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Missing Link of Power:

**Conceptualization of Empowerment within the Context of
Reparations for Conflict Related Sexual Violence**

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Abstract

Intersection between gender and armed conflict has been overlooked for centuries. There was little to no understanding of gendered harm the conflict brings to women's lives and means to redress it. With somewhat increased understanding of women's experiences in conflict came the realization that tending to the multi-faceted needs of survivors is equally important and reparations for gross violations of women's human rights can no longer be disregarded. Today transformative reparations for the victims of conflict related sexual violence are considered as one of the key features of transitional justice.

This thesis aims to provide a theoretical approach to transformative reparations by exploring questions around survivor empowerment, the relationship between individual and society, processes that shape human interaction and ways the individual agency is constructed, enabled, or constrained in the practice of every day.

Drawing on inter-disciplinary literature I investigated what are the impacts of long-term oppression and sexual violence on individual subjectivities of women and how does these factors play out in assessing women's agency in post-conflict reconstruction. Taking into account the complexity of sexual violence, the broader societal structures which produces it and the impact it has on the survivor's perception of themselves, I argue that first and foremost, when it comes to victims of conflict related sexual violence "empowerment" should be understood as a process with the primary aim of helping to mitigate subjective obstacles survivors face, which is taking the power structures and their own embeddedness in those structures as given reality.

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Abbreviations

UNSC	United Nations Security Council
UN	United Nations
UNGA	United Nations General Assembly
CEDAW	Convention on the Elimination of All forms of Discrimination against Women
CEDAW Committee	Committee on the Elimination of Discrimination against Women
ECtHR	European Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
TFV	Trust Fund for Victims
ICC	International Criminal Court
CRSV	Conflict-related Sexual Violence

“Women’s bodies have actually become battle grounds... the violence is all about destroying the inbuilt strength of a woman to build a community”

Ruth Ojiambo Ochieng, Uganda, 2006

1. Introduction

Intersection between gender and armed conflict has been overlooked for centuries. There was little to no understanding of gendered harm the conflict brings to women's lives and means to redress it. Rape was seen as "inevitable by-product of war" caused by "man behaving like man." Only when sexual violence reached unprecedented proportions, was it considered as a global security problem, hence warranting the normative, and policy attention. Today, dominant understanding has shifted towards seeing sexual violence as a "weapon of warfare," which *can* and *should* be prevented.

With somewhat increased understanding of women's experiences in conflict came the realization that tending to the multi-faceted needs of survivors is equally important and reparations for gross violations of women's human rights can no longer be disregarded. Feminist perspectives on violence as pervasive in every society, primarily concerned with power and "backdrop against which women's lives are lived" prior to conflict, brought general consensus that improving women's situation post conflict meant addressing normalization of every day violence against women, which in itself requires structural changes in society and holistic approach of transitional justice processes. From this awareness, reparations, as one of the key features of transitional justice, is increasingly re-imagined as a project of emancipation and an instrument of society-wide structural change.

Re-imagining this primarily legalistic idea of reparations sparked my interest in the topic. This thesis provides a theoretical approach to transformative reparations by exploring questions around survivor empowerment, the relationship between individual and society, processes that shape human interaction and ways the individual agency is constructed, enabled, or constrained *in the practice of every day*.

Drawing on inter-disciplinary literature I investigate what are the impacts of long-term oppression and sexual violence on individual subjectivities of women and how does these factors play out in assessing women's agency in post-conflict reconstruction. Taking into account the complexity of sexual violence, the broader societal structures which produces it and the impact it has on the survivor's perception of themselves, I argue that first and foremost, when it comes to victims of conflict related sexual violence "empowerment" should be understood as a process with the primary aim of helping to mitigate subjective obstacles survivors face, which is taking the power structures and their own embeddedness in those structures as given reality.

Such framing of empowerment weighs heavily on policy decisions on what

form should a transformative reparatory initiatives for survivors of sexual violence take. I argue that an important, though not exclusive, focus should be placed on creating culturally *pertinent avenues* for women to help them transform relationships they have with themselves by giving survivors a *space* necessary to deconstruct internalized oppression. Failing to reiterate a norm is a starting point for change and having a desire to resist is prerequisite to deviate from hegemonic norm in the first place.

In order to ground theoretical analysis with practical considerations, the thesis explores work of indigenous women's rights group born out in the aftermath of internal conflict in Guatemala as a case study. Founded in 1996, Kaqla is a network of primarily Maya indigenous women in Guatemala with special emphasis on transformation, both personal and social, through political analysis and healing as its foundation. Despite the failure of formal transitional justice initiatives, survivors of armed conflict have found culturally pertinent way to deal with painful past and contribute to development of inclusive society. Exploring how Maya women managed to have their voices heard "re-defined who they are in relation to those who threaten them, thereby altering the very relations of power which rendered them 'insecure'"¹ inspires my understanding of empowerment for community based, transformative reparation programme. On a broader level, exploring strategies and perspectives of Kaqla prompts the discussion of potential role women's rights groups and local networks may play in achieving increasingly pledged vernacularization of the transitional justice processes.

1.2. Significance of the Study

The literature on transitional justice, as the field itself, is rapidly evolving. During last few years, victim reparations have emerged as a mechanism of transitional justice and a dynamic field of academic inquiry.² Publications on transformative and gender-sensitive reparations for conflict-related

¹ Maria Stern, Naming In/Security-Constructing Identity: "Mayan-Women" in Guatemala on the Eve of "Peace", Doctoral Dissertation Thesis, Department of Peace and Development Research, Göteborg University, 2001, .p.1.

² *On the topic of reparations see following academic work which has been published during last few years:* Pablo De Greiff, The Handbook of Reparations. [Elektronisk resurs] Oxford : Oxford University Press, 2006, 2006a)., Jon Elster, Retribution and Reparation in the Transition to Democracy Cambridge Univ Press, 2006)., K. Feyter, Out of the ashes: reparation for victims of gross and systematic human rights violations Antwerpen: Intersentia, 2005, 2005)., Ruth Rubio-Marin, What happened to the women?: gender and reparations for human rights violations: SSRIC, 2006)., John C. Torpey, Making whole what has been smashed: On reparations politics Harvard University Press, 2006)., Jon Miller and Rahul Kumar, "Reparations: interdisciplinary inquiries," (2007).

sexual violence feature as a growing part of this literature.³ Among others, questions of international and national responsibility of States towards survivors of sexual violence, victim empowerment and the role of reparation processes to contribute to societal change have been highlighted topics. The present section briefly reviews current trends in research and locates contribution of thesis to this emerging literature.

Scholars and activists unite by claiming that reparations must address immediate needs of survivors of sexual violence, but also be fully cognizant and responsive to the economic and social barriers women face to full equality in many societies.⁴ It has also been argued that the reparation is a *process*,⁵ which should in itself be empowering and transformative.⁶ Perceiving reparations as pathways to empowerment and transformation comes as no surprise in light of several studies demonstrating that conflict may provide a unique opportunity for relaxing confining gender norms and creating spaces for women to exercise their agency in a transformative way.⁷

Re-imagining of reparations as a dynamic social practice and an instrument of *transformation* has significant practical and theoretical implications. Firstly, such reconceptualization has a potential to influence the thinking on how reparations program should be designed in practice if they aspire to do justice to female survivors of sexual violence and at the same time help war-torn societies advance towards more egalitarian and inclusive democracies.⁸ Secondly, the idea of transformative reparations opens up avenues for multi-disciplinary analysis and invited not merely legal, but sociological inquiry. This is certainly called for since its inception the discipline of law has had privileged place within the discourse of transitional justice which has

³ Ruth Rubio-Marin, "Reparations for conflict-related sexual and reproductive violence: A decalogue," Wm. & Mary J. Women & L. 19 (2012a): 69., Fionnuala Ní Aoláin, Catherine O'Rourke, and Aisling Swaine, "Transforming Reparations for Conflict-Related Sexual Violence: Principles and Practice," Harvard Human Rights Journal 28.1 (2015): 97,146,p.97., Colleen Duggan and Julie Guillerot, "Reparations for sexual and reproductive violence: Prospects for achieving gender justice in Guatemala and Peru," International Journal of Transitional Justice 2.2 (2008): 192-213., RW.ERROR - Unable to find reference:43, Binaifer Nowrojee, "Making the invisible war crime visible: post-conflict justice for Sierra Leone's rape victims," Harv. Hum Rts. J. 18 (2005): 85., Moses Chrispus Okello and Lucy Hovil, "Confronting the reality of gender-based violence in northern Uganda," International Journal of Transitional Justice 1.3 (2007): 433-43.,

⁴ Aoláin, O'Rourke, and Swaine, Transforming Reparations for Conflict-Related Sexual Violence: Principles and Practice Harvard Law School Journals, 2015) 97,146,p.97.

⁵ Genevieve Renard Painter, "Thinking Past Rights: Towards Feminist Theories of Reparations," Windsor Yearbook of Access to Justice 30.1 (2012).

⁶ U.N. Secretary General, Guidance Note of the Secretary-General: Reparations for Conflict-Related Sexual Violence, 2014) 9.

⁷ Rita Manchanda, "MAOIST INSURGENCY IN NEPAL: Radicalizing Gendered Narratives," Cultural Dynamics 16.2 (2004): 237-58.,

⁸ Ruth Rubio-Marín, The Gender of Reparations: Unsettling sexual hierarchies while redressing human rights violations Cambridge University Press, 2009).p.3.

become source of criticism for some academics.⁹

Literature review demonstrates that despite an increasing normative and scholarly attention to the topic of reparations of conflict related sexual violence, multi-disciplinary theoretical analysis of critical issues pertinent to processes of *empowerment* in the post conflict settings is largely missing. The present study hopes to contribute to emerging literature on reparations by providing more nuanced understanding of empowerment and how re-conceptualization of reparations within the field of transitional justice may assist this process.

1.3. Research Questions

The primary research question of the thesis stands as following:

1. How should processes of *empowerment* and *transformation* be understood in the context of reparations giving due attention to individual subjectivities of survivors?

