

Transitional Justice: An Opportunity for Gender Equality?

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Abstract

Why is it that countries with similar conflict history can differ severely in contemporary female governmental representation? In this study, a new model to find links between the transitional justice process and modern day governmental equality is presented and used in a comparative case study of Rwanda and Bosnia-Herzegovina. The model is based on a feminist reading of the theory of transitional justice and includes three research points: sexual violence, ethnic division and international involvement. By examining how the first two issues are approached in institutions, documents and policies during the transitional justice processes of the research cases and adding level of international involvement to the findings, the study finds strong links between measures taken in the transitional justice process and contemporary governmental gender equality.

Keywords: *Transitional Justice, feminism, equality, sexual violence, ethnic division, Rwanda, Bosnia-Herzegovina*

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1. Introduction

Despite the brutal nature of conflicts, they provide a radical opportunity to completely transform the social and political structures of society. The overrepresentation of men in peace agreements diminish this opportunity, since men only constitute half the population. A study made by UN-Women showed that in 32 examined conflicts, only 4 % had women as signatories (Mlinarević, Porobić Isaković & Rees 2015: 34). Neglecting women by refusing them agency in post-conflict environments is not only problematic because it preserves an image of women as victims, it is also ignorant of the research that shows a connection between the inclusion of women in the peace process and an increased chance of success (Björkdahl 2012: 290).

This problematic exclusion is aptly illustrated in Bosnia-Herzegovina (BiH) where not a single woman was included in the Dayton Peace Agreement (DPA). The conflict was characterised by high levels of ethnic and sexual violence and genocide. It is estimated that between 20 000-50 000 women were raped during the conflict (Hughes 2014), yet sexual violence wasn't addressed directly in the agreement. Although women were very active in civil society during the conflict, there was a swift backlash after the war and society regressed into a nationalistic and patriarchal society where women were marginalised and kept out of the political sphere. This provided the basis for a very fragile and unequal peace (Björkdahl & Mannergren Selimovic 2015: 166-7).

In Rwanda, whose conflict resembles BiH in many ways, an estimated 800 000 people, mainly Tutsis, were killed largely by Hutus in the genocide that occurred in 1994. Between 250 000 to 500 000 women are estimated to have been raped, making rape a rule rather than exception in Rwandan women's memories (Ephgrave 2015: 183). However, despite these shocking numbers the international community chose not to intervene. Instead of an international effort to negotiate peace and enforce it, the Rwandan Patriotic Front (RPF), mainly constituted of Tutsis with the current president Paul Kagame as leader, won the conflict by force and forced the Hutu militias into exile in neighbouring countries. Since the international community neglected to intervene during the genocide the new leadership in Rwanda had freer reigns with which to build a new society. The RPF decided that women should have a more including role in society and they proceeded to appoint women to high posts in government (Burnet 2008: 363-5, 367).

The differences between the countries regarding equality and inclusion in the political sphere reaches into modern day. Today, Rwanda tops the world wide rankings of highest female representation in their government with 63.8%, whilst BiH settles at 21.4%, placing them as

number sixty-two in the same rankings (IPU 2015). In this paper, we will examine the differences between Rwanda and BiH's current representation of women in their governments by comparing their transitional justice processes.

Noting that female representation alone might not be a viable measurement for equality, we attempt to illustrate and understand the problematic nature of the excluding discourse which traditionally keep women out of peace processes by applying a feminist transitional justice perspective. We believe it will provide a good theoretical platform from which to examine the cases because of its different approach to victimhood and reconciliation. Also, it is believed to provide the tools necessary to answer why Rwanda has a higher representation of women in parliament than BiH. The purpose of this paper is thus to reach a greater understanding of the role the transitional justice process plays in regard to female representation in government in a post-conflict society, which is of high interest considering that research shows a link between equality and lesser likelihood of internal violence along with a longer lasting peace (e.g. Caprioli 2005). Furthermore, we hope to contribute to the current field of transitional justice theory by adding our empirical findings to reach a greater understanding of what could constitute a feminist policy in post-conflict transformations.

