.*

Processes such as truth commissions carry "social and political weight."[25] They play a potential role in pushing open space to create a forum in which the harms women experienced are named and documented. Yet, as demonstrated through the example of the CRP processes in Timor-Leste, they can pull back from making progressive gains by "compound[ing] the exclusions and discriminations experienced by women, [effectively] ... operat[ing] to reverse gains made during periods of societal instability."[26] Transitional accountability processes do not take account of the contexts in which women are experiencing abuse, and continue to experience abuse – i.e. the structural discriminations that inform violence. They therefore close down the potential for ordinary violences and structural discriminations to be included as both a "looking back" and a "looking forward" issue. A trade-off takes place in which tokenistic inclusions of women and women's concerns are set off against the exclusion of a more substantive consideration of why women's concerns require differentiated attention in the first place.

[23] Ibid., pp. 238–39. Also, Fionnuala Ní Aoláin, "Exploring a Feminist Theory of Harm in the Context of Conflicted and Post Conflict Societies," *Queen's Law Journal* 35 (2009), p. 233.
[24] Ruti G. Teitel, *Transitional Justice* (Oxford, New York: Oxford University Press, 2000), p. 6.
[25] Ní Aoláin and Turner, "Gender, Truth and Transition," p. 247. [26] Ibid., p. 244.

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Push-and-Pull Factor 3: Maximizing Labeling Opportunities

As discussed in Chapter 6, positive trends in legislative reform in contemporary transitional contexts advance women's status and rights, and the labeling of violence through justice may be both advanced and constricted during transition. In Aili Mari Tripp's estimation, adoption of legislative frameworks in post-conflict settings are taking place in an unprecedented manner.[27] The labeling of violence that occurs after conflict through the transitional processes described in the previous chapter, and through the "arrival" of international norms as described in Chapter 6, provide some basis for the push that is made to institute post-conflict normative reforms on violence against women. For example, as noted previously, Tripp has found that post-conflict countries in Africa have passed twice as much legislation regulating violence against women than those countries that have not experienced conflict.[28] This is attributed to "changing opportunity structures" in the aftermath of conflict in which "some of the poorest African countries ironically ended up with some of the strongest legal protections of women."[29] Examples of the most explicit constitutional references to women's rights (in African countries) are found in constitutions developed within post-conflict settings.[30] Tripp goes on to highlight that these kinds of changes did not take place in countries emerging from earlier national liberation struggles, and attributes this to changes in international normative structures and their more recent influence on post-conflict contexts.[31]

States established during transition and recovering from periods of mass violence, particularly those wishing to distance themselves from the despotic violence of the prior regime, also wish "to be seen as committed to the rule of law" – a signifier of their commitment to a new order and indeed safe for foreign support and investment.[32] Efforts at "national prosecution [in this case for post-conflict violence] can enable states to re-establish themselves as moral authorities that legitimately represent an entire society."[33] Specific laws on gendered violence may also be perceived to represent a symbolic step toward addressing the needs of the "entire society" – albeit debatable in itself. However, these points reinforce a key finding of this book: that opportunities to push open space for labeling, legislating, and making change on violence after conflict must be maximized if societies are to be supported to facilitate change to take place.

The tension existing between the privileging of normative regulatory responses to violence after conflict and the space these will push open for women, and the

[27] Aili Mari Tripp, "Legislating Gender-Based Violence in Post-Conflict Africa," *Journal of Peacebuilding and Development* 5, no. 3 (2010), pp. 7–8.
[28] Ibid., pp. 7, 10, & 11. [29] Ibid., p. 7.
[30] Ibid., p. 8, citing A. Tripp and M. Hughes, "Civil War, Democratisation and Women's Political Representation in Africa," in *American Political Science Association Conference, 4th September* (Washington DC, 2010).
[31] Tripp, "Legislating Gender-Based Violence in Post-Conflict Africa," pp. 7–8.
[32] Mark Osiel, *Making Sense of Mass Atrocity* (New York: Cambridge University Press, 2009), p. x.
[33] Ibid., p. 147.

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introduction of these new labels to a setting that may serve to undermine or contract their potential, questions whether genuine change can occur. Implementation of reforms, such as new legislation addressing rape or domestic violence, is weak (if not non-existent) in many places.[34] The problems of under-enforcement of legal obligations within the transitional context, and particularly its "gendered hue," has been noted by feminist scholars.[35] Analysis of the under-enforcement of laws specifically regulating women's gendered subjectivity and experiences of violence may be examined in respect of the context in which they are purported to be implemented. While these specific laws seek to progress "legal transformation"[36] and overcome the gaps that exist in the wider legislative framework, they are set within a socio-legal and socio-cultural context predicated on the patriarchal structural condition. The requirements of "transforming [legal] institutions"[37] goes beyond the drafting of law and requires a process of substantive change to wider tenets of structural inequalities – at legal, political, and socio-cultural levels. The politics of transition implies institutional reform processes in which the new structures that may be responsible for the implementation of new laws, such as policing and the judicial system itself, may ultimately become detractors of these laws. They may fail to implement them in the transformative ways required (particularly where the international development community's "imported patriarchy"[38] presents itself in support of these structures discussed before). In Liberia, two years after the passing of laws on rape, there were only two rape convictions secured.[39] Legislation itself may also not be the answer. Harsh penalties that are attributed to sexualized offenses may prevent some women from reporting, particularly when we take into account that the majority of women suffer abuse from men that are known to them and on whom they are economically dependent.[40] Additionally, life imprisonment for the rape of a minor is considered to be harsh and is perceived by some to prevent victims reporting such abuse, particularly where the perpetrator is known or a family member.[41] It has also created a social backlash against the issue of sexualized violence, resulting in less support for the laws and more condemnation of women who report.[42] In Timor-Leste, it is evident that, in the absence of adequate social and economic support systems, some women fear reporting domestic violence because their husbands leave them following conviction and detention, which was not the

[34] Tripp, "Legislating Gender-Based Violence in Post-Conflict Africa," pp. 15–17.