In order to get the heart of the question I will investigate:

- i. How does living in patriarchal structures prior to the conflict and entrenched gender imbalance affects women's individual subjectivities and their agency?
- ii. What is the relationship between agency, empowerment and transformation and how can reparatory initiatives best support enabling women's agency and help decrease severe stigmatization and victimization related to sexual violence?

These are the questions in need of further investigation. Drawing upon the multi-disciplinary literature of law, social science and psychology and by integrating perspectives of indigenous women's group in Guatemala on societal transformation as an empirical starting point, thesis sets out to fill the gap and provide modest theoretical analysis of issues pertinent to reconceptualization of reparations for conflict related sexual violence.

⁹ Laurel E. Fletcher and Harvey M. Weinstein, "Editor's choice: Writing Transitional Justice: An Empirical Evaluation of Transitional Justice Scholarship in Academic Journals," *Journal of Human Rights Practice* 7.2 (2015): 177,198, p.189., Rosemary Nagy, "Transitional Justice as Global Project: critical reflections," *Third World Quarterly* 29.2 (2008): 275-89., Sandra Rubli, *Transitional justice: justice by bureaucratic means?*, 2012).

1.4. Structure

The thesis comprises of six chapters and provides multi-layer analysis of reparations and particularly its declared goal of *empowerment* and *transformation* relative to conflict related sexual violence.

Following this introduction, the *second chapter* outlines the methodological consideration underlying thesis. It provides account of theory, research approach, and design employed for the analysis.

The third chapter sets the scene for the thesis and situates conflict related sexual violence in dominant policy and normative discourses. In this chapter, I also engage with feminist perspectives on everyday violence as root cause of wartime violence. In the *fourth chapter* I map understanding of reparation in international law and policy.

Analysis in the *fifth chapter* provides a conceptual framework for defining empowerment in the context of reparations for CRSV. The analysis is largely framed by theories on power, agency, and social construction process. I further explore the work of social psychologist in assessing psycho-social implication of violence in relation to survivor's social identity.

The *sixth Chapter* presents a case study from post-conflict Guatemala. Following to describing the context of the conflict, I move to explore the dominant transitional justice processes in Guatemala focusing on its limitations to achieve the desired goal. Then, I proceed to introduce the Maya indigenous women's group Kaqla and investigate their work to find inspiration for community based reparation program. Exploring the strategies Kaqla women's group is employing in their work with Maya survivors of the conflict allows me to ground my theoretical approach with practical considerations.

The last *seventh chapter* aims to wrap the analysis and reflect on the findings of the study. It further proposes potential avenues for future research.

1.5. Definitions of Terms and Delimitations

Before I move to the substantive parts of the thesis, several comments and clarifications are called for regarding the choices I have made in the thesis and terminology I have employed.

First clarification concerns the definition of conflict related sexual violence. For the definition of conflict related sexual violence I refer recently published U.N. Secretary-General, Guidance Note of the Secretary-General: Reparations for Conflict-Related Sexual Violence provides broad definition

as follows: “*Conflict-related sexual violence takes multiple forms such as, inter alia, rape, forced pregnancy, forced sterilization, forced abortion, forced prostitution, sexual exploitation, trafficking, sexual enslavement, forced circumcision, castration, forced nudity or any other form of sexual violence of comparable gravity*”.¹⁰

Secondly, though throughout the analysis I strive to use the word survivor instead of victim, it should be noted that definition of victims under current policy framework includes not only persons who has individually or collectively has suffered such violence but also family members, such as children or partners, and children born as a result of pregnancy from rape. According to Guidance notes Victims may also include persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.¹¹

Thirdly, the overwhelming focus on women and girl victims and their needs in the thesis is not to suggest that men and boys are not subject to wartime sexual violence. In fact, in recent conflicts man has increasingly been targeted. The decision to concentrate of experiences of women is influenced by the two considerations. Although men and boys are among the victims, women and girls are disproportionately affected by conflict related sexual violence.¹² Secondly, the experience of sexual violence is different for male and female victims due to “both ... physical differences between the sexes and of the different meanings culturally ascribed to the male and female body”.¹³

Furthermore, I employ term of subjectivities and culture often in the present analysis. By subjectivity, as observed by Ortner, I mean ‘ensemble of modes of perception, affect, thought, desire, fear, and so forth that animate acting subject’.¹⁴ In addition, in the present study, when referring to culture, I use definition of Clifford Geertz and according to him culture to be understood as ‘structure of meaning through which men give shape to their experience’.¹⁵

¹⁰ Guidance Note, p.2

¹¹ Ibid

¹² U.N. Secretary General, Conflict-Related Sexual Violence: Rep. of the Secretary-General, (2012)., Margot Wallström, U.N. Special Representative on Sexual Violence in Conflict. Speech at Lund University: Conflict-Related Sexual Violence: Another Kind of War, (2012).

¹³ Cynthia Cockburn, "The Continuum of Violence: A Gender Perspective on War and Peace," Sites of Violence: Gender and Conflict Zones, ed. Wenona Giles and Jennifer Hyndman University of California Press, (2004) 9.

¹⁴ Sherry B. Ortner, "Subjectivity and cultural critique," Anthropological Theory 5.1 (2005): 31-52.,p.37.

¹⁵ Clifford Geertz, "The Politics of Meaning," The Interpretation of Cultures. Selected Essays by Clifford Geertz (New York: Basic Books, 1973).p.312.

Few words are called to explain thesis' overwhelming focus on reparations programs as opposed to other modes of redress such as judicial. While I explore the legal avenues of receiving redress in proportion of individual harm suffered as a result of gender based violence in conflict, the conceptual framework thesis attempts to set is primarily applicable to community based reparations programs. Within the scope of transitional justice reparation programs are administrative in character is best suited when reparations are own to larger groups of systemic human rights violation.¹⁶ Taking into account the systemic, recurring and increasing character of sexual violence in conflict, decision was made to apply theoretical analysis in the context of reparations programs as opposed to judicial ones.

2. Theory and Methodological Considerations

The present section provides methodological considerations underlying the thesis. I approach the proposed research questions by taking a *social constructionist* stance. In what follows I lay out basic tenets of the social constructionism and clarify the reasons for this methodological choice.

2.1. Social Constructionism

It has been generally acknowledged that ideas of Berger and Luckmann expressed in their classic treatise the *Social Construction of Reality* to have influenced the development of social constructionism.¹⁷ The thesis will not however discuss treatise, but rather employ theoretical underpinning of constructionist perspective as they related to the present study.

According to constructionist perspective, society is perceived as existing both as a *subjective* and an *objective* reality and great emphasis is placed on processes and role of an individual in construction of this social reality.¹⁸ Furthermore, Burr observes in her recent book, that social constructionism can be understood as a 'critical stance towards taken-for granted knowledge'' by challenging the view that knowledge is based on objective, unbiased observation of the world.¹⁹ She contends that from this perspective 'knowledge is seen not as something that a person has or does

¹⁶ Rubio-Marín, *The Gender of Reparations: Unsettling sexual hierarchies while redressing human rights violations* Cambridge University Press, 2009).

¹⁷ Vivien Burr, *Social constructionism* Routledge, 2015).p.14.

¹⁸ Tom Andrews, "What is Social Constructionism?" *The Grounded Theory Review*, " *The Grounded Theory Review* 11.1 (2012), . Burr 2015.p.11.

¹⁹ Burr 2015.p.2.

not have, but as something that people create and enact together”.²⁰

I chose to analyse substantive issues pertinent to reparations for survivors of conflict related sexual violence through the lens of social constructionism approach because it offers several theoretical advantages.

On a more general note, transitional justice is a site for power relations,²¹ thus, similar to a ‘social field’²² it can be seen as an area of contestation characterized with tensions between legal norms and political compromises, negotiations with suspected war criminals and bargains made by elite of societies to help societies to come terms with its violent past and the same time respond to demands of justice in the context of transition. The conceptualization, designing, and implementation of reparatory mechanisms for survivors of conflict related sexual violence is no exception. It is a process, which involves multiple actors equipped with limited resources with an ambitious goal to remedy not just violated right but violated body and mind.

The issues surrounding reparations are ripe for sociological inquiry, to this day however, legalistic approaches have monopolized discussion particularly in terms of defining and justifying reparations. Exploring issues related to reparations through social constructionism approach may provide useful insights to overcome primarily legalistic and institutionalist perspective of transitional justice placing overwhelming focus on legal standards.

Secondly, social constructionism places great emphasis on *everyday* interaction of individuals and regards, “the social practices people engage in as the focus of enquiry.”²³ Thirdly, employing a social constructionist perspective as theoretical orientation of thesis allows one to take in to account critical issues pertinent to the research topics, which may have been overlooked or taken-for granted, questions such as agency of social actors (survivors of conflict related sexual violence), cultural and societal process which function as constraints or incentives to the agency. Most importantly, making sense of what a reparations program is and what it tries to achieve enables me provide a modest contribution to practical techniques or methods which can be used in reparatory initiatives.

²⁰ Burr 2015.p.15.

²¹ Annika Björkdahl Author, et al, "Advancing Women Agency in Transitional Justice," Gender Just Peace and Transitional Justice Working Paper Series (2013).p.31.

²² Term coined by Piere Bourdieu will be discussed with more detail in Chapter 4.

²³ Andrews 2012,

2.2. Research Design and Method

It has been generally acknowledged that research using a constructionist paradigm places great emphasis on exploration rather than testing hypothesis. Thus, qualitative research design and interpretive method are well suited to analysis assuming social constructionist stance. Furthermore, in order to ensure that the topic of the thesis is well explored and study covers contextual conditions relevant to phenomena of empowerment and transformation; I integrate case study methodology and investigate work of Maya indigenous women's group in post post-conflict Guatemala.

As regards to data used in the study, it should be noted that thesis does not produce new empirical data and observations regarding Guatemala is drawn from existing empirical literature.

2.3. Limitations

In what follows, I explore the limitations of the study and reflect on my position as student researcher in the settings being investigated. Choosing a qualitative research methodology as opposed to quantitative has its inherent limitations; this has been discussed briefly in previous section but some of the challenges associated with methodological choice in connection with researcher's place in the study render further discussion.