Therefore, the research question we seek to answer in this paper is: *Does transitional justice affect political representation and equality?*

2. Theory

2.1 Previous Literature

We have read the more classic version of transitional justice theory such as Lambourne (2009), who argues that retributive and restorative justice has to be combined to achieve peace, but we have mostly focused on feminist readings of the theory such as Bell & O'Rourke (2007) and Ní Aoláin (2012) who highlight the gendered structure of transitional justice theory and its consequences. We also use Björkdahl (2012) as she offers more specific insight to feminist reasoning in regard of transitional justice.

2.2 The Theory of Transitional Justice

This paper is based on the theory of transitional justice, meaning a theorisation around the transition from violence to peace as a possibility for the society to reconstruct and modernise through different approaches of justice and reconciliation (Aguirre & Pietropauli 2008: 356). The classical version of transitional justice theory focuses on legislature and has two major approaches - the western liberal approach to justice where criminals are held accountable through retributive legal justice such as international tribunals, and the more informal approach focusing on restorative truth commissions and reconciliation (Lambourne 2009: 31-2). Being a very broad theory, with a range of different recommendations to address crimes committed during conflict, there are several subcategories and as we look closer on how the transitional justice process affect women's political activity, the feminist reading of transitional justice is used as a theoretical base.

2.3 A Feminist Reading of Transitional Justice

A feminist reading of transitional justice does not draw a clear line between the two different approaches to justice, rather it seeks to highlight that the traditional liberal view of justice isn't always compatible with local norms and cultures. Instead, it focuses on the transformation of social, political and economical structures and relationships within the post-conflict society. As the law often shows its limits in regard to gender issues, a feminist theory of transitional justice would seek to find alternative measures to achieve this transformation (Ní Aoláin 2012: 208). Yet, one must emphasise that even in this subcategory of transitional justice, the feminist literature isn't unified in what constitutes a feminist transitional justice, but is divided in opinion as in most theoretical domains. This is not to be seen as devalidation of our research, rather it encourages a development of the field as the one which we attempt to make. There are however a few basic guidelines which most feminist scholars agree upon.

First of all, whilst transitional justice arrived as a measure to provide the justice that was often absent after war, feminist have questioned who this justice is for. The negotiators of peace and the people behind the process are predominantly male. This is reflected in how peace deals are negotiated as they often center around ceasefires and the armed groups involved (Bell & O'Rourke 2007: 25). Moreover, the western liberal democratic peace brings with it connotations that men should be included and women should be excluded from the process. This is problematic as women often have transformative potential during and after conflict. Research have also shown that the

inclusion of women and of gender issues in peacebuilding have positive effects on the outcome of the process (Björkdahl 2012: 288-91).

Within feminist theory it is widely believed that there are justice gaps within transitional justice. Justice gaps regard the difficulty to achieve actual justice for victims in a post-conflict society. In Rwanda for example there were so many perpetrators that it would be impossible to arrest them all. Classical transitional justice theorists argue that some justice is better than none. However, feminist theorists mean that transitional justice is patriarchal and that the little justice that is achieved is gendered. Men dominate the transitional justice sphere and it is therefore mostly men who have written the theory and the laws it depends on. Although many brought up the problematic relationship between peace v.s justice they never touched upon the subjects relevant to women and the theory and practice therefore became seriously lacking. It is this particular justice gap that interests feminist scholars. The law has been decidedly lacking when it comes to matters such as marital rape, sexual harassment and other areas that mainly affect women. This legal disadvantage is highly problematic in post-conflict societies where women often suffer from the legacy of wartime sexual violence and other psychological harms (Ní Aoláin 2012: 209, 225).

The difficult question for feminist theorists is what should be done to accomplish a transformation in a post-conflict society when the law won't do so. A post-conflict setting is an ideal opportunity for feminist to advance their theory into practise and for a community to transform into a more equal and just one. However, women are often excluded from higher politics and peace processes, despite their wartime won agency, and have therefore largely been neglected powerful legal tools (Björkdahl 2012: 287, 298).

2.4 Further Development of the Feminist Reading

In this paper, as mentioned, we attempt to further develop the feminist reading of transitional justice theory by using a model of our own to examine our research cases. We focus on three different research points, study the connection between how these have been handled in transitional justice process and relate this to the female governmental representation in the modern day societies.