[35] Fionnuala Ní Aoláin and Eilish Rooney, "Underenforcement and Intersectionality: Gendered Aspects of Transition for Women," *The International Journal of Transitional Justice* vol. 1 (2007), p. 344.

[36] Ibid., p. 344. [37] Ibid.

[38] Fionnuala Ní Aoláin and Michael Hamilton, "Gender and the Rule of Law in Transitional Societies," *Minnesota Journal of International Law* 18, no. 2 (2009), p. 400. See also: Fionnuala Ní Aoláin, "Learning the Lessons: What Feminist Legal Theory Teaches International Human Rights Law and Practice," in *Transcending the Boundaries of Law: Generations of Feminism and Legal Theory*, ed. Martha Fineman (New York, Oxon: Routledge, 2011).

[39] Tripp, "Legislating Gender-Based Violence in Post-Conflict Africa," p. 13. [40] Ibid., p. 18.

[41] Field Notes, Liberia. [42] Field Notes, Liberia.

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outcome desired by these women. There is also the additional consideration that, as highlighted in Chapter 6, after conflict a focus on the kind of violence that gained predominant attention during the conflict becomes subject to legal reform. This will occlude the other forms of violence that also exist and pull back space to re-label and define those in the aftermath. *Attention to CRVAW in transitional processes will push open space for necessary legislative reforms to be adopted post-conflict, but constrict the types of gendered harms that will be subject to a new labeling and framing.*

TRANSITIONING TO THE SAME OR A TRANSFORMATION TO SOMETHING NEW?

The gains that can be made for women during times of upheaval have been noted by feminist scholars.[43] There is also acknowledgment of the "retrenchment"[44] that can occur after conflict. Examining transitional justice mechanisms from the perspective of women's experiences of harm evokes the tension that exists in the relationship between the potential for change and the actuality of change that occurs. There is evident tension between feminist concerns and attempts to push open space for women to be heard, included, and for the harms that women experience to be addressed; and, at the same time, the pull or retraction on those very concerns because there is reliance on inherently masculinized structures and systems to facilitate transition. Transition opens up new opportunities to address gendered violences after conflict but restricts their potential to prompt substantive social change. As transitional justice has emerged in practice, its founding in an order of law and politics that is gendered masculine has meant that while many of these mechanisms have opened up the possibility of accountability for gendered harms, they have also demonstrated constraint in addressing women's specific concerns, including the broad range of enduring inequalities and harms they may experience.

This is not an unusual experience for feminist activism in multiple areas of policy and practice. As feminism has engaged with global structures, systems, institutions, and frameworks, differences between approaches that *instrumentalize* women's concerns and those that actually set an agenda for *transformation* in social gendered relations have emerged. There are distinctive differences between approaches that are *instrumental* and those that are *transformative*. Approaches that are *instrumental* and focused on the practical engage with "women" and "gender" and may add much-needed attention to practical issues. However, they fit women or make women's concerns fit into a system that admits them practically, but does little to engage with the reasons why deliberate actions are necessary to ensure women's concerns are added to these critical processes in the first place. Women, women's

[43] See, generally, Sheila Meintjes, Anu Pillay, and Meredeth Turshen, eds., *The Aftermath: Women in Post-Conflict Transformation* (New York: Zed Books Ltd., 2001).

[44] Ní Aoláin and Hamilton, "Gender and the Rule of Law in Transitional Societies," p. 381.

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rights, and gendered harms become instrumental to a justice mechanism declaring that it has addressed all aspects of the conflict, including gendered harms, yet do little to engage with the causal basis of those harms. Approaches that are *transformational* start from women's experiences in context on the other hand, and engage with the structural inequalities that give rise to harms. These approaches advance women's strategic interests, tackling inequalities and advancing women's rights on an equitable basis. In the former approach, inequalities remain unchallenged. In the latter, tacking inequalities is the focus.

"[T]ransitional justice is as forward looking as it is backward looking. One of the critical reasons we deal with past abuse is in order to ensure that it does not reoccur."[45] This is one of the greatest expectations of transitional justice. It is also one of the reasons why there is growing critique of the opportunities missed by these mechanisms, particularly for women. Its potential to transform, at least in respect to the subject of this book, is to transform normative acceptance of certain levels of gendered harms. "Because transitional justice is justice within defined political parameters, it is limited and partial."[46] As noted, the mechanisms that I examined in each site in Chapter 7, all had fixed timelines of operation and covered very precise time periods of conflict and of conflict actors and their crimes. A key question that arises thereby is what exactly transitional justice is transitioning "from" and "to"[47] – particularly when its partiality will determine a past and future narrowly defined. The "past" in this case is generally taken to be the period of *conflict-time* violence. As was evidenced across the chapters in this book, however, those past *conflict-time* harms are connected to past *pre-conflict-time* harms. They are also connected to *present* harms in the post-conflict context and to the enduring inequalities across time and space, from conflict to peace. Also, as was seen in Chapter 5, patterns of harm from historic conflict-periods are recurring in contemporary conflicts in Northern Ireland and Timor-Leste. With such evidence available and with a wide feminist periscope to hand, the past for women becomes a much wider universe of space, place, inequalities, and harms than is currently conceived within transitional justice mechanisms. Those inequalities do not remain in the past, and in particular do not "end" in the way that conflict-time violence by combatants is assumed to. That past pattern of inequality sustains itself, and may even magnify post-conflict, in the competition for resources and power, and in the tensions that emerge between the push-and-pull dynamics of transition outlined earlier. If the function of transitional justice is to "empower citizens to recognise and resist a return to abusive practices,"[48] there is still a need to figure out how that

[45] Paul van Zyl, "Promoting Transitional Justice in Post-Conflict Societies," in *Security Governance in Post-Conflict Peacebuilding*, ed. Heiner Hänggi and Alan Bryden (Geneva, Switzerland: Centre for the Democratic Control of Armed Forces (DCAF), 2005), p. 215.