I am aware that that my perspective chosen in the study is influenced by the social and cultural context within which I am situated. Though the effects of researchers' embeddedness in the context on the study can never be fully eliminated, personal biases and motivations for asking certain questions can be documented.²⁴ As observed by Fairclough choosing social constructionist stance can never be fully objective and textual analysis is "inevitably selective".²⁵ In fact, within social constructionism theory there can be no such thing as objective fact²⁶ as individuals encounter and perceive the world with one perspective and questions one asks is embedded in their view.²⁷ In the present thesis I decided to explore the social practices and phenomena surrounding reparations of conflict related sexual violence and in such analysis one always chooses to ask certain questions in exploring these issues. What I infer from the theories I explore and empirical material

²⁴ Khadeegha Alzoubebi, *The Splintering Selves: A Reflective Journey*, (2014).

²⁵ Norman Fairclough, *Analysing discourse: Textual analysis for social research* Psychology Press, 2003).p.14.

²⁶ Vivien Burr, *Social Constructionism*, Second Edition ed. London : Routledge, 2003).

²⁷ Vivien Burr, *Social Constructionism*, Second Edition ed. London : Routledge, 2003).p. 152.

I choose to present depends on my perspective I approach to the research question.

Furthermore, a qualitative research methodology and one based on social constructionism stance has its own limitations with regard the subjectivity and generalization of the findings. It can be argued that the present analysis takes work and theories of limited number of scholars may lead natural generalization of the findings. In addition, as it related to empirical date, it should be noted that case study of Guatemala was presented to do its relevance to theoretical analysis presented in the thesis and is intended for illustrative purposes.

From this awareness, I will submit that generalizations in the thesis are made with respect to theory and not in connection with a group of individuals. The present analysis does not, in any way, intend to suggest that either theories investigated herein or strategies of Kaqla women's group discusses are universal conceptual truth when it comes to reparations of sexual violence and can be used without any adaption in another context. From this awareness, potential limitations of the present thesis are accepted and taken into account.

3. Situating Sexual Violence in Conflict

In light of the rapidly changing dynamics of warfare, civilians have increasingly been placed in “the center stage of the theatre of war,” being exposed to the worst consequences of combat. Horrendous accounts of atrocities including gang rape, sexual slavery and forced impregnation is being consistently documented and reported by human rights defenders. The trend continues to be disturbing. UN agencies estimate that more than 60,000 women were raped during the civil war in Sierra Leone in 1991-2002, more than 40,000 in Liberian conflict in 1989-2003, up to 60,000 in the former Yugoslavia (1992-1995), and at least 200,000 in the Democratic Republic of the Congo since 1998. In Rwanda, between 100,000 and 250,000 women were raped during the three months of genocide in 1994.²⁸

The last decade was also marked by harrowing accounts of sexual violence. Emerging reports by international organizations speak of systematic rape, brutal physical and sexual assaults, including sexual slavery and forced marriage in many conflict and post conflict settings.²⁹ According to the recent report of UN Secretary General prevalence of sexual violence during and in the wake of the conflict has reached shocking proportions. In 2014, incidents of rape, sexual slavery and forced marriage, continued to be a disturbing trend now in the context of violent religious extremism.³⁰

conflict impacts women in number of ways, sexual violence being one of the worst forms of suffering. Sexual violence entails multiple physical, psychological, and social effects on victims and entire community. Health related consequences, which may persist for the rest of the victim’s lives may range from sexually transmitted infections, unwanted pregnancies, and unsafe abortions to severe gynecological problems including irreparable genital tearing.³¹ Furthermore, fear, self-blame, anxiety, depression are among many psychological sufferings survivors experience. In addition to physical and psychological harm, social consequences of rape are dire. Women face stigma, exclusion, discrimination, rejection from their family and further marginalization. Sexual violence destroys “the very fabric of society,” divides families and creates incentives for revenge.³²

Despite the prevalent use of sexual violence and its shattering effect on

²⁸ Ban Ki-Moon, Conflict-related sexual violence.Report of the Secretary-General (2015).

²⁹ *Id* at 24.

³⁰ *Id*

³¹ Elisabeth Rehn and Ellen Johnson Sirleaf, "Women war and peace: The independent experts assessment on the impact of armed conflict on women and womens role in peace-building." (2002).

³² Margot Wallstrom, "Introduction: Making the Link between Transitional Justice and Conflict-Related Sexual Violence," Wm.& Mary J.Women & L. 19 (2012): 1,.

human lives, the issue has started to attract the attention of the international community only 30 years ago. Throughout the history perpetrators of sexual violence has evaded justice, leaving victims without any redress. There have been number of facts which has contributed to this impunity, including the belief that rape is inevitable byproduct of war, fear of stigmatization associated with rape, hindering victims to come forth; Most importantly however, the issue appeared to be compromised in the quest inherent for transitional settings: finding balance between “normative imperative of justice and pragmatic requirement of peace and reconciliation”.³³

Strenuous campaigns of women’s groups to recognize gender-based violence and to include gender-sensitive definitions in international law have yielded its result. Today conflict-related sexual violence is getting increased normative and policy attention. The Women, Peace and Security agenda is the first significant policy developments in considering international efforts to address sexual violence during conflict. The Security Council Resolution 1325 acknowledges that women’s perspective can no longer be side-lined and encourages their greater participation in the peace process.³⁴ The resolution called on ‘all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse’.³⁵ It also emphasized the need for states to end impunity for war crimes and crimes against humanity, including sexual violence.³⁶

Second development is normative in character. In February 2001 the International Criminal Tribunal for the former Yugoslavia for the first time in the history established mass rape and sexual slavery during war as crimes against humanity. ³⁷ “Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity” is included in the definition of crimes against humanity under the Rome Statute, signed in 1998 and in force since July 2002.³⁸ The Rome Statute, setting up permanent international criminal court, further contains important provisions regarding participatory rights of the victims.

The continued commitment of the Security Council to address the rape and sexual exploitation in conflict is demonstrated by the number of resolutions

³³ Niamh Reilly, "Seeking gender justice in post-conflict transitions: towards a transformative women’s human rights approach," International Journal of Law in Context 3.02 (2007): 155-72., at. 8.

³⁴ UN Security Council, Security Council Resolution 1325, Oct. 31, 2000).

³⁵ *Id*

³⁶ *Id*

³⁷ Benedetta Faedi Duramy, Conflict-related sexual violence: international law, local responses Kumarian Press, 2012)., at 15

³⁸ *Rome Statute of the International Criminal Court*, UN Doc. A/CONF.183/9 (17 July 1998), Parts 7 and 8. ', .

adopted during the last decades.³⁹ Resolution 1888 (2009) further recognized that sexual violence undermines efforts at peace and security and falls within the mandate of the Security Council. The resolution is significant, because for the first time it created clear mandate for the UN to intervene in cases of widespread sexual violence. The Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG-SVC) was established by the Resolution. The Special Rapporteur serves as political advocate on conflict related sexual violence and is the chair of the inter-agency network UN Action against Sexual Violence in Conflict.

The unprecedented use of rape in former Yugoslavia and genocide in Rwanda not only prompted to review efforts of international community to tackle conflict related sexual violence, but also soared the study regarding the wartime sexual violence phenomena and its conceivable causes across the disciplines. Considering that a better understanding of sexual violence contributes to the amelioration of its consequences and is of utmost importance for designing comprehensive reparations programme, I will draw on the existing literature and briefly present the main competing explanations for the causes of wartime sexual violence.

The analysis below does not do justice to the extensive scholarly work of sociologists', anthropologists', psychologists' attempts to theorizing sexual violence phenomena in conflict, but is intended to provide the context for the overall discussion and focus of the thesis. It primarily focuses on features of violence which is relevant for the thesis, that is seeing sexual violence "on a continuum" with every day violence against women.

Due to the complex nature of violence, there are no single explanations of wartime rape. Current research demonstrates that sexual violence is part of wider interaction process⁴⁰ and various factors are at play and contribute to occurrence of sexual violence across conflicts. Some academics consider rape to be a feature of all conflict - crime of opportunity related to state collapse, break down of social order and ensuing lawless chaos.⁴¹ In recent conflict, rape has been consistently been referred as a method or weapon of warfare. Furthermore, following the brutal conflicts in Rwanda and Bosnia,

³⁹UN Security Council Resolution, *Security Council Resolution* 1960, U.N. Doc. S/RES/1960 (Dec. 16, 2010); ', .., 'UN Security Council Resolution, *Security Council Resolution* 1889, U.N. Doc. S/RES/1889 (Oct. 5, 2009)', .., 'UN Security Council Resolution, *Security Council Resolution* 1888, U.N. Doc. S/RES/1888 (Sept. 30, 2009)', .., 'UN Security Council Resolution, *Security Council Resolution* 1820, U.N. Doc. S/RES/1820 (June 19, 2008)', .

⁴⁰ David Riches, *The anthropology of violence* Blackwell, 1986). Preface at.vii.

⁴¹ Dara Kay Cohen, *Causes of sexual violence during civil war: Cross-national evidence (1980-2009)*2011).

several researchers claim that ethnic wars, “because they engage intense emotions and sense of existential threats”⁴² are characterized by widespread wartime rape. As recent studies argues, rape is a socialization tool and prevalence of sexual violence in war is conditioned upon whether members are voluntarily or forcibly recruited to the armed group.⁴³ Below, however, I will focus on feminist assessment of sexual violence and particularly its correlation to gender.

3.1. Inequality as a Spur to Violence

Multi-disciplinary feminist scholarship recognizes that violence in general has “a multitude of causal factors.”⁴⁴ In order to sufficiently grasp the dynamics of wartime sexual violence, the analysis cannot be separated from the peacetime context and variables which informs it. Arguably, attitudes towards women which prevail in peacetime in addition to unfavorable political and economic situation exacerbate the vulnerabilities and create enabling environment for gender-based violence in conflict.