The first research point is sexual violence, which we believe will provide a picture of the level of attention the crime gets, how it is viewed and what is done to emancipate women who are victims of the patriarchal crime. The second research point, ethnic division, paints a picture of the cases' incentive to change the social order. Thirdly, international involvement during the conflict and in the transitional justice process is examined in a feminist manner of local inclusion to see

whether the process is owned by the country, or if it's a product of international actors. We believe that this model is broad enough to be used on most violent conflicts based on ethnicity containing sexual violence, but also narrow enough to pin-point whether different approaches has resulted in different post-conflictual societies or if it has had any effect at all.

3. Method

This study is a comparative case study of Rwanda and Bosnia-Herzegovina. We chose to compare two post-conflictual countries in order to reach a conclusion based on findings regarding approaches to transitional justice. As mentioned in the introduction, the cases BiH and Rwanda were chosen based on their similarity in conflict and time, but differences regarding their post-conflictual societies governmental gender equality, believed to give a dynamic comparison and explanatory value to our research.

The dependent variable in this research is female governmental equality, which will be measured as the percentage of female parliamentarians in the chosen countries' government at the selected time period.

The independent variable, which attempts to explain the different percentages in female governmental equality between BiH and Rwanda, is a feminist reading of transitional justice focusing on a comparison between how the chosen cases address sexual violence, ethnic division and how much international involvement there were in the processes respectively. This is operationalised by measuring our variables in different manners respectively, but in the same regard towards both case studies.

To begin with, sexual violence will be measured by looking first and foremost on how the issue is addressed in the official documents during the transitional justice period. We also look at statistics of how many perpetrators of rape were convicted between the start of the tribunals until the latest statistical update 2014. The reconciliation method will also be taken into consideration. Ethnic division will be measured by how the issue is tackled in official policy and lastly international involvement regard the extent of international actors present in the conflict and peace process.

The material used are documents and research articles from and about the selected institutions, and policies used and issued during the transitional justice period. For Rwanda, these

are the ICTR, *gacacas* and Arusha Accords, whilst for BiH the equivalents to these are used which are mainly the ICTY and Dayton Peace Agreement.

Due to the fact that the transitional justice is an ongoing process, we measure this study from the time the period began in the respective countries (1993/1994) until 2015. A long time period is necessary to see the effects of the transitional justice applied within the countries.

Transitional justice has previously been used as an explanatory method to modern-day phenomenon (e.g. Aguirre & Pietropauli 2008), giving this research higher reliability.

We are aware of certain shortcomings in this research. For a start, a full comparison between peace agreements is not possible due to the fact that Rwanda doesn't have an official peace document and the Arusha Accords used in this research were signed before the eruption of the genocide. Secondly, most of our material is academic articles which might be biased. However, these shortcomings are surmountable since there first of all is plenty of other material within the transitional justice process in Rwanda that can fill the subsequent void. The possibility of biased material is difficult to avoid in a literature study. All in all, this was not believed to affect the end result.

4. Empirics

4.1 The Transitional Justice Processes

4.1.1 Bosnia-Herzegovina

The brutal conflict in former Yugoslavia containing genocide and extensive use of rape as a weapon caused the international community to put major pressure on the UN Security Council to take action (ICTYa 2016). The first international tribunal since the Nürnberg and Tokyo tribunals was established, with the purpose to bring perpetrators of war crimes to justice (ibid.). The establishment of the tribunal that would target war criminals, many of whom were important military and political leaders, was opposed by the Federal Republic of Yugoslavia, but the institution was nonetheless taken into action in May 1993 (Akhavan 1996: 504; Peskin 2008:4). The unwillingness to cooperate lessened after a few years, and the new states of former Yugoslavia started turning in former warlords one by one (Peskin 2008:4). Alija Izetbegović was the leader of the Bosnians during the conflict, a signatory in the Dayton Peace Agreement and later part of the country's shared presidency. He was under investigation by the ICTY, but died of heart failure

before any conviction was made, making his presidency that of a probable war criminal (New York Times 2003). Rape and ethnic violence are brought up in the tribunal's statute under article 4 and 5 and it is notable that the ICTY, along with the ICTR, was one of the first courts to acknowledge rape as a weapon of war (ICTYb 2016).