[46] Teitel, "Transitional Jurisprudence," p. 2014.

[47] Bell and O'Rourke, "Does Feminism Need a Theory of Transitional Justice," p. 35.

[48] Van Zyl, "Promoting Transitional Justice in Post-Conflict Societies," p. 212.

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process of justice links to patterns of wider harms and inequalities and performs a role in mitigating not just abuses, but also the inequalities that informed them.

The analysis of the select transitional justice processes in the previous chapter evidenced processes that have engaged with gendered harms in delimited ways. Some of some women's concerns, and reductive versions of harms, have been engaged with. The opportunity that transitional justice offers has pushed open space that has created visibility of women and gendered harms in ways unseen before contemporary proliferation of these accountability mechanisms. To date, these have, however, been limited and void of a fulsome engagement with the connections and distinctions in gendered harms across conflict and peace, and their basis in enduring structural inequalities. That extra step, the one that would make engagement with gendered harms transformative, has generally been missed. Transitional justice may be analyzed through the practical vs. strategic, instrumental vs. transformative lens outlined earlier. When applied to addressing gendered harms through transitional justice, it is the difference between modalities of justice that admit women and some of their concerns on terms defined by that process, and those that, through justice, attempt to uncover and set an agenda that will tackle the way that underlying inequalities give rise to gendered exclusions and harms. These are two different things. There is a difference between facilitating *transition* and facilitating *transformation*. On the one hand the post-conflict moment represents a move from conflict-violence to non-conflict-violence, the establishment of a new democratic order, and transition from conflict to a negative peace. On the other hand is a transformation process that creates a post-conflict dispensation that views the cessation of conflict as one aspect of the change in social and violent practices that is needed to make democracy inclusive, resulting in an aspiration toward a positive notion of peace. In transition, there is a move from high prevalence of CRSV to a society in which those reductive typologies of extraordinary violence no longer take place. In transformation, there is recognition of the breadth of harms that persist in women's lives and their inter-relational connection across times of peace and conflict, and an attempt to create a longer-term aftermath that works toward eliminating gendered harm. A transformative approach to justice and transition moves beyond current modalities that rely on narrow conceptions of law and punitive justice that "reduces women to their injury in a violation- and perpetrator-centred way, rather than discussing the gendered power relations that lead to violations."[49] Rather, it views what occurs in conflict as "intimately linked to cultures that limit women's rights in peacetime."[50]

I repeat here a commentary on gender that I included in Chapter 2: the "power of gender"[51] is that it can inform the causes and contexts to perpetration of violence

[49] Gready and Robins, "From Transitional to Transformative Justice," *International Journal of Transitional Justice*, p. 353.

[50] Ibid., p. 354.

[51] V. Spike Peterson and Anne Sisson Runyan, *Global Gender Issues in the New Millennium* (Boulder: Westview Press, 2014).

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(inequalities, relationships in which men hold financial, social, and familial control over women), how that violence is experienced (whether it is recognized as violence at all in legal or socio-cultural terms), and the meaning of that violence (e.g. stigma on rape survivors that is acutely attached to gendered norms of women's purity). If transition and justice is to be transformative it would capture the harm that women experience, its meaning in context and why it holds meaningful effect, and not just the violent act itself. It would treat harm as a product of context, and in ways that are relative to that gendered context. Ignoring the gendered order upon which conflict erupts, the gendered order in which transitional justice takes place and the gendered order of justice modalities themselves, carries "the risk of recreating structures of control and prejudice that women, girls, and other exploited groups are struggling to eliminate."[52] Of greatest risk is that justice processes without transformative tenets legitimize a standard on which truth and justice is set and creates an expectation for what is permissible in terms of women's experience of structural inequality and harm. If transitional justice processes are to represent a "break from the past"[53] for women, reliance on existing structures will not facilitate the fundamental legal, political, and social reform required for a break to be made with the inequalities that sustain harm across time and space. The need to engage with "[s]tructural violence [that is] exerted systematically – that is, indirectly – by everyone who belongs to a certain social order" jars with the expectations that these processes concentrate on individual actors and their individual responsibilities for individual and isolated incidents.[54] The application of international legal and political processes that rest on the idea of dichotomy and address conflict-related harms as if they are something aberrant and unattached to the context in which they occur is at the heart of the challenges outlined here.

Employing justice to promote transition and ultimately transformation is therefore not simply about ensuring legal redress to crimes. The work of Ruth Rubio-Marín on post-conflict reparations for women is instructive.[55] She identifies the potential for reparations to play a role in "political and social transformation" in which transformation is understood as a process that has the potential to "subvert, instead of reinforce, pre-existing structural inequalities."[56] To be transformative, justice would need to address "the social relationships that enabled these violations in the first place, and this includes the correction of unequal gendered

[52] Rashida Manjoo, "Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequence, Rashida Manjoo" (Geneva: UN Human Rights Council, April 23, 2010), p. 16.

[53] Ní Aoláin and Turner, "Gender, Truth and Transition," p. 247.

[54] Paul Farmer, "Sidney W. Mintz Lecture for 2001: An Anthropology of Structural Violence," *Current Anthropology* 45, no. 3 (2001), p. 307.

[55] Ruth Rubio-Marín, "Introduction: A Gender and Reparations Taxonomy." In *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations*, edited by Ruth Rubio-Marín (New York: Cambridge University Press; International Centre for Transitional Justice, 2009).

[56] Ibid., p. 17.

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power relations in society."[57] Moving the conceptualization of transition from one solely focused on a "public sphere phenomenon in which the move from violence to peace is linear and inevitable"[58] to one in which issues of the private realm are recognized as the determinants of much that occurs for women (and men) during and after conflict would expand what is currently captured in the transitional justice paradigm. It would also move it toward something oriented toward transforming norms that inform why conflict-time violence directed at women holds meaning in its political function, and why it is also availed of in its opportunistic everyday function.