If conditions in pre-conflict settings deprive women of their capabilities to protect themselves from structural oppressive practices including forced sex and marriage, conflict will only enhance their capability deprivation and puts them at increased risk of further violence. Importantly, for feminist legal scholars, power is the key concept of understanding gender-based violence. Such pervasive violence is claimed to be attributed to underlying patriarchal norms and unequal relationships between men and women.⁴⁵ They propose that “inequality is a spur to violence” and which legitimates the use of violence against those with less power, which in patriarchal societies are women.⁴⁶

Furthermore, pre-conflict gender inequality contributes to creating social norms and culture which accepts violence against women.⁴⁷ And in the words of Carolyn Nordstrom what “people tolerate in peace shapes what they will tolerate in war.”⁴⁸ Some studies have also shown that the end of

⁴² James D. Fearon, "Ethnic mobilization and ethnic violence," Barry R. Weingast and (2006).

⁴³ Dara Kay Cohen and Ragnhild Nordås, "Sexual violence in armed conflict Introducing the SVAC dataset, 1989–2009," Journal of Peace Research 51.3 (2014): 418-28,.

⁴⁴ Caroline ON Moser, The gendered continuum of violence and conflict: An operational framework na, 2001).at 39.

⁴⁵Jill Radford and E. Stanko, "Violence against women and children: The contradictions of crime control under patriarchy," The politics of crime control (1991): 186-202,.., Jill Radford, Melissa Friedberg, and Lynne Harné, Women, violence and strategies for action: Feminist research, policy and practice Open Univ Pr, 2000).

⁴⁶Caroline NO Moser and Fiona Clark, Victims, perpetrators or actors?: Gender, armed conflict and political violence Palgrave Macmillan, 2001).. at. 29.

⁴⁷Catharine A. MacKinnon, Are women human? Harvard University Press, 2007).

⁴⁸ Carolyn Nordstrom, Girls and warzones: Troubling questions Life & Peace Institute,

hostilities does not mark end for violence against women, sometimes it even spurs its prevalence.⁴⁹

Against this background of gender sensitive reparations policies for survivors of conflict-related sexual violence tackling root causes of sexual violence may in fact provide and a unique opportunity to positively affect not only survivor's life but broader societal structures she lives in.

3.2. Re-imagining Reparations for Survivors of Sexual violence: Current Legal and Policy Framework

This chapter explores the meaning behind the reparations for survivors of sexual violence and highlights dominant approaches in international law, human rights law, international criminal law, and UN principles. The alongside aim is to demonstrate the differences between reparative and transformative justice and how the structurally transformative conception of reparations came about in the field of transitional justice.

Delivering justice to women who have been subjected to systemic violations during the conflict is an essential element for country's post conflict transition. Nevertheless, the reparations efforts for sexual violence have historically overlooked the multi-faceted needs of women and girls.⁵⁰ There are two different contexts in which the term reparation has been used when related to gender-based violence. In its wide sense reparation is understood in predominantly judicial terms and consists of measures aimed at redressing harm suffered by survivor of sexual violence. Reparations through judicial procedures operate on case-by-case and prioritize compensations to be given in proportion to violation of physical integrity and privacy of each individual victim.⁵¹

Another understanding of reparation refers to the idea of providing collective redress to affected individuals and communities through administrative programs, when due to widespread and systemic violation of

1997). at 1.

⁴⁹Anu Pillay, "Violence against Women in the Aftermath," The Aftermath: Women in Post-conflict Transformation, ed. Sheila Meintjes, Meredith Turshen, and Anu Pillay Zed Books, 2001). at 37.

⁵⁰Human Rights Council, Analytical study focusing on gender-based and sexual violence in relation to transitional justice - Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/27/21, 2014). at para 45.

⁵¹Rubio-Marín, The Gender of Reparations: Unsettling sexual hierarchies while redressing human rights violations Cambridge University Press, 2009).p.4.

rights; reparation is owed to large groups of victims.⁵² For this reason, the administrative programs is increasingly becoming favorable when it comes to reparations for gross violations of human rights taking place during a conflict and especially within the U.N. led post conflict reconstruction processes.

Within the academic circles however opinions differ. For Pablo De Greif administrative reparations programs are better suited for repairing harm for conflict related sexual violence⁵³ while others criticize transformative idea of gender-just reparations which forms basis of administrative programs on grounds of 'practical realism and political feasibility'.⁵⁴ However prior to dwelling on the reasons which exist for and against idea of transformative reparations in transitional justice contexts, provide brief overview of international framework for reparations in relation to survivors of sexual violence.

Legal basis for reparations for survivors of sexual violence has been recognized as a part of an individual's right to an effective remedy in international law. Initially, having basis in laws on state responsibility, now the provisions regarding the right to reparation can be found in human rights law, international criminal law and increasingly in UN soft law documents.

3.2.1. Law on State Responsibility – As Basic Premise of Right to Reparation

The right to reparation is a well-established principle of international law.⁵⁵ States are obliged to provide effective redress for the breach of engagement by virtue of the law on state responsibility. The leading legal standard in this regard is set out in the often cited judgment of the Permanent Court of International Justice in the *Chorzow Factory* case which describes reparations as: "a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form."⁵⁶ The reparation may take diverse forms under international law.

⁵² Pablo De Greiff, "Justice and Reparations," *The Handbook of Reparations*, Pablo de Greiff ed. New York: Oxford University Press, 2006b).at 452

⁵³ *Id*

⁵⁴ Margaret Urban Walker, "Transformative Reparations? A Critical Look at a Current Trend in Thinking about Gender-Just Reparations," *International Journal of Transitional Justice* (2015): ijv029,., Lars Waldorf, "Anticipating the Past: Transitional Justice and Socio-Economic Wrongs," *Social & Legal Studies* 21.2 (2012): 171-86,.

⁵⁵ 'The Case Concerning the Factory of Chorzow (Germany V Poland) (Merits) PCIJ Rep. Series A. no 17', . at 47;'Military and Paramilitary Activities in and Against Nicaragua (Nicaragua V. U.S.) (Merits) (1986) ICJ Rep 14', . at 114; 'Corfu Channel Case;(UK V. Albania) (Merits) (1949) ICJ Rep 4', ., 'Reparations for Injuries Suffered in the Service of the United Nations (Advisory Opinion) (1949) ICJ Rep', .at 184 ;

⁵⁶ Charzow Factory Case, at p. 21.

Articles on State Responsibility enumerate the following forms of reparations: Restitution, Compensation, Satisfaction, Assurances, and guarantees of non-repetition. These reparatory measures will be discussed at a later point in detail employing gender perspective in their consideration.

3.2.2. Treaty Based Recognition of Right to Reparation under Human Rights Law

The framework of reparation under laws of state responsibility and the one stipulated by international human rights law are distinct. The distinction hinges on the awareness that reparation provisions under public international law have been drawn up as part of system of inter-state relations, meaning that obligation to make reparation for an internationally wrongful act can be invoked by injured State only *vis-à-vis* another State.⁵⁷

Under international human rights law, as mentioned above, the right to reparation for victims of conflict related sexual violence is framed as a part of an individual's right to effective remedy. The International Covenant on Civil and Political Rights approaches an individual's right to redress from a procedural standpoint having basis in State's obligation to investigate any breaches of rights.⁵⁸ In contrast with ICCPR, the Convention on the Elimination of all forms of Racial Discrimination and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides for specific right to reparation.⁵⁹

Furthermore, the Committee on Eliminations of all Forms of Discrimination against Women, which is the principal body monitoring the enforcement of CEDAW Conventions, talks about different measures which are necessary to remedy the harm caused by sexual violence. The proposed measures range from effective legal protections including penal sanctions, civil remedies, compensation, to necessary legislative changes to provide women and girls, who become pregnant as a result of rape, with the choice of safe and legal abortions.⁶⁰ The obligation to provide reparations to women is also clearly spelled out in the Declaration on the Elimination of Violence against

⁵⁷ ILC, Articles on State responsibility, 'Report of the International Law Commission on the work of its forty-eight session' (1996), UN doc. A/51/10, articles 42-46.

⁵⁸ 'International Covenant on Civil and Political Rights (Adopted 16 December 1966, Entered into Force 23 March 1976) 999 UNTS 171', . arts. 2, 3.

⁵⁹ 'Convention on the Elimination of all Forms of Racial Discrimination (Adopted 21 December 1965, Entered into Force 4 January 1969) UNTS 195', .Art. 6;

⁶⁰ UN Committee for the Elimination of all Forms of Discrimination Against Women, 'General Recommendation no.19: Violence Against Women', (1992) U.N. Doc. A/47/38, 29', .at 24; 'L. C. V. Peru, (2011) Decision of CEDAW/C/50/D/22/2009', .

Women.⁶¹

3.2.3. The European Court of Human Rights

The European Convention of Human Rights does not contain specific provision regarding gender-based violence or reparations thereto, however the European Court's case law has framed state responsibility with respect to violence against women through standards of due diligence. The reparations framework traditionally embraced by the Court though, has been regarded too narrow to allow full recognition of the moral and material harm that women subjected to violence experience.⁶² It was only in 2009, in case of *Opuz v. Turkey*, the Court found for the first time that gender based violence is form of discrimination under the European Convention and awarded the applicant whose mother has been abused and subsequently killed by her former husband pecuniary damages for emotional suffering. However, the Court was said to have missed the opportunity to 'suggest a broader agenda to deal with structural problem of violence against women' and making forward-looking recommendations in this regard.⁶³

3.2.4. Inter-American Court of Human Rights

In contrast with ECtHR, the Inter-American Court rendered landmark judgment in the field of reparations for violence against women in November 2009. The case *Cotton Field v. Mexico* is significant because the Court redefined its approach to reparations and for the first time articulated a need to design gender-sensitive reparations with transformative aspirations.⁶⁴ The Court's viewing of sexual violence and subsequent killing of young girls in Mexico constituting not just an isolated case but one which is born out of systemic violence against women in patriarchal societies, was reflected in its gender-sensitive reparations approach.⁶⁵

3.2.5. International Criminal Law

International criminal law integrates specific provisions concerning victims' of conflict related sexual violence right to reparations. The increased normative and policy attention to the victims of conflict related sexual

⁶¹ 'Declaration on the Elimination of Violence Against Women (Adopted 20 December 1993) UN GA Res. A/RES/48/104', .

⁶² UN Human Rights Council, *Report of the Special Rapporteur on violence against women, its causes and consequences (23 April 2010) A/HRC/14/22*.at 79.