In 1995, the official peace agreement was signed in Dayton, Ohio, giving the document its name, The Dayton Peace Agreement. The agreement contains 11 annexes, none of which contain an actual approach to reconciliation or a plan on how to handle sexual or ethnic violence, which were both dominant features of the war (Dayton Peace Agreement 1995). What it does bring up, however, is a plan for the constitution, which preserves ethnic barriers and will be further explored in Ethnic Division - Bosnia. During the entire process and signing of the agreement, there was not one woman present despite the fact that many women organisations had kept society running during the conflict (Mlinarević et. al. 2015; Björkdahl 2012: 297). No quotas or other methods were taken to include women in politics and thus female representation was an appalling 2% in 1996. Only after huge campaigning by women's rights organisations were quotas introduced in 1998 which increased female representation from 2% to 26% (Björkdahl 2012: 298, 307).

4.1.2 Rwanda

The signing of the Arusha Accords in 1993 was preceded by a long period of negotiations and numeral ceasefire agreements between the Rwandan government and the The Rwandan Patriotic Front (RPF), and the accords symbolised peace and stability in Rwanda (Arusha Accords 1993). But as it failed to be implemented, it would in a near future prove to be the beginning of a massive internal conflict. However, the agreement circles around five pillars which today constitutes the principal foundation of the country's Fundamental Law (MINEAC 2015).

In contrast to the Bosnian conflict, the Rwandan genocide did not end with the classical negotiation, agreement and hand shaking. Rather, the conflict ended when the RPF obtained military control over the greater part of Rwandan territory and the previous extremist government as well as the militias, the army and almost two million civilians had been driven into exile (Burnet 2008: 364). The RPF took control over the country, and the following election did not occur until 9 years after the conflict's end (The Economist 2003). As no peace agreement was signed, it was the Arusha Accords, the peace agreement from the previous conflict, that was taken into practice (MINEAC 2015).

Besides the Arusha Accords, the Rwandan transitional justice process consisted of three main legal institutions: The country's own legal system, International Criminal Tribunal for Rwanda

and the *Gacaca* courts (Saul 2012: 428). The ICTR was established by the UN in 1994, one year after the ICTY was formed and its purpose was similar to its predecessor's, which was to address the severe crimes and human rights violations that had occurred during the conflict (ibid.). The lack of international involvement during the conflict suggests, however, that the ICTR was institutionalised in order to further legitimise the existence of the ICTY and the concept of international law, rather than bring justice to the Rwandan people (Akhavan 1996: 501).

In contrast to the ICTY, the ICTR was welcomed by the government and one could argue that there was a sense of local ownership considering that the Rwandan government was part of the discussions in the Security Council prior to the decision of establishing the tribunal (Saul 2012: 429). However, the local ownership of the ICTR could have been extended and more carefully addressed (ibid.). This is aptly illustrated with the fact that the RPF and its leader Paul Kagame have never been publicly subjected to scrutiny by the ICTR, even though sufficient evidence of massive slaughter committed by the force exists. The Rwandan involvement in the institutionalisation of the tribunal and the sheer brutality that many Tutsi experienced resulted in an inherently biased court that further entrenched the norms of who may constitute a victim and who is a perpetrator. This victor's justice has created tensions and when the ICTR wished to indict RPF officials the RPF refused to cooperate with the tribunal, which led to the latter dropping the charges. RPF members have been tried in national courts, but have mostly received lenient sentences (Human Rights Watch 2014).

One of the reasons the *gacacas* have received a lot of headlines internationally is because they contain many features of the restorative justice form. They are based on locally established traditions and focuses on local involvement (Saul 2012: 428). *Gacaca* courts have been used in Rwanda for centuries to settle village conflicts by allowing victims and perpetrators to share their experiences and heal trauma. When the country realised the extent of the measures that would have to be taken and the cost it would entail to imprison so many perpetrators, the concept of gathering villages in order to seek the truth and achieve reconciliation between perpetrators and neighbours, as well as between victims and neighbours, seemed like a suitable solution to the problem. The *Gacaca* courts were thus put into action on governmental orders in June 2002 (Rawson 2012: 120). However, despite restorative elements, the *gacacas* are still mainly retributive (Thomson 2011: 380, 383).

4.2 Sexual violence

4.2.1 Bosnia-Herzegovina

It is estimated that 20 000-50 000 women were raped during the war in Bosnia, many in rape camps where women were kept as sex slaves (Hughes 2014; Björkdahl & Mannergren Selimovic 2013: 203). This prompted the international community to finally recognise the use of rape as a weapon of war and when ICTY was established, special focus was directed toward sexual offenders, which was seen as groundbreaking (ICTYb 2016). However, as positive as this development might seem, it is severely flawed.