Transformative approaches that go beyond transitioning from public violence to sustained private violence would ensure that, both procedurally and substantively, transitional justice modalities are responsive to the gendered reality of their situational context. Justice would be redistributive and not just punitive, redistributing normative perceptions of violence and harm, reforming its meaning in ways that capture the reality of violence for men and women. Power and resources between men, between women, and between men and women would also be redistributed in respect of outcomes of justice and how men and women feature in the processes of justice. Decisions, hearings, and narratives that receive validation would stretch from the distinctive nature of political violence to its connection with the ordinary and extraordinary of the enduring endemic violence against women during and outside of conflict. The pluralities of harm would be heard outside of the restrictive definitions of criminal and rights violations. Transformative justice would address the structural causes of inequalities and violence by counting them as relevant to understanding past events and creating an agreed and inclusive future. Rather than engaging with conflict and violence as discrete elements of a transition that is in itself considered discrete, the connections and distinctions across these elements would inform how transition is pursued.

To draw these ideas together and prompt some thinking on how these ideas might apply in practice, I set out a framework for delineating between and moving from transitional to transformative approaches. For this, I draw from a framing created by Paul Gready and Simon Robins. In their estimation, "transformative justice is understood as transformative change that emphasizes local agency and resources, the prioritization of process rather than pre-conceived outcomes, and the challenging of unequal and intersecting power relationships and structures of exclusion at both local and global levels."[59] A transformative justice does not aim to debunk or replace transitional justice; rather, the agenda for transformative actions is one of reforming the priorities, and thereby the impact, of transitional justice

[57] UN Women, "A Window of Opportunity: Making Transitional Justice Work for Women" (New York: UN Women, 2012).

[58] Bell and O'Rourke, "Does Feminism Need a Theory of Transitional Justice," p. 43.

[59] Paul Gready and Simon Robins, "From Transitional to Transformative Justice: A New Agenda for Practice," in *Briefing Note TFJ-01 June 2014* (2014), p. 1.

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mechanisms:[60] "Transformative justice entails a shift in focus from the legal to the social and political, and from the state and institutions to communities and everyday concerns. Transformative justice is not the result of a top-down imposition of external legal frameworks or institutional templates, but of a more bottom-up understanding and analysis of the lives and needs of populations."[61]

Gready and Robins developed a table to map out the differences between transitional and transformative justice.[62] I borrow from that idea, however I adapt it significantly to the findings on CRVAW in this book, and essentially develop a deeper consideration of gender across transition and transformation. Table 8.1 below maps out differences in transitional and transformative justice. For the purposes of application of these ideas to social change and the ways that policy frameworks are designed and operate, I have used the meta level structure of social order to frame these ideas. In that way approaches to transitional justice may be designed to be transformative at their structural and normative level, at the systems and procedural level, and at the operative and participant level. These are all levels at which violence takes place and response is required.

TABLE 8.1 *Differences in transitional and transformative justice*

Concept	Justice for the purposes of transition	Justice for the purposes of transformation
Structural (Macro) Level		
Purpose	Primarily undertaken for political and legal ends, reconcile the actions of warring belligerent factions.	Contributes to political and legal requirements, but primarily functions to bring about social change and tackle causes of violent harm through multi-modal approaches. Works conceptually from the basis of an understanding of the gendered social order in which conflict took place and harms were experienced. Aims to bring about social change to a present and future that is inclusive and that has as its goal equalities for all.
Normative basis	Public international law with predominant focus on civil and political rights.	Draws from but goes beyond the confines of international law so that the neutrality of law gendered masculine is countered normatively and procedurally. Includes broader global gender equality policy and norms such as the Beijing Platform for Action (1995), CEDAW (1979), and the UN Security Council WPS resolutions. The normative basis is driven by approaches based on

(*continued*)

[60] Ibid., p. 1.
[61] Paul Gready and Simon Robins, "From Transitional to Transformative Justice": *Briefing Note TFJ-01 June 2014*, p. 1.
[62] Ibid.

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TABLE 8.1 (*continued*)

Concept	Justice for the purposes of transition	Justice for the purposes of transformation
Structural (Macro) Level		
		non-discrimination, equity, and a goal of achieving equality. This drives broader conflict transformation, development, and social change approaches through a focus also on social, economic, and cultural rights.
Subject	State and non-state actors.	People – those involved in perpetrating harm and corruption (including private actors) and those who are victims/survivors of those harms and their families. Intersectional identities, abilities, and broader needs mapped along factors of gender, age, class, race, ethnicity, religion, ability, and other context-specific factors that are causal barriers to social transformation are given attention.
Substantive focus	Standards of international law. Public/political violence by parties to armed conflicts. Violations and crimes per international law.	Structural and systemic inequalities and violence, harms as defined by victims/survivors. A focus on how the social gendered order of pre-conflict is the platform on which conflict erupts, and accountability and prevention of future harms is based on engaging with that social order and its influence on the recalibration of society post-conflict. Focus on all kinds of harms by all actors with a broader conception of what is determined as being "conflict-related."
Level	Primarily national level or led by national-level approaches.	Multi-level – happening from national to community levels, primarily bottom-up.
Orientation	Toward the state, securing the state, and preventing return to political violence.	Process oriented toward people involved in and impacted by the conflict, securing inclusive social change. Focus is on the realities of lived lives post-conflict – reparation; and ensuring basic as well as strategic needs are met.
Systems (Meso) Level		
Procedural focus	Application of international legal norms. The process is framed per legal norms so that experiences of harm are mapped into existing frameworks.	The process is led by the identification and labeling of harms by those affected, and law is used and also adapted where needed to adjudicate these broad-ranging harms. Equitable processes of negotiation, debate, and community development are involved so that planning for these mechanisms is based on gender transformative modalities. Inclusion is the focus.