⁶³ *ibid*

⁶⁴ 'Cotton Field V. Mexico, Inter-American Court of Human Rights, 16 November 2009.', .

⁶⁵ Ruth Rubio-Marin and Clara Sandoval, "Engendering the reparations jurisprudence of the Inter-American court of human rights: The promise of the cotton field judgment," *Human Rights Quarterly* 33.4 (2011): 1062-91.,at 1063.

violence came about as a result of the success of activist groups efforts within the broader framework of women's rights movement to include gender-sensitive definitions in international law and to recognize and remedy the harm resulted by sexual violence.

As opposed to post World War II period, when rape and sexual violence were not explicitly listed as examples of violations of "law and customs of war" or crimes against humanity and thus war time rape and violence was not even mentioned during the Nuremberg trials,⁶⁶ today, the definition of crimes against humanity under the Rome Statute of the International Criminal Court includes "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity".⁶⁷

This represents a significant advancement as under current framework, that the Court may order the convicted person to award reparation to the victim or the latter may take place through the Trust Fund for Victims created in 2008. The mandate of TFV envisions the possibility for the victims and their families to receive assistance separate from and prior to a conviction by the Court, using funds the TFV has raised through voluntary contributions. The operations of TFV generally involve physical and psychological assistance to the victims of the crimes within the jurisdiction of ICC.⁶⁸

3.2.6. Soft Law Developments

The emergence of an individual right to individual reparation has been supported by non-binding instruments as well. UN soft law documents have stressed the importance of the reparation for victims of human rights violations and have contributed to establishing the standards thereof.

The Basic Principles and Guidelines on the Right to a Remedy and Reparation or Victims of Gross Violations of International Human Rights Law and International Humanitarian Law adopted by the United Nations General Assembly in 2005 denotes various forms of reparation, their scope and content, covering both monetary and non-monetary reparations. According to the Basic Principles, the reparation may take the form of *restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition*.⁶⁹

⁶⁶ Rhonda Copelon, "Gender crimes as war crimes: Integrating crimes against women into international criminal law," *McGill LJ* 46 (2000): 217., at 227.

⁶⁷ 'Rome Statute of the International Criminal Court, UN Doc. A/CONF.183/9 (17 July 1998), Parts 7 and 8. ', .parts 7 and 8.

⁶⁸ 'International Criminal Courts, Rules of Procedure and Evidence, ICC-ASP/1/3 (Part.II-A)(2002)', .Rule 85; Rome Statute, Article 75.

⁶⁹ 'UNGA, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for*

Restitution, as the title suggests, aims at re-establishment of the situation, which existed before the wrongful act was committed.⁷⁰ Furthermore, the *compensation* may be required for damages resulting to physical and mental harm which is economically assessable and to the extent that the damage is not made good by restoration.⁷¹ In most cases, especially when the issue concerns the violation of person's integrity and human dignity as is the case for sexual violence, *rehabilitation* in the form of medical and psychological care, as well as legal and social services may be detrimental for the victim.⁷² As for the *satisfaction and guarantees of non-repetition*, these forms of reparation include broad range of measures aiming at cessation of violations and strengthening the institutions responsible for administration of justice. Measures may include public apology and recognition of suffering of victims under satisfaction, together with broad structural and institutional reforms ensuring the gross human rights violations will not happen again.⁷³

These basic principles are applicable to gross human rights violations in general. However, when translated into context of sexual violence, as pointed out by feminist scholars, these general principles of reparation failed to adequately address the multi-faceted needs of victims of sexual violence and may, in some circumstances, even "re-entrench gender hierarchies" in post conflict societies.⁷⁴ It has been persuasively argued that measures of restitution, compensation, and rehabilitation as envisaged by General Principles have retrospective focus.⁷⁵ Moreover, restitutive requirements of reparation entail a basic paradox at heart for two reasons. At the outset, this is something impossible to do, sometimes harm the suffered is irreversible. Most importantly however, traditional interpretation of reparation of re-establishing the situation which would have existed if the illegal act had not been committed, disregards essentially important consideration that sometimes structural gender inequalities pre-exists before the conflict which may have contributed vulnerability of women and have exposed them to sexual violence in the first place. Thus, restoring the *status quo ante*, means returning women to conditions, which would continue to keep them under

Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147(21 March 2006)', .[Hereinafter referred as Basic Principles]

⁷⁰ Principle 19, Basic Principles

⁷¹ Principle 20, Basic Principles

⁷² Principle 21, Basic Principles

⁷³ Principle 23, Basic Principles

⁷⁵ See Colleen Duggan and Adila M. Abusharaf, "Reparation of Sexual Violence in Democratic Transitions: The Search for Gender Justice in Pablo de Greiff (ed.) *Handbook of Reparations*," (2006), Ruth Rubio-Marin, "Reparations for conflict-related sexual and reproductive violence: A decalogue," *Wm. & Mary J. Women & L.* 19 (2012b): 69,.

the veil of oppression.⁷⁶ This brought general consensus that improving women's situation post conflict meant addressing normalization of every day violence against women, which in itself requires structural changes in society and holistic approach of transitional justice processes.

It was from this awareness, that the Nairobi Declaration on Women's and Girl's Right to a Remedy and Reparations has been drawn up and adopted. The policy document was created a result of civil society efforts and contributions from survivors of sexual violence.⁷⁷ Adoption of Nairobi Declaration in 2007 is significant achievement and constitutes most innovative contribution to securing effective reparations for several reasons.⁷⁸ Firstly, unlike the Basic Principles of Reparation, the Declaration focuses specifically on victims of sexual violence and brings the gender perspective otherwise gender-neutral framework of reparations under international law. Secondly, the Declaration's understanding of the reparatory programs is broad and should include physical and mental health services for rehabilitation, compensation, and restitution, prosecution of individuals responsible for sexual violence, symbolic acts aimed restoring dignity such as public apologies, educational initiatives, and measures for transformation of social patterns.⁷⁹

Most importantly, the Nairobi Declaration is the first policy document which recognizes the root causes of sexual violence and advocates for reparations programs, which 'must go above and beyond the immediate reasons and consequences of the crimes and violations; they must address structural inequalities that negatively shape women's and girl's lives'.⁸⁰ The Declaration gives voice to women and girls and attempts shifts the traditional perception of women and girls as victims to agents of change.

In addition to the described general provisions regarding reparations for survivors of sexual violence, an increasing focus has been placed on remedying the harm ensuing from sexual violence perpetrated during the conflict. As central tenets of the thesis are framed in the context of conflict related sexual violence, now I will examine how the aforementioned international standards for remedying sexual violence in general have been

⁷⁶ Pillay, *Violence against Women in the Aftermath*, ed. Meintjes, Turshen and Pillay Zed Books, 2001).at 4.

⁷⁷ Nairobi Declaration on the Right of Women and Girls to a Remedy and Reparation (2007). Available at [Http://Www.Womensrightscoalition.Org](http://www.womensrightscoalition.org) [Hereafter 'the Declaration' Or 'the Nairobi Declaration']', .

⁷⁸ Valérie Couillard, "The Nairobi Declaration: redefining reparation for women victims of sexual violence," *International Journal of Transitional Justice* 1.3 (2007): 444-53, at. 445.

⁷⁹ Saris Anne and Katherine Lofts, "Reparation Programmes: A Gendered Perspective," *Reparations for Victims of Genocide, War Crimes and Crimes against Humanity*, ed. Carla Ferstman et alThe Hague: Brill, 2008) 79.at 93.

⁸⁰ Nairobi Declaration, Principle 3 (H).

translated in post conflict settings.

3.3. Reparations for Conflict Related Sexual Violence and Transitional Justice

Addressing sexual violence in societies transitioning from conflict or repressive rule has been considered vital for creating sustainable peace.⁸¹ Thus an increasing focus is being placed on transitional justice processes to help realize the rights of victims of conflict related sexual violence.

Transitional justice has been defined as “conception of justice associated with periods of political change,” aimed to deal with legacy of wrongdoings of oppressive predecessor regimes and to provide legal responses to violations of human rights and humanitarian law.⁸² There is range of mechanisms available to facilitate the society’s transition from conflict to peace. Transitional justice initiatives include truth commissions; international prosecutions; international and national investigatory commissions; national prosecutions; national lustration mechanisms; civil remedies; and mechanisms for the reparation of victims.

When it comes to reparations mechanisms within transitional justice, more countries are coming to the realization that administrative reparations programs are better suited for the task as opposed to judicial modalities due to widespread and systemic character of human rights abuses taking place during the conflict.⁸³ Reparations for conflict related sexual violence is no exception. In June of 2014, UN adopted Secretary General’s Guidance Note laying out gender-sensitive approaches to the design and delivery of reparations for victims of conflict related sexual violence.

The Guidance Note sets out policy principles that should direct United Nations support to Member States in this area of reparations for victims of conflict related sexual violence. The Guidance Note recognizes that adequate reparations for victims of conflict-related sexual violence entails combination of different forms of reparations, including judicial reparations which should be available for victims as part of their right to obtain prompt, adequate and effective remedies. However, it places a great emphasis on administrative programs, which has been defined as ‘an out-of-court process used by States to provide reparation to massive numbers of victims of gross violations of international human rights law and/or serious violations of

⁸¹Human Rights Council, Analytical study focusing on gender-based and sexual violence in relation to transitional justice - Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/27/21, 2014), at para 7.

⁸²Ruti G. Teitel, Transitional justice Oxford University Press, 2000). at 3.

⁸³ Ruth Rubio-Marin, at 4.

international humanitarian law'.⁸⁴ In such programs, States identify the violation and the victims to be redressed and provide them with reparations through established procedures.⁸⁵

There are a number of reasons why reparations programs have been favored when it comes to conflict related sexual violence. The first reason is related to its accessibility. The financial costs, difficulties in traveling to courts, high level of illiteracy among women victims of violence in many post-conflict countries make access to reparations through judicial systems more difficult.⁸⁶ Administrative programs, it has been argued, has potential of reaching a larger number of victims.⁸⁷ Furthermore, procedures for administrative reparations programs are more flexible and evidentiary standards lower.⁸⁸ While reparations programs are a new phenomena, in some countries it has taken form of free health care, educational supports, skills training, and microcredit, provision of housing and pensions and even gender specific institutional reforms.⁸⁹ Interim reparation efforts in several States included access to fistula surgeries. Symbolic measures of reparations as are public apologies has also deemed critical considering the social stigma attached to sexual violence.