Firstly, women are solely represented as victims which entrenches current stereotypes and neglects their agency. No acknowledgement is given that women were both perpetrators and civil society actors. Secondly, insufficient measures are taken to treat the victims of rape in order to help them recover from their trauma. There has been almost no state action towards reparations and care of sexual violence victims, women's organisations have had to take care of it instead, which is problematic since the state yet again refuses acknowledgement of their suffering. Thirdly, women are often coerced not to appear in court and if they do, they are forced to wait in the same room as the perpetrator. They also risk huge stigma within their society if they choose to come forward, including being blamed for the rape. (Björkdahl & Mannergren Selimovic 2013: 205-8, 215). None of this is exclusive for BiH, but appear in all retributive legal institutions, illustrating the inadequacies of the law by questioning the morality of the victim.

As of February 2014, only 78 individuals, 48% of the total amount of people accused, have charges of sexual violence against them. 30 individuals have so far been convicted of the crimes (ICTYc 2014). These low conviction rates and the overall marginalisation of women's issues in BiH aptly illustrates the gendered structure of transitional justice. The retributive justice applied through ICTY cannot fully repair the wounds inflicted upon BiH by sexual violence, without a strong effort to provide reparations such as financial and healthcare aid, women in the country will have a hard time advancing as active agents.

Furthermore, a verdict from the ICTY in regards of a sexual violence case doesn't necessarily mean that the crime is acknowledged in society as justice for the victims. Rather the verdicts are used by ethno-nationalists to divide society and get back at other ethnic groups. Thus the convictions or acquittances serve to enhance the masculine order in BiH instead of enabling a gender-just society (Björkdahl & Mannegren Selimovic 2013: 208).

4.2.2 Rwanda

An estimated 250 000 to 500 000 women were raped during the genocide in Rwanda (Ephgrave 2015: 183). The appalling numbers raises the question of how a society is to tackle such widespread abuse and suffering. In Rwanda's case it would be impossible to prosecute all offenders because they are so many. In this case they chose to prosecute the minds behind the use of rape as a weapon in the genocide, the ones who instigated its use. However, this didn't tackle the fact that many women lived in the same towns and villages as the men who raped them, which made it incredibly difficult for them to rehabilitate and move on. Rwanda therefore decided to adopt a local custom of addressing grievances, the *Gacaca* courts.

These courts provide an arena for survivors and perpetrators to share their truth of what happened and achieve justice through local judges. However, the system is severely flawed. The RPF has made clear that only Tutsi can be considered survivors. Hutu who have been subjected to rape or witnessed the killing of their wife/husband or children aren't granted the acknowledgement of their suffering. It is also the citizens legal obligation to take part in the *gacaca* trials, to not do so might result in serious consequences. If a victim of rape wishes to abstain from witnessing due to the psychological stress that would result, she or he has no choice to do so (Thomson 2011: 374, 384, 386). Rape is an extra sensitive subject within *gacaca* since it is highly stigmatised. If the woman in question has become sterile as a result of the rape it can complicate the matter further as she cannot fit into the norm which states that women should also be mothers. This stigma might also result in not admitting to be a rape-survivor which also hampers the justice process within *gacaca* (Kubai & Ahlberg 2013: 473).

Sexual violence has also been addressed in higher court procedures. The ICTR has indicted 93 people who were among the most guilty in regards of the genocide, 52 of these charges include rape or other forms of sexual violence, but only 13 have been convicted of the sexual violence crimes (Office of the Prosecutor of ICTR 2014: 5-6). The ICTR is the very essence of a classic retributive justice system and although one can only applaud that sexual violence has finally come up on the agenda when it comes to legal justice after a war, the low conviction rate illustrates an accountability gap that exists within the system. Evidence is clearly hard to come by and many persons whom are guilty walk free as a result or are charged only for other crimes which they have committed. This does nothing for the victim but to cause her or him pain as they have to go through court proceeding for naught, yet it is the price paid to make sure no innocents are convicted of a crime they didn't commit.

The Rwandan national police force has installed a so called Gender Desk specifically instituted to tackle violence against women with the help of UNIFEM. The most important part of this service is its assistance when it comes to psychological issues, which goes a little bit towards repairing the damage (Kubai & Ahlberg 2013: 474).