(*continued*)

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TABLE 8.1 (*continued*)

Concept	Justice for the purposes of transition	Justice for the purposes of transformation
Systems (Meso) Level		
Timeframe	Short- and medium-term gains.	Longer-term aim, function, and process. The aim is to make strategic gains i.e. tackle the underlying causes of gendered harms. The mechanism operates for a longer duration to give time specifically for women to reach the point where they are ready to speak about and seek accountability for their experiences.
Modality	Testimonies, hearings – all based on formal legal processes.	Modalities of speaking, listening, dialogue, and reconciliation are variant and include storytelling or other forms of expression as identified by people of variant demographics.
Operative (Micro) Level		
Site	Within institutions attached to (newly formed or transitioning) state structures.	Within institutions of the state, but also and primarily hybrid models and driven by civil society. Takes place in spaces and at times nominated by both women and men.
Participation basis	Population is subject to and of the process as determined elsewhere.	Participatory and gender planning approaches are used[63] so that communities designate how, where, and why certain modalities are used. Participation takes place in multiple ways, public and closed, to maximize safety and minimize stigmas.
Outcomes	Legal, juridical, and closed.	Also legal, but quasi-legal and judicial, responsive to individual and intimate level needs and ideas of satisfaction. The broader social context is accounted for so that shame, stigma, enduring gendered harms that feature post-conflict are subject to accountability and ongoing engagement.
Access	Template of mechanism is designed at national levels.	The mechanism is designed in ways that overcome the practical and strategic barriers that men and women of differing identities may experience in accessing the process.

The table presents an idea of justice that goes beyond punitive and procedural measures, and that is instead people-centered and focused on inclusivity and social transformation. The challenge going forward is to identify how current practice can go beyond its rigid interpretation of what justice is and might mean by those affected by

[63] See, for example, Caroline Moser, "Gender Planning and Development: Theory, Practice and Training" (London: Routledge, 1993).

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multiple forms of harm. There is an importance retained in addressing conflict-related violence for accountability purposes, but doing so in ways that places that violence within a broader universe of gendered harms and norms.

CONCLUSION

Violence constitutes a phenomenon that is not static, but shifts in form and prevalence and fluctuates in response to contextual factors and divergent sources of power. Gendered violence constitutes an intersection of these characteristics of violence with the discriminatory structural gender inequalities that determine women's (and men's) subjectivity to violence. These dynamics inform the appearance of violences in "peace time" or before conflict erupts, as well as in conflict. The meaning of that violence, derived from its placement in a gendered social order, is what makes it efficacious. Violence emerges during conflict in variant ways, including a range of "political" strategic sexualized harms, conflict-influenced in-between violences and private violences that are all prevalent, co-existing and performing multiple political and personally-driven functions during a conflict.

The continuum of power across which violence may be mapped reveals the continual presence of violence in women's lives in different ways from public to private, and in-between, from non-conflict to conflict and back again. The distinctions between forms of violence dichotomized through law are not sustained by women's lived experience of violence given that violence (and threat of violence) may be conceptualized as an ever-present contextually dependent and fluctuating force constant in women's lives. The distinctive ways that violence occurs and may be experienced does however require recognition – relative to the ways that normative violence enables and provides a basis for these distinctive mutations to occur. Some women empirically identify extraordinary violence as outside of the normative experience of violence in their everyday – a violence that is familiar and its innovation flattened by its normative positioning, as opposed to a violence that is aberrant, in some cases more extreme and unexpected during conflict. It is necessary to take into account both the ways in which violence is a constant in women's lives and the ways that conflict may represent a peak, mutation, and exceptional experience for some women.

From a law, policy and response perspective, recognition is required of how social processes give normative meaning to ordinary violence, resulting in CRVAW being treated as extraordinary both by society and by law. Law and justice provides distinct treatment to the extraordinary violence of conflict. In one sense this is useful as it corresponds to the necessity for specific accountability for specific crimes. However, the ways in which law is developed and applied erases the relevance of the ways in which violence is a constant in women's lives. Transitional justice therefore does little to engage with and demonstrate the relevance of the continuities and discontinuities in ordinary and extraordinary violence, and to adequately engage with the fluctuations and mutation of that violence. It instead reinforces the false perception that conflict-time violence is and should be treated as distinctive from the structural forces from which it is derived

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and the contextual basis upon which it manifests. Labeling of harm through law and policy matter. In respect of the post-conflict order, it would be most useful to envision a complex mosaic of pre- and during-conflict violence upon which to understand and respond to violence in the aftermath. The evolution of international legal and normative responses to the issue of CRVAW has presented a new categorization of violence felt in all three post-conflict settings I have examined. This, plus the opportunities for reform that exist after conflict, have had a direct impact on the ways that violence is engaged post-conflict. The impact of international norms is particularly acutely felt in Liberia and Timor-Leste which have had a large international operational presence. The labeling of violence under law determines a perceived variance in violence in terms of whether it is classified as ordinary or extraordinary violence. While the new labeling aids in bringing new meaning to these experiences for women and opens up a range of options, there remains a disjuncture between the ways that women might define such harm and how it could be more appropriately categorized in law and policy responses. Narrow legislative reforms after conflict have the potential to over-emphasize one form of violence over another – and fail again to capture the textured complexity of violences in general and gendered violence in particular. A considered, substantive and context-appropriate process of labeling of violence after conflict in specific and appropriate ways is of paramount importance in ensuring that during conflict and after conflict violences are understood and addressed during transition.

Going forward, the importance of international law and policy in today's transnational world is that "the lack of recognition that an experience is a legal harm is central to individuals' self-understanding, diminished sense of respect and their understanding of their relationship to others."[64] How violence comes to be labeled and captured at a formal level holds impact for how those harms are understood at a personal level. This matters for whether and how justice processes will act on those harms. Taken together, identifying and making visible the broad range of conflict-time harms in respect of their gendered and broader contextual factors establishes a clear mandate for justice engagements that will promote the change needed to further mitigate those harms, as well as their gendered meaning and impact.