Most importantly, however, in the realization that conflict-related sexual violence cannot be separated from everyday violence women face, reparations programs have increasingly been re-imagined as platform for identifying and dismantling the underlying structural discrimination that enabled violation to occur'.⁹⁰ It is against this backdrop that reparation programs are envisioned as transformative, participative process in its design, implementation, and impact.⁹¹ The idea of transformative reparations significantly expands narrowly conceived definition of administration of justice in post-conflict settings and brings issues of broader societal change in to domain of transitional justice, which in itself places great emphasis on power of survivors to drive the reparations processes.

In order to affect sustainable change, mobilization of actors instead of victims is paramount. Thus, it comes as no surprise that the reconceptualization of reparation programs as pathways to transformation of conflict-ridden states to an egalitarian society, prompted a discussion on

⁸⁴ The Guidance Note, at 6.

⁸⁵ *ibid*

⁸⁶ Ruth Rubio-Marin, at 6

⁸⁷ The Guidance Note, at 6

⁸⁸ Pablo De Greif, Justice and Reparations.

⁸⁹ Analytical study.

⁹⁰ UN Analytical Study, at para 7

⁹¹ Guidance Note, at 1.

empowerment of survivors of sexual violence, as “empowered women and empowered communities are the best defense against cycles of despair and radicalization and violence.”⁹² In fact, policy shift towards transformative reparations programs for conflict related sexual violence that takes survivor empowerment as its premise is timely development. Feminist scholars have increasingly pointed out how existing transitional justice mechanisms may be backsliding, as they assign particular type of agency to women, which is ‘passive, civilian, and protected’.⁹³

The realization that peace building practices may in reality be re-entrenching gender hierarchies is unfortunate as transitions offer period of ruptures to unsettle existing power structures and reconceive the norms that restrain women’s agency. Extensive empirical study carried out by the World Bank for its 2012 Report of *Gender Equality and Development* in more than twenty post conflict countries found that conflict may in fact play a role of relaxing some confining gender norms and structures that limit women’s autonomy. By opening spaces for women’s empowerment, there is a unique opportunity of ‘producing new social, economic, and political realities that redefine gender and caste hierarchies.’⁹⁴ While these are positive developments they are not in itself sufficient force to change unequal gender relations. Therefore, it is critical that these gains are not simply circumvented by transitional justice mechanisms, but supported and reproduced, which requires thoughtful and context-tailored planning of politics of empowerment.

A conceptual analysis of what it means to empower survivor of conflict related sexual violence raises important questions related to power, agency, and social implications of sexual violence - the issues which had not been addressed as of yet in this context. Failure to consider how power and violence produces subjects and determines what type of social actors we are, how agency of an individual is constructed, enabled or restrained in the practice of every day may lead to missed opportunities and poor strategic choices. In the coming chapters, the thesis attempts to bring the above issues into the reparations discussion through theoretical framing of empowerment.

⁹² The Reparations are not just about justice. They are also about empowerment, 2014.

⁹³ Annika Björkdahl and Johanna Mannergren Selimovic, "Gendering agency in transitional justice," *Security Dialogue* 46.2 (2015): 165-82,..

⁹⁴ Manchanda, MAOIST INSURGENCY IN NEPAL: Radicalizing Gendered Narratives, 2004) 237-58.at 237

4. Conceptual Framework for Defining Empowerment

The aim of this chapter is to provide a conceptual framework for understanding empowerment taking into account the context of in which sexual violence takes place and the impacts it has on individual subjectivities of victims.

In the formulation of what it means to empower within the context of reparations for CRSV, as a first step I find it necessary to deconstruct the notion of power as a root concept of empowerment and consider question of how social construction process unfolds. In doing so, I draw on the work of academics who have theorized on power, agency, and structure.

Secondly, it is recognized that all victims experience lasting mental suffering related to sexual violence and society's response to violence, which is manifested by severe stigmatization. A conceptual understanding of empowerment within the context of CRSV renders inquiry in to what extent the individual agency is constrained by sexual violence related stigmatization. Thus, in the second part of this chapter drawing on social science and feminist literature I consider implications of violence and stigmatization in relation to survivors' social identity.

4.1. Structural Power: Power as Invisible

Pertinent to any discussion on *empowerment* is the issue of *power*, namely how power is understood and experienced in the practice of every day. As power is an essentially contested concept⁹⁵, different approaches to power entail different meanings of what it means to empower. Great deal of interdisciplinary literature has been devoted to taxonomy of power, which comes as no surprise given the central role power plays in everyday social interaction.⁹⁶ Due to constraints of space, giving complete account of theoretical debate on the subject is not possible; I chose to explore concept of power from the perspective of structure. To this end, Steven Lukes' conceptualization of *power as invisible* is analyzed along the lines of *theory of structuration* developed by Anthony Giddens. This integrated analysis, sheds light on questions of how oppressive structures and unequal power relations are consistently created and kept in place and provides useful insights for conceptualization of *empowerment* in the context of reparations for CRSV. Furthermore, as above understanding of power seems to be

⁹⁵ Lukes Steven, "Power: A radical view," Hampshire and New York, Palgrave Macmillan (2005). at 137. (Hereinafter: Lukes)

⁹⁶ Bertrand Russell, Power: A new social analysis Routledge, 2004).

gender neutral, I rely on the feminist interpretation of power to incorporate gender perspective.⁹⁷

Power is claimed to have many faces and appears in every moment of social relations.⁹⁸ Some see power as held by an individual while others perceive power as pervasive and embedded in intricate webs of relations. And there is Foucault, for whom power is neither wielded by individuals nor by classes or institutions –in fact power is everywhere and is not ‘wielded’ at all.⁹⁹

In mainstream international relations literature, power is seen as one’s ability to exert control over others.¹⁰⁰ Such conceptualization of power, it has been argued, leads to ‘zero-sum’ outcome meaning that one’s gain of power automatically results in loss of another’s.¹⁰¹ Taking the latter interpretation of power as root concept of empowerment would suggest that women’s empowerment takes place on expense of men losing power, which is inherently threatening for men.¹⁰² In fact, men’s fears of losing control may constitute greatest obstacles to women’s empowerment.¹⁰³

Most importantly, however, such conceptualization of power fails to recognize the fact that, power sometimes manifests itself even when there is no instance of one actor trying to exert influence over another, but instead control over an individual is exercised by existing structural constraints and is even manifested by failure of one to recognize their own domination. This idea is consistent with understanding power from structural perspective, which prompts us to place great emphasis on social construction of power by institutions that shape the *meaning* in the society and on effects of power on subjects to whom it is exercised. Understanding power from structural perspective takes into consideration ‘internal relations of structural positions-that define what kinds of social beings actors are’.¹⁰⁴

⁹⁷ Lisa VeneKlasen and Valerie Miller, "A new weave of power," People and Politics (2002).at 55.

⁹⁸ Jonathan Gaventa, "Power after Lukes: an overview of theories of power since Lukes and their application to development," typescript, Brighton: Participation Group, Institute of Development Studies (2003).

⁹⁹ Michel Foucault, "The History of Sexuality, Volume I: An Introduction, trans. Robert Hurley," New York: Pantheon (1978).at 93.

¹⁰⁰ See K. J. Holsti, The Concept of Power in the Study of International Relations Institute for Research on International Behavior, 1964) 179., Brian C. Schmidt, "Competing realist conceptions of power," Millennium-Journal of International Studies 33.3 (2005): 523-49.,

¹⁰¹Jo Rowlands, Questioning empowerment: Working with women in Honduras Oxfam, 1997). at 8. (hereinafter: Rowlands)

¹⁰² *ibid*

¹⁰³Rowlands, at 9.

¹⁰⁴Michael Barnett and Raymond Duvall, "Power in international politics," International organization 59.1 (2005): 39-75.,

As Steven Lukes notes: ‘most effective and insidious use of power’ is to eliminate the conflict within an individual towards existing ‘rules of the game’ by ‘shaping (their) perceptions, cognitions and preferences in such a way that they accept their role in the existing order of things, either because they can see or imagine no alternative to it, or because they see it as natural and unchangeable as divinely ordained and beneficial’¹⁰⁵ This ‘existing order of things’ is so naturalized by the subjects that it exists beyond any contestation.¹⁰⁶ Bringing a gender analysis to these realities may have prompted Sen and Kandyoti to formulate notions of ‘adaptive preference’ and ‘patriarchal bargaining’ respectively.

In his essay *On Ethics and Economics*, Sen explains that people can internalize the harshness of their circumstances so that they do not desire what they can never expect to achieve. He explains that Simone de Beauvoir’s work illuminated for him how ‘women readily accept the pro-inequality apologia as a true description of reality’.¹⁰⁷ Sen invokes example of dominated housewife, who learns to live with her situation by accepting ideological claims put forward to her. Unequal deal, Sen contends, “are often made “acceptable” by certain social notions of “normal arrangements”, and this may affect the perceptions of women as well as men of the comparative levels of well-being they respectively enjoy”.¹⁰⁸

Along the lines of what Sen calls ‘adaptive preference’ is notion of “patriarchal bargaining.” Social scientist Deniz Kandyoti who extensively studied characteristics of patriarchy in South and East of Asia and Muslim part of Middle East, explains how patriarchal bargaining informs women’s choices, their active or passive resistance in the face of their oppression and shapes their gendered subjectivity.

Kandyoti claims that in the face of effective dispossession and insecurity women often face into the patriarchal society, especially when young bride enters his husband’s house hold she is induced to adopt “interpersonal strategies to maximize their security” and establish her place in the partiliny. In this process women adhere to the existing roles and even participate unconsciously in reproduction of their own subordination.¹⁰⁹ According to Kandyoti passive resistance may even go farther and be manifested in to active resistance to the breakdown of patriarchal order,

¹⁰⁵ Lukes, at 23-24.