4.3 Ethnic Divisions

4.3.1 Bosnia-Herzegovina

After a lot of negotiation a peace deal was reached between the warring parties in BiH, although one with many faults. The Dayton Peace Accords mainly stipulated how elections, judicial and legislative agreements and the constitution should function. The constitution is important when considering the handling of ethnic tensions within the country since it only allows people of the main three ethnic groups to stand for election in the higher house (Bosnians, Croats, and Serbs). Jews and Roma are only allowed to participate in the lower house (Björkdahl 2012:295). It also stipulated that there would be a shared presidency, meaning that the three ethnic groups would have one president each (Bochsler 2012: 67). The political situation was very fragile after the war and mistrust of other ethnic groups was still high, leading to a rise in ethno-nationalist parties with a high emphasis on religion. This volatile climate and lack of other options led to people solely voting for the parties that represent their own ethnic group, rather than their political opinion. This has led to an almost perpetual deadlock within the political system in BiH and reconciliation between the ethnic groups has suffered due to this divided and hostile environment (Björkdahl 2012: 296-297).

Furthermore, society regressed in regard of gender equality within the country. Since no action was taken to promote female representation it plummeted after the DPA was introduced (Björkdahl 2012:298). Although one can question if female representation and ethnic division is linked, a linkage between ethno-nationalist sentiment and gender equality can be deduced. This is because ethno-nationalism tends to be based on conservative and patriarchal norms, which ultimately has led to further marginalisation of women in parliament and other decision making sectors of society. Without a change of the political system within BiH it will be difficult to increase female participation since a nationalistic and conservative society neglects women agency (Björkdahl & Mannergren Selimovic 2015: 166-7).

4.3.2 Rwanda

The RPF has a strict policy of how to achieve reconciliation and unification within the country. After the genocide, they wanted to lessen ethnic tensions and therefore decided to forbid the use of ethnic terms such as Tutsi, Hutu and Twa. To use those terms is considered to be in denial of the genocide but is however allowed when actually referring to it. Otherwise people are to be referred to as Rwandan as an incentive to unite the people (Kubai & Ahlberg 2013: 473).

Also, guilt or testimony in *Gacaca* courts is expected. Failure to to comply with these measures can result in serious consequences such as imprisonment or sudden disappearance. Refusal to attend a *Gacaca* court can result in at least 15 years imprisonment. The government has simplified the process by categorising the Tutsis as *survivors* and Hutus as *génocidaires*, thereby eliminating the possibility of a Tutsi perpetrator and a Hutu victim. This policy of Hutus as guilty until proven differently has created a tense environment (Thomson 2011: 377-8, 380).

Many Rwandans argue that these strict policies are upheld to ensure the RPF:s continued power rather than reconciling the country. People have even been coerced into denouncing neighbours and family, resulting in their swift imprisonment (Thomson 2011: 377-80, 384). Despite apparent efforts to unify the country, the RPF is effectively controlling the country's history by enforcing labels of survivors and *génocidaries* on Tutsi and Hutu respectively, thereby undermining the whole unification process. It will be immensely more difficult to achieve reconciliation between the ethnic groups if Hutus who have suffered aren't acknowledged and if Tutsis who have committed crimes aren't brought to justice. Rather than unifying the Hutu and Tutsi as intended, such unfair treatment risks pulling them further apart. Moreover, unequally treated suffering makes it harder to implement a gender-just peace.

4.4 International Involvement

4.4.1 Bosnia-Herzegovina

International involvement in the conflict in Bosnia was present from the very beginning. Its proximity to Europe and the resulting wave of refugees to the rest of the continent led to a desire within the international community to end the conflict, further, it was appalled by the violence used. Due to the beleaguered situation of UN-troops and their inevitable withdrawal, NATO stepped in, and ended the war by bombing Serbian troops. A military force stayed in the country until 2005 (Joireman 2003: 103). Prior to the DPA, an astonishing number of international actors was involved to implement a peace deal, among them the EU, UN and the Council of Europe, making the two

primary institutions of Bosnia-Herzegovina's transitional justice process international products (Kaldor 2012: 68).

When the DPA was introduced a classic version of transitional justice was applied in BiH, one that mainly focused on building a functioning liberal democracy with respect of human rights (Björkdahl 2012: 296). Within feminist theory of transitional justice this can be seen as problematic since the classical liberal transitional justice methods are gendered and therefore bring with them their structural inequalities to the country in question (Björkdahl 2012: 288). Transitional societies have the potential to rewrite their societal fabric but this opportunity has sadly been missed in Bosnia, due to the patriarchal norms that the DPA helped entrench.