Legal and justice processes on their own may not bring this kind of change, and have limitations in this regard.[65] A cautionary note is that while international law "has had the effect of defining out of existence many of the most prevalent forms of female injury and oppression,"[66] it is, however, not irrelevant. Law is relied on to propel normative change at national levels.[67] Law can break with former norms, or create new norms. "Law is one means by which society implements ethical

[64] Susan J. Levitt, "Rethinking Harm: A Feminist Essay," *Washburn Law Journal* 34 (1995), p. 533.

[65] Ronald J. Krotoszynski Jr., "Building Bridges and Overcoming Barricades: Exploring the Limits of Law as an Agent of Transformational Change," *Case Western Reserve Law Review* 47 (1996), pp. 433, 436.

[66] Rosa Ehrenreich Brooks, "Feminism and International Law: An Opportunity for Transformation," *Yale Journal of Law and Feminism* 14 (2002).

[67] Teitel, "Transitional Jurisprudence: The Role of Law in Political Transformation," p. 2029.

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evaluations and choices."[68] It therefore matters how law is interpreted and applied in transitional justice. It matters whether women's broad experiences of harm are addressed in respect of their connectedness to gendered inequalities before conflict, a dynamic that will have direct implications in its potential to create transformation in women's lives. Within the practice of transition, the international community holds adherence to standards of international law and norms as signifers of a move to liberalization: "In sum, the Western human rights community must recognize the limits of law as an agent of social change; in so doing, it can urge a platform of reform that successfully utilizes law as an important (but not self-sufficient) element of comprehensive social and cultural change."[69]

The evidence in this book suggests the arrival of a transition to peace through transitional justice that silences the structural order and its associated contextually informed multi-dimensional gendered violence. "It is often difficult to see beyond individual acts of force or oppression to a *structure* of power, a set of social relations with some scope and permanence. Yet actions like the ones just listed [such as the harms mapped out in this book] are not intelligible without the structure."[70] By not attending to substantive changes in gender inequalities, these mechanisms do little to prevent the resurfacing of inequalities and variant gendered harms post-conflict. What matters is the conception and practice of justice. Without attention to the gendered norms and harms and their inter-relational connections across time and space, institutions of transitional justice will not go far enough. Instead, "what [will] persist ... is the organization or structure of practice, its effects on subsequent practice. This can either depart from, or reproduce, the initial situation, that is to say, practice can be divergent or cyclical."[71] Those institutions that engage on and drive approaches to CRVAW require the courage to engage with gender as a political rather than depoliticized project as it currently is. Diluted approaches to the inclusion of women and (some) harms will not promote the kinds of social change needed to prevent broad-ranging harms from occurring again.

"The current system of international response to conflict seems only minimally informed by understandings of the rationality of violence."[72] Work by international organizations that "condemns but does not explain this violence will have important points of similarity with right-wrong discourses that condemn – but do not explain – crime at home, or with those who emphasize the mindlessness, the inhumanity and the 'otherness' of human violence."[73] It is time for the empirical

[68] Levitt, "Rethinking Harm: A Feminist Essay," p. 533.
[69] Ronald J. Krotoszynski Jr., "Building Bridges and Overcoming Barricades," p. 444.
[70] R. W. Connell, *Gender and Power: Society, the Person and Sexual Politics* (Stanford, Stanford University, 2003), p. 107.
[71] Ibid., p. 141.
[72] David Keen. "'Who's It Between?': 'Ethnic War' and 'Rational Violence'." In The Media of Conflict: War Reporting and Representations of Ethnic Violence, edited by Tim Allen and Jean Seaton, 81-101. London: Zed Books, 1999. p. 90.
[73] Ibid., p. 96.

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reality of CRVAW to upwardly inform the global frameworks that regulate these harms. In a context of conflict, armed actors, as well as those who are not directly involved in the conflict may take the opportunity presented by conflict to enact both political and conflict-influenced in-between and private abuses. There is a quantity and abundance to gendered harm that is expansive beyond what is portrayed through the acronym or typology of "CRSV" or "CRVAW." This volume of violence still requires recognition and response. Current legal, policy, and practical programming responses do not adequately address these multi-dimensional and multi-faceted violences, nor the fluidity that exists between them. The conflict to private violence nexus is missed in favor of a servicing of the dominant narrative on rape as a weapon of war. Policy and practice needs to evolve a wider approach which can become recognizable as reflecting the empirics of the conflict-influenced violence that may or may not meet the "weapon of war" threshold, but equally requires further extrapolation and attention.

Moves forward are required at multi-levels. *At the structural and global level these include:* using existing frameworks such as the UN Security Council resolutions on WPS as the *starting point* for addressing gendered harms. The "weapon of war" framing favored by the Security Council only represents the tip of the iceberg of the volume of harm that may be occurring and this framing should be used to reveal and address all that lies underneath. CEDAW, its non-discrimination norms and the framing that CEDAW offers in recognizing all forms of gendered harm in conflict by armed and non-armed actors should become the benchmark that policy and programming works to.[74] *At the systems and procedural level moves forward include:* more attention to preventing violence – within and outside of conflict. For conflict-time, specific work could develop ways of predicting violent outcomes of a conflict and developing indicators of where and how CRVAW will emerge and how best to prevent and respond. That work requires more grounding in the kinds of evidence this book has produced. For example, this book demonstrated that prior periods of conflict in Northern Ireland and Timor-Leste demonstrate trends in harm across historic periods of conflict. Could this be used to respond to expected patterns of harm? Also, given what we now do know about trends in CRVAW over time (as mapped out in Chapter 2) and those documented in contemporary conflict settings, there are expected distinctive violences that will require urgent response. A future area in need of attention is assessing how the potential to identify trends in sites and sources of violence could be used as "early warning" style indicators of where violence may manifest and in what way.