¹⁰⁶ Pierre Bourdieu, *Outline of a Theory of Practice* Cambridge university press, 1977).

¹⁰⁷ Amartya Sen, "Development as capability expansion," *Readings in Human Development. Concepts, Measures and Policies for a Development Paradigm* (2003): 3-16., at 322.

¹⁰⁸ Amartya Sen, *Development as Capability Expansion*, at 52.

¹⁰⁹ Deniz Kandyoti, "Bargaining with patriarchy," *Gender & Society* 2.3 (1988): 274-90., at 280.

since women may fear stepping out of the line and losing their respectability.¹¹⁰ Sen's 'adaptive preference' and Kandyoti's 'patriarchal bargaining' in essence describe the effects of power on individual consciousness when it is conceptualized from structural perspective, which is manifested in internalization of domination and oppressive belief.

Lukes' view on power is partly useful for conceptualizing empowerment in the post-conflict settings. It cautions about the internalizing factors of power which can be often overlooked when designing an intervention with an aim to empower one and invites discussion on how processes which empowerment is concerned can be organized in a way that provides individuals with resources to tackle subordinating aspect of power, but leaves no room of resistance. It may even suggest that individuals are doomed to live under oppressive structures and there is no potential to construct power in a way that is enabling, rather than constraining. And if the goal of empowerment is to bring transformative results, it seems critical that the power model implies possibility of resistance to oppressive structures.

One may suggest that then Foucauldian thinking on power and particularly his understanding of resistance as a form of power seems to accommodate this demand. While Foucault views power as circular, fluid and relational, as opposed to Lukes, he does not allow for internal processes which interfere in individual's agency and choice to be taken into account.¹¹¹ Therefore, if the Foucauldian model of power is chosen we may risk conceptualization of empowerment in a way that does not take into account an understanding of how internalized oppression creates barriers to women's exercise of power.¹¹² Thus, an appropriate power model for conceptualizing empowerment would take into account how power relations may interfere with individual's consciousness and also incorporate element of resistance.

I will submit that Anthony Giddens' analysis of duality of action and structure brings resisting potential to power configuration and allows an understanding that power can be expressed both 'as transforming capacity and as domination'.

4.2. Duality of Structures: Agency-Centered Approach

Giddens developed his analysis of power as a part of his theory of structuration, which has been considered as one of the 'big' theories in

¹¹⁰ Ibid, at 283

¹¹¹ Rowlands, at 13.

¹¹² Ibid, at 12.

modern social history.¹¹³ Owing to the comprehensive nature of the theory which can form the sole subject of theoretical inquiry, it is not possible to cover the theoretical assumptions of his work in its entirety. Thus, I will focus on his conceptualization of structure and reflexive dynamics between action and structure, as it is essential to my argument.

Central to the theory of structuration is an understanding that the structure is not fixed, rather it is dynamic. It is “both the medium and outcome of the practice which constitutes social systems.”¹¹⁴ In this sense, due to its reflexive nature structure shapes people’s practices, but people’s “actions” and practices constitute or reproduce the structure. In *Central Problems of Social Theory*, Giddens explains:

*‘We should not conceive of the structures of domination built into social institutions as in some way grinding out ‘docile bodies’ who behave like automata suggested by objectivist social science. Power within social system... presumes regularized relations of autonomy and dependence between actors or collectivities in contexts of social interaction. But all forms of dependence offer some resources whereby those who are subordinate can influence the activities of their superiors.’*¹¹⁵

Giddens uses the term action or “continuous flow of conduct “in identical sense as agency. Equating agency with action in the Giddens’ model implies that agency (action), both, in constraining and enabling ways, is shaped by the very social structures they serve to reinforce or reconfigure. This understanding informs the definition of agency proposed by Laura Ahearn as “sociocultural mediated capacity to act.”¹¹⁶ The ‘reflexive approach’ taken by Giddens opens up agency for individuals to influence structures in a transformative way and enables us to view power not simply in terms of expressed in one’s influence over other or self-subordination to structures, but as ‘transformative capacity’.

The power model created through integrating Giddens’s agency centered approach and Lukes’s idea of invisible power creates understanding of power which can form root concept of empowerment. Lukes’ argument helps us understand women’s own subordination and how it is maintained – which may not be sufficiently addressed by Giddens, but reflexive approach to structure adopted by the latter brings potential of resistance to power model.

¹¹³ Mark Haugaard, *The Constitution of Power: A theoretical analysis of power, knowledge and structure* Manchester University Press, 1997).at 98.

¹¹⁴ Anthony Giddens, *Contemporary critique of historical materialism, Volume 1: Power, property and the state*, 1981).at 27

¹¹⁵ *Ibid* at 16.

¹¹⁶ Laura M. Ahearn, *Language and Agency* Annual Reviews, 2001) 109. at 112.

4.3. 'Now the World is without me' - Violence, Stigmatization and Social Identity

It has been argued that there is no such thing as natural body; that the 'human body is itself politically inscribed entity, its physiology and morphology shaped by histories and practices of containment and control - from foot binding and corseting to rape and battering'.¹¹⁷ In the previous section, I have deconstructed the notion of power as it relates to the conceptualization of empowerment. Namely, I have considered how structural power produces subjects and in the words of Foucault how female bodies are 'born in docility' and obedience through power. As the present study ultimately aims to answer what it means to empower a survivor of CRSV in post conflict settings, I find it necessary to address significant social implications of sexual violence and related stigmatization on individual subjectivity. Drawing from feminist and social psychology literature I conceptualize violence as constitutive of subjectivity and argue that sexual violence and the reaction it elicits from society is additional constraint imposed on capacity of an individual to challenge and consequently change oppressive social structures.

During the last couple of decades, there have been increased efforts to understand how violence affects women in number of ways. It is now recognized that sexual violence entails multiple physical, psychological, and social effects on victims and harm spills over on entire community. Fear, anxiety, depression are among many psychological sufferings survivors experience. In addition to physical and psychological harm, social consequences of rape are dire. Stigmatization following rape is frequent and devastating response of society to the violence, which affects survivors' recovery long after the actual assault. Prejudicial and stereotypes beliefs and attitudes about rape and sexual assaults underpin how society perceives, understands, and treats the victims.¹¹⁸ Stigmatizing reactions from community may range from verbal and nonverbal behaviors directed towards survivor of rape.¹¹⁹ Rape victims consistently report feeling treated as devalued and tainted following the assault.¹²⁰ Due to these stigmatizing

¹¹⁷ Susan Bordo, Unbearable weight: Feminism, Western culture, and the body Univ of California Press, 2004). at 21.

¹¹⁸Jennifer M. Brown and Elizabeth A. Campbell, The Cambridge handbook of forensic psychology Cambridge University Press, 2010). at 545.

¹¹⁹Lauren Hitomi Wong, "The Health and Social Implications of Stigmatization for Individuals with Concealable Stigmas: Using Survey and Experimental Methods to Build Theory," (2012)., at 8

¹²⁰ Naeemah Abrahams and Rachel Jewkes, "Barriers to post exposure prophylaxis (PEP) completion after rape: a South African qualitative study," Culture, health & sexuality 12.5

reactions, it is common that victims of sexual violence are shunned and abandoned even by their family members. For the purposes of the present study, I focus precisely on sexual violence related stigmatization and particularly the extent to which victims themselves endorse the blaming belief and rape myths.

The primary feature of stigma is that the stigmatized person has an attribute that conveys devalued social identity within the particular context.¹²¹ Thus, taking into account the context, which they are being devalued, is of critical importance. As it has been suggested earlier, pre-existing perceptions about women and their attributes in patriarchal society may increase their vulnerability for sexual violence. Furthermore, particular sociocultural gender norms about rape plays significant role in labeling sexual violence experiences as a rape.¹²² Recent study on mental health of victims of sexual violence in conflict-ridden Congo found that ‘63% of interviewed girls who reported sexual violence did not label this experience as rape, although legally, their experiences of sexual violence qualified as such’.¹²³

It is again the context in which sexual violence occurs that makes ensuing stigmatization more pervasive. In honor culture societies, which reinforce the idea of virginity as purity, identity of survivor of rape is tainted due to loss of virginity and therefore she may be seen as ‘used’ and unmarriageable.

Most importantly however, a recent study exploring actual and anticipated experiences of stigmatization related to sexual violence observes that survivors may accept and internalize these stigmatizing attitudes from her social network.¹²⁴ The endorsement of negative beliefs by members of stigmatized group towards their stigmatized identity has been defined as self-stigmatization. The author of the study drawing on existing qualitative literature on sexual violence related stigmatization and based on her empirical observations in South Africa reports that ‘when participants were asked an open ended-question about how they felt following the assault, approximately 33% spontaneously reported feeling either self-stigma, public

(2010): 471-84., See: Erving Goffman, "Stigma: Notes on the management of spoiled identity" *Simon and Schuster*, "New York" (1963).

¹²¹Brenda Major and Laurie T. O'Brien, "The social psychology of stigma," *Annu.Rev.Psychol.* 56 (2005): 393-421., at 395.

¹²²An Verelst, et al, "Mental health of victims of sexual violence in eastern Congo: associations with daily stressors, stigma, and labeling," *BMC women's health* 14.1 (2014): 1., At 8.

¹²³ *ibid*

¹²⁴ Wong, Lauren, The health and social implications of Stigmatization for Individuals with Conceivable Stigmas: Using Survey and Experimental Methods to Build Theory, at 8

stigma, or both”.¹²⁵ Self-stigmatization was often manifested through feeling of being ‘dirty’ and ‘ashamed’ by participants.¹²⁶ *‘I felt hurt, dirty, and worthless. I just wanted to stay inside the water and cry. I was scrubbing myself over and over again’* – says participant of the study expressing her emotional state of health following rape.