Yet the most astounding fault in international peacebuilding is surely the lack of women involved even though they represent half the population, and sometimes after conflict, more than half the population. Since the political system is set by the DPA in BiH, it has become one dominated by men and male norms due to the gendered structure of peacebuilding. Another problem with internationally controlled peace processes is their tendency to assign women particular roles, usually that of a victim in need of protection or as civilians. These pre-prescribed roles will neglect women agency and make the hurdle to be included in politics even harder to pass (Björkdahl 2012: 291, 297).

4.4.2 Rwanda

Although both cases experienced transitional justice through the UN implemented ad hoc tribunals, one could argue that the situation in Rwanda was different. The international community didn't have the same incentive or will to intervene in the conflict, despite warnings from human rights experts and NGO:s about the possibility of a massacre. Sadly an African country was once again not prioritised (Akhavan 1996: 501). Yet this lack of international involvement provided Rwanda with freer reigns when it came to building up society once more. The RPF decided that they would build a society where women were more included since they claimed to believe that this would create a more peaceful society. They set up a ministry of gender, instituted gender quotas for national parliament and organised women councils for all sectors within the state. The women councils would teach women how to participate in politics and give them a voice in how Rwanda's new society should be built. It was in this area that the international community lended aid. Women civil society organisations went abroad to meet with similar organisations and learn from them, thereby receiving education on how best to run them. They also received funding to help finance their business (Burnet 2008: 363, 367, 374-5).

Perhaps this looser connection to the international community allows the country to build a more equal peace. Rwanda, however, isn't a perfect example. The RPF sees civil society as an extension of the state rather than an opposition to it (Burnet 2008: 375-6). That sort of relationship can be questionable for a supposed democracy since one could argue that the state wields too much power.

5. Discussion

In sum, the Rwandan peace process seems to be more versatile, since it has multiple approaches and legislatures to address sexual violence and ethnic divisions. The country used old local methods on governmental orders, which may not be bottom up, but far more in the lines of a feminist approach to transitional justice than Bosnia's single retributive approach with ICTY. Even though rape was acknowledged as a war crime in BiH, the stigma it brings with it wasn't taken into consideration and the acknowledgement might therefore be a continuation of a patriarchal structure rather than a reform, since claiming that women are in need of protection might entrench gender stereotypes in a way that hinders an effective transformation of a conflict society. This problem is brought up in a lot of feminist literature (e.g. Ní Aoláin 2012) and although Rwanda makes no exception to this, considering they too used retributive law institutions to handle rape-cases, they encouraged female participation in all steps of the peace process.

It seems that Rwanda had more control of their transitional justice process. Their government was present in the UN Security Council decision to bring an ad hoc tribunal to Rwanda. By using a local well known procedure of reconciliation, the *gacacas*, they involved the grassroots, making it their reconciliation, even though it was on governmental orders. Moreover, women activist groups travelled abroad to learn more and to get training on their own initiative increasing the local ownership of the process in line with feminist transitional justice.

Bosnia's process, on the other hand, was always, and still is, partly in the control of international actors. The peace politics were elite-oriented, exclusive, and internationally dominated, showing friction between the global ideas of peace in terms of the DPA and local understandings of peace. With an agreement that was internationally negotiated and failed to acknowledge or include women, BiH lacked the possibility to own their own peace process. Instead the country regressed into a more conservative and patriarchal society, excluding female participation in all political spheres. The ICTY was opposed, but institutionalised anyway, a small

compensation for those who suffered during the war but a clear statement of who owned the peace process. Since the international community didn't intervene in Rwanda during the genocide, they didn't have the same incentive to meddle after it.

Could then the level of control of one's own peace process have explanatory value to equality?