[74] United Nations Committee on the Elimination of Discrimination Against Women, "General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations, CEDAW/C/GC/30," Committee on the Elimination of Discrimination Against Women (October 18, 2013); Catherine O'Rourke and Aisling Swaine, "Guidebook on CEDAW General Recommendation No. 30 and the UN Security Council Resolutions on Women, Peace and Security" (New York United Nations Entity on Gender Equality and the Empowerment of Women, UN Women, 2015).

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Relatedly, where strategic sexualized violence is not occurring, specific work tailored to providing avenues for women to name and seek help for in-between violences is required. Further, this research has demonstrated that a more in-depth approach and framework to assessing "violences" in disaggregated and aggregated ways across time and space will reveal a more in-depth and nuanced analysis of the gendered violences that women experience. It has also demonstrated that increased attention to the issue makes it become labeled in particular ways and made more visible. The same approach could work to reveal the range of conflict-related gendered violence affecting men. This issue is increasingly acknowledged, yet little remains known about what the volume of that violence may look like or indeed constitute. The framework in this book could be tailored to unearth men's experiences of conflict-time harm. *Moves forward at an individual level include:* the development of frameworks, good practices, and service provision that respond to CRVAW in respect to its continuities and discontinuities across time and space. More attention is needed to taking care and being deliberate about how gendered harms are labeled in post-conflict settings through the work of international and national organizations. Activists should be mindful about what their "training" on "GBV" entails, how that issue is presented to communities and whether and how the dialogue that is promoted at national levels can come from empirical understandings of harm and its normative placement in that specific post-conflict setting. Approaches that are nimble in how they simultaneously enable a bottom-up understanding to drive social change and response, while also remain in line with international rights standards are required to facilitate necessary micro-level normative and structural level changes. An organization in Sierra Leone takes a unique approach to its work. In its awareness-raising work, RADA (Rehabilitation and Development Agency) has worked with communities to think through the relationship between the violence that occurs in the home and community and assumptions that situate the violence that women experience in conflict as somehow "different" to that. Through community dialogues, a social mapping of violence across a timeline (pre-, during, and post-conflict) is undertaken. Engaging with men, RADA asks them during community-based training sessions: "If in normal times you don't protect women, do you think you can protect them during conflict?" and "If you accept this [violence] during peace then you will have to accept it during conflict." Such an approach works to strengthen realization that when gendered harms are perpetrated in the home they contribute to giving meaning to how women will experience wider political forms of violence during a period of conflict. It gets to the heart of the problem of dichotomy fueling current approaches at global levels: violence and its functionality as a whole needs to be recognized and addressed; the connections in gendered violence across conflict and peace, even where different (i.e. armed) actors commit the strategic sexualized violence of the conflict, requires recognition in respect of earlier tolerated practices of gendered harm. The kind of approach taken here is

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promising and demonstrates to communities that if violence against women is a feature of peace, then it will inevitably be a feature of conflict.[75]

There is more to the "story" of violence and gendered harm than is currently known. This book builds on existing feminist examination of gendered harm. It also presents an initial empirical investigation into the particularities of the diversity of harm during conflict and the connections and distinctions in harms within and outside of conflict. The extent of violence which has been revealed through this one focused and delimited investigation highlights that there is still more to be revealed about physical violence. The book demonstrates the need to take into account broader violence theories as well as feminist scholarship on gendered violences when investigating this phenomenon.

What do the book's central arguments say to a practitioner who embarked on an academic inquiry prompted by first-hand observations on the varying manifestation of violence in conflict-affected contexts? As noted already, the findings presented some new and challenging learning on violence to this author. The greater extent of the "personalities" that violences possess is instructive to a researcher-practitioner. How applied practice engages with that expanded landscape of violence is now the challenge. The women in Darfur who I mentioned at the beginning of this book conceive of the violences in their lives in different ways – perceptions of the normalcy of private violence in their homes compare to outcries about the uniqueness of violence perpetrated by conflict actors. Violence may become defined through the lens of labeling in ways determined by who gets to make the definitions. This corresponds with how the community leaders in Timor-Leste blamed the UN for bringing domestic violence into their communities, also noted in the introduction. Redefining *all* violences and their complexities in appropriate ways is necessary rather than creating and upholding false dichotomies between different forms. The question remains as to whether the dichotomies will continue to be reinforced by the programming and legal messaging that is currently being employed in international post-conflict initiatives. A lesson is evident from the community leaders in Timor-Leste: the way that labeling occurs is of utmost importance in how further investigation and understanding of gendered harms within and outside of conflict evolves. It is also pertinent in whether and how justice and accountability make any in-roads in alleviating the volume of violence that is evident in women's lives globally. Much of what has been achieved in respect of legal and policy regulation and policy and programming on CRVAW is promising. Going forward, the promising practices need to break cycles that have co-opted women without advancing fundamental change to underlying gender relations that determine the normalcy of ever-present connected and multifarious violence across their lives.

[75] Aisling Swaine, *Effective Responses for Gender Based Violence: Addressing GBV in Post-Conflict & Fragile States: A Case Study of Sierra Leone* (Dublin, Irish Joint Consortium on Gender Based Violence, 2011).

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Index

Access to Resources (variable in violence), 110, 118, 264
aggregated approach to violence, 15, 143, 176–83, 264
aid worker, 18, 23
Akayesu, 42, 219, 258, 260
ambulant violence, 15, 139–83, 229, 230, 248, 254, 258, 264, 268
Armed Forces for Liberia (AFL), 58

barbaric violence, 83, 86, 125
Beijing Platform for Action, 280
Buss, Doris, 135, 209, 258, 259, 260