It might well appear that way, but there are important factors to consider before jumping to a conclusion like that. The Rwandan way of handling conflict issues is in fact far from a flawless triumph in regard of feminist transitional justice theory, despite previous praise. Even if the RPF had incentive to include women in the process, numbers and policies fail to bring up which women. Is it equal even though the women in government largely represent one ethnicity? Or can the Rwandan identity in fact be a cover-up for lacking equality between ethnicities? As intersectionality plays a big role in any feminist approach, meaning in simple terms that there are different factors to discrimination, Rwanda seems to put all focus on empowering women whilst failing to shed equal light on equality between ethnicities. Ethnicity clearly plays a big role in Rwandan society no matter what the RPF claim. If Hutu women's suffering isn't acknowledged, and if claiming that a Tutsi committed rape or murder during the genocide results in a charge of genocide denial, then surely Rwanda cannot be called gender just.

One of the most troubling issues in this regard is the RPF's refusal to submit to ICTR justice. It's an example of how international involvement once again creates a justice gap by contributing to an unfair system, when it should be the actor making sure that everyone is treated equally before the law. Rwanda clearly fails to meet the standards required by feminist transitional justice, as impunity cannot be accepted. Perhaps there is weight behind the argument that the RPF wishes to remain in power more than it wishes to achieve reconciliation. The strong standing of women in the country doesn't legitimise the coercive measures Kagame has taken to suppress opposition either, and thus one can argue that a larger proportion of women in government counts for less if a government moves toward a more autocratic rule.

It is important to add in regard to international involvement it is impossible to know whether a higher level of international involvement in the transitional justice process of Rwanda would have brought changes that would influence the RPF's incentive and ability to promote women.

Yet, it is impossible to deny that international involvement in BiH has contributed to a far less equal society. The gendered structure in transitional justice procedures and its over dependency on the law weakens the possibility of transforming a society to a more gender just and peaceful one.

Measures such as economical compensation and health care aid need to be implemented to help traumatised citizens recover. A post-conflict society provides the perfect platform for transformation of political, social and economic sectors in society but it is imperative that the will to do so exists. By refusing to include the one's who in all probability would have advocated for such changes, mainly women, one cannot be surprised that it fell through. However, international involvement isn't the only explanation for Bosnia's dismal representation of women. The patriarchal norms and structures existed before and during the war, and thus one can only argue that the DPA strengthened them and not that it created them.

Lastly, if the Rwandan process of increasing the percentage of female governmental agents is to be viewed as a shortcut by not prioritising ethnicity and covering up their suppression of opposition, then the Bosnian way of using quotas need to be subjected to equal criticism. The 24 percent unit rise in female governmental representation after the introduction of quotas rings hollow due to the fact that it proves a general lack of groundwork in promoting women as political agents.

5.1 Future research

These findings have shown that it would be interesting to in future research improve this method by adding statistics over governmental ethnic representation in combination with female representation. As our arguments in analysis show, female representation alone isn't sufficient to measure a gender-just peace since statistical numbers hide the structural inequalities beneath. Our model tried to include intersectional values with the focus point ethnic division, but ethnical statistics would provide more thorough results. Another improvement would be to add another focal point, civil society, since it often influences the transitional justice process and lends women agency. The model used in this research would also gain greater validity and reliability if it was to be used on more cases.

6. Conclusion

As our model has helped clarify, approaching the issue of sexual violence by law and retributive justice only is not efficient because it neglects to include reparations to socially and economically help the victims recover from their trauma and also neglects other structural inequalities. Being a manifestation of patriarchy, sexual violence has proven to be a vital focus point in order to study measurements taken to improve women's societal status.

When it comes to ethnic division neither constitutional ethnic equality nor a complete wipeout of the concept proved to be successful. In Bosnia the ethno-nationalism that infuses the country is very patriarchal and tend to exclude women from all political spheres. Rwanda's attempt to purge ethnic terms from society failed partly because the structural prejudice between Hutu and Tutsi still penetrated the whole juridical system. The RPF:s refusal to take any responsibility for some of the crimes committed also lessens the validity of the claim that ethnicity doesn't matter.

Lastly, international involvement proved to have a large influence on the outcome, due to the importance of owning one's peace process. Yet, conclusions are limited due to the lack of insight in how the processes would have looked like with more or less international involvement. However, based on these research cases, lesser international involvement seemed to be more successful in promoting women since the international tradition of transitional justice is western and inherently gendered.

In conclusion, to answer the question whether transitional justice affects political representation and equality, the answer is yes. And after showing just how much the decisions during transitional justice can affect the modern-day society, it seems careless not to use the knowledge, wishes and experiences from the entire population during the process, both gender- and ethnicity-wise.

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