Cahill, Marie, 103, 116
campaigns to end violence, 5, 184, 201, 212
cannibalism, 79, 127, 176, 180, 239, 240, 242
case study (as method), 20, 24, 25, 57
CAVR (Commission for Recepition, Truth and Reconciliation Timor-Leste), 67, 69, 72, 85, 234, 236, 248–53
causal analysis (in violence), 96
Čelebiči (ICTY), 42
comfort women, 14, 36
Community Reconciliation Procedures (CRP, Timor-Leste), 248, 253, 272
Conflict-Related Violence Against Women (as concept), 12, 14, 16, 44, 45, 47, 56, 138, 139, 142, 182, 263, 280, 286
connections in violence, 15, 16, 21, 24, 25, 26, 34, 47, 52, 56, 110, 134, 143, 178, 179, 182, 241, 242, 245, 253, 254, 264, 265, 266, 277, 279, 285, 287, 288
Consultative Group on the Past (Northern Ireland), 243, 244, 245
context-specific approach (to understanding violence), 51, 52, 79, 94, 139, 146, 175, 179, 182, 208, 213, 215, 224, 243, 263, 264
continuums in gendered violence, 15, 69, 95, 96, 139, 178, 180, 183, 252

guns, use of in violence, 68, 76, 105, 113, 119, 130, 140, 178, 186

harm (concept of), 12

impunity, 108
increases in violence, 16, 52, 54, 55, 185, 187, 191, 192, 193, 194, 195, 265
Independent National Patriotic Front of Liberia (INPFL), 59
innovations in violence, 96, 181
International Criminal Tribunal for Rwanda (ICTR), xi, 8, 41, 42, 200, 219, 253, 254, 258, 259, 260
International Criminal Tribunal for the former Yugoslavia (ICTY), xi, 8, 41, 42, 200, 253, 254, 256, 260
Interpersonal and Familial Violence (IPV). *See* domestic violence

Johnson, Prince, 29, 59, 69, 121, 127, 234, 303, 312

Kincora Boys Home in Belfast, 106, 131, 307
Kunarac or Foča case (ICTY), 9, 41, 42, 292

labeling (of violence), 16, 87, 243, 246, 254, 259, 260, 265, 270, 273, 281, 284, 288
Lian Nain, 4
Liberia National Police (LNP), xii, 189, 190
Liberians United for Reconciliation and Democracy (LURD), 60

macro, meso, micro framework, 99, 280
Mandingo tribe, Liberia, 159
McGahon, Paudie, 104, 116, 291
Médecins Sans Frontières (MSF), xii, 189, 194, 195, 212
media, the, 38, 57, 79, 86, 104, 105, 198, 216
mutation in violence, 16, 137, 155, 177, 178, 180, 283

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National Patriotic Front of Liberia (NPFL), xii, 59, 69, 80, 127
National Patriotic Party (NPP), 60

Olukoju, Ayodeji, 79, 80, 84, 126, 147, 310

patriarchy, patriarchal, 33, 84, 99, 122, 135, 145, 149, 249, 271, 274
peacebuilding, 10, 65, 201, 229, 232, 246
Police Service Northern Ireland (PSNI), xii, 190, 191, 194, 233, 293, 311
Policía Nacional Timor-Leste (PNTL), xii, 192
polygamy, 145, 147, 158
prison violence, 70, 71, 72, 75, 76, 129, 163
Provisional IRA (PIRA), xii, 62, 103, 104, 105, 106, 108, 113, 115, 116, 117, 163

rape as weapon of war, 7, 16, 20, 49, 72, 73, 94, 114, 133, 136, 238, 255, 263, 286
Rehabilitation and Development Agency (RADA), xii, 287
reparation, 8, 281
reproductive harms, 39, 73, 74, 75, 96, 148, 159, 192, 243, 250, 264
Resolution 1325, 10, 172, 200, 204, 211, 246, 271, 290, 299, 314
Resolution 1820, 4, 7, 42, 44, 199, 200, 206, 241, 253, 271, 316
Resolution 1888, 7, 44, 200
Resolution 1960, 7, 44, 200, 271
Resolution 2106, 7, 44, 200
ritual (violence), 30, 80, 81, 83, 86, 126, 127, 176, 178, 215
Rome Statute of the International Criminal Court, 9, 41, 120, 200, 271
Rwanda, xi, 4, 8, 25, 37, 41, 55, 82, 200, 206, 209, 253, 260, 296, 307, 310, 311, 316

secret societies (in Liberia), 80
sexual slavery/enslavement, 9, 12, 41, 42, 61, 64, 67, 68, 69, 82, 153, 157, 159, 176, 180, 238, 240, 248, 257, 258, 264
Special Court for Sierra Leone (SCSL), 9
Stormont House Agreement (Northern Ireland), 233, 244, 247
strip-searching, 36, 71, 129, 154, 180, 243, 244

Taylor, Charles, 17, 59, 60, 64, 122, 127, 234, 315
trafficking, 12, 141, 172
transformation, 17, 19, 20, 26, 272, 274, 275, 277, 278, 279, 280, 281, 284, 304
transitional justice, 5, 6, 8, 10, 12, 16, 20, 21, 24, 25, 26, 48, 87, 218, 229, 231, 236, 238, 246, 247, 250, 251, 253, 261, 266, 267, 268, 269, 270, 271, 272, 275, 276, 277, 278, 279, 280, 285
Truth and Reconciliation Commission of Liberia (LTRC), xii, 60, 67, 72, 81, 85, 109, 120, 127, 148, 233, 234, 238, 239, 240, 241, 242, 243, 251, 269

Ulster Defence Regiment (UDR), xii, 113
Ulster Volunteer Force (UVF), xii, 62, 69, 105, 113, 129, 294
UN Security Council, xii, 7, 10, 43, 44, 48, 61, 64, 74, 172, 190, 200, 204, 232, 235, 246, 271, 280, 286, 297, 298, 302, 310, 314
United Nations Transitional Administration for East Timor (UNTAET), xii, 65, 234, 317

victims/survivors, 13

Walker, Margaret Urban, 128, 156, 180
Wood, Elisabeth, 36, 46, 95, 96, 98, 107, 114, 115, 123, 137, 140, 154, 166, 222, 294, 318, 319

Yugoslavia, xi, 4, 8, 25, 37, 41, 53, 82, 134, 158, 200, 206, 253, 260, 293, 296, 316

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