Similarly, another participant of investigative study of sexual violence in South Kivu, Easter Democratic Republic of Congo, 27-year old mother of three who was raped in June 2002 and subsequently abandoned by her husband recalls:

‘We found them in our house. They pillaged everything. They put my husband on the bed and beat him. Then two of the soldiers raped me. This story is so tragic –I cannot believe this happened to me. I prefer death instead of life. Now the world is without me...’.¹²⁷

A devalued and tainted conception of self is expressed in overwhelming majority of stories told by survivors of sexual violence, which is demonstrative yet another example of ‘how societies establish means of categorizing persons’ and how these attributed given by the community is ‘felt to be ordinary and natural for members of each of these categories.’¹²⁸ It is an unfortunate reality that prejudicial, stereotypical views on rape, which places burden of responsibility of sexual assault on the victim, may color not only community members but survivors’ perceptions about rape, as both continue to hold stigmatizing views.

The reality becomes even more staggering when considered in light of theory of structuration I have discussed in previous section. Adding structuration perspective to issue of self-stigmatization leads to the conclusion that individuals go about their everyday life with stigmatized identities. Their tainted individual subjectivities are reproduced daily by their thoughts, speech, and actions and as Sewell observes such reproduction of patterns of relationships takes pace even when social actors are unaware of this process or do not desire reproduction.¹²⁹

Admittedly there is an identified unmet need for research in how victims

¹²⁵ Wong, Lauren, *The health and social implications of Stigmatization for Individuals with Conceivable Stigmas: Using Survey and Experimental Methods to Build Theory*, at 29

¹²⁶ *ibid*

¹²⁷ Susan Bartels, et al, "Now, the World is Without Me": An Investigation of Sexual Violence in Eastern Democratic Republic of Congo Harvard Humanitarian Initiative, 2010). at 30.

¹²⁸ Golfmen, at 11.

¹²⁹ William H. Sewell Jr, "A theory of structure: Duality, agency, and transformation," American journal of sociology (1992): 1-29, at 3

themselves endorse stigmatizing views ¹³⁰ and one study presented above is not sufficient to create full picture, it does cautions about taking into consideration complex effects of violence on individual subjectivity. And it is from this awareness I argue, that an understanding of how ‘violence establishes social relationships... constitutes subjects even as it renders them incomplete’ is indispensable if one aims to achieve context oriented conceptualization of empowerment within the sphere of reparations for CRSV.

5. Conceptualization of Empowerment in the Context of Reparations for CRSV

How do these complex theoretical considerations on power and violence presented above relate to the question of what it means to empower? This section, as a first step, critically explores dominant approaches to empowerment, including one seemingly proposed as an underlying concept for reparations programs for CRSV, against the background of above theoretical findings on power and violence. In doing so, I will further explain why the suggested framework may not be feasible for the reparations programs.

5.1. Dominant Definitions of Empowerment in Gender Equality Discourse

Despite its widespread use, there is no single definition of empowerment. In fact, not everybody agrees that empowerment can be clearly defined.¹³¹ This may hold true as what is perceived as empowering in one context may not be seen empowering in another. Though there are some examples of how women’s empowerment has been applied by range of development organizations and feminist scholars.

5.2.1. Empowerment as Participation

United Nations has been a frontrunner in adopting empowerment as a policy goal. Today different UN agencies integrate perspective on how to promote women’s empowerment in their work. While actual wording related to what it means to empower and means to achieve the goal may vary taking into

¹³⁰See World Health Organization, Current Research Guides for Conflict Related Sexual Violence.

¹³¹ Naila Kabeer, "Resources, agency, achievements: Reflections on the measurement of women's empowerment," *Development and change* 30.3 (1999): 435-64.,at 18.

account specific aim of the particular agency, there is main theme to be identified.

The Human Development Report 1995 defines that empowerment as closely related to participation. 'People must participate fully in the decisions and processes that shape their lives'. Similarly UNDP's Gender in Development Goal and UNICEF's 'Gender Equality and Empowerment of Women and Girl's: A policy Review' endorses the use of the term through participation and decision-making sense. This is the policy stance taken by recent guidelines on how to design reparations programs for CRSV.

UN Secretary General's Guidance Note issued on June of last year provides for gender-sensitive approaches to the design and delivery of reparations for victims of conflict related sexual violence that should direct United Nations support to Member States in this area. The Guidance Note claims that administrative reparations 'should strive to be transformative, including in design, implementation, and impact'.¹³² While Guidance Note contains no conceptual understanding of what it means to empower specifically in the context of reparations for CRSV, it however does place overwhelming, if not exclusive, focus on victim participation.

The sixth Principle of Operations Engagement of the Guidance Note states that 'meaningful participation and consultation of victims in the mapping, design, implementation, monitoring and evaluation of reparations should be ensured'. Indeed, consultations with victims are particularly important in order to hear the views from the survivors themselves on the nature of reparations as has been argued may have reparatory effect in itself.¹³³ Although, I will submit that limiting understanding of empowerment to simply victim participation seems to be primarily informed by project management logic and risk overlooking complex processes of power relations which takes place in a society. Admittedly, re-imagining reparations programs as pathways to empowerment and subsequent transformation of conflict-ridden society to more egalitarian and peaceful community does mirror aims of development project and will inevitably incorporate pragmatic understanding of change by advocacy, victim participation, awareness-raising; However, the failure to deal with complexities of power and social-psycho implications of violence on individual subjectivity discussed in previous section may lead to poor planning and strategic choices. I will now identify some of the issues related to participation, which warrant consideration in this regard.

¹³² Guidance Note, at 1.

¹³³ Ruth Rubio-Marin, "Reparations for conflict-related sexual and reproductive violence: A decalogue," Wm. & Mary J. Women & L. 19 (2012c): 69,.6

Participation has been widely used in social science literature since the beginning of 20th century and to the date guides development interventions across the world. The term in essence relates to practices intended to have an effect of power equalization, meaning that effective participation of less powerful in execution and decision making process has been assumed to be one of the best means to reduce power differences in society.¹³⁴ Taking into account a theoretical analysis on power and violence laid out above, it seems that there is inherent problem in assuming that victim participation in development and designing reparations programs alone will achieve the declared goal of changing unequal structures of society for two reasons. Firstly, one's meaningful participation in any process presupposes that an individual sees herself as being able to offer her insight and thus influence the decision-making process. Moreover, one prerequisite for participation in the decision-making is that members have motivation to participate.¹³⁵

The capability to see yourself able to meaningfully participate in the process and even more, the motivation to do so may be deeply constrained by pre-existing power structures and further accentuated by psycho-social implications of sexual violence and society's response to the violence. As it has been well put elsewhere, 'when those who have the power to name and to socially construct reality chose not to see you or hear you there is a moment of psychic disequilibrium, as if you looked in the mirror and saw nothing. It takes some strength of soul – not just individual strength but collective understanding- to resist this void, this non-being, into which you are thrust, and to stand up, demanding to be seen and heard''.¹³⁶ Against this background, if a survivor of sexual violence fall victim of society's categorization by internalizing feeling of stigmatization, being tainted, devalued, and 'used' may lead to feeling of utter powerlessness, consequences of which are much dire than simple participation in the processes can solve.

The second question is whether participation in process in itself has effect of changing viewpoint of the less powerful on certain subject or as one may argue, may still positively affect individual's perception of self. This is particularly important in light of re-imagining of reparations for sexual violence as a process embedded with deeply transformative goals. The experiment conducted in 1967 by social psychologists at University of Rotterdam seems to suggest that this is not the case. For the purposes of the

¹³⁴ Mauk Mulder, "Power Equalization Through Participation?" Administrative Science Quarterly 16.1 (1971): 31-8,31.

¹³⁵ *Id*

¹³⁶ Adrienne Rich, Blood, bread, and poetry: Selected prose 1979-1985 WW Norton & Company, 1994).

experiment small groups were formed to discuss and provide solution of town planning problem. Some members were intentionally provided more relevant information than others. One-half of these individuals who had more expertness had far more information than others and the other half of them had only a little more information than the other members. Time was granted for interpersonal discussion before the final decision had to be made. Authors of the study observed that consultation between the groups was either very long resulting in participation or very restricted with little participation. The findings show that ‘when differences in expert power were small, differences in the amount of participation had no effect on changes in the viewpoints of the less powerful.’¹³⁷ Authors concluded that ‘unspecified assertion that participation of the less powerful in the preparation and execution of decision-making processes lead to a reduction of power differences was invalid’. It was however noted that under certain conditions an increase of participation will lead to certain effects.’ As authors of the study suggest, ‘person’s subjective experiences of functioning on a high level of ability appears to be a determinant of his level of aspiration. Furthermore, motivation to participate may increase when promoting conditions can be created.

I do not infer from the study that participation of victims should be disregarded; I argue that in order to affect broader societal change, greater emphasis should be placed on creating *prerequisite conditions* for effective participation of survivors of sexual violence. As limiting understanding of empowerment simply to participation of a survivor, whose agency is defined in the term of existing societal conditions, may not be enough for radical change.

5.2.2. Empowerment as challenging oppression and inequality

It has been noted that ‘empowerment involves challenging the forms of oppression which compel millions of people to play a part in their society on terms which are inequitable, or in ways which deny their human rights’.¹³⁸

Empowerment, indeed, must involve removing negative social constructions which hinders survivors of CRSV to lead the life they have ‘reason to value’. Nevertheless, removing negative constructions requires unsettling existing power relations, which in itself presupposes that there is a conflict within the individuals against these structures that objectively oppresses

¹³⁷ Mauk Mulder, "Power Equalization Through Participation?" at 35.

¹³⁸ Zoe Oxaal and Sally Baden, Gender and empowerment: definitions, approaches and implications for policy Bridge, Institute of Development Studies, 1997).

them. However, if the ‘normal order of things’ has become so naturalized that it is beyond a contestation, there may not be actors who will stand up for themselves and challenge these unequal relations. Self-stigmatization taken in conjunction with effects of pre-existing power structures on survivors’ subjectivity not only strips them from recourses to organize and resist unequal power relations, but in itself may determine their intentionality to challenge the structures they live in.

5.2.3. Empowerment as process of *Conscientisation*

In this section, I provide for general implications for conceptualization of empowerment from theoretical standpoint laid out in previous sections.

The first implication of incorporating above analysis into the concept of empowerment is of definitional character and leads to perceive the latter as a process rather than endpoint. Most importantly however, thinking about power and violence as constitutive of subjectivity of survivor of CRSV inevitably pushes us to think that defining empowerment raises important questions of individual’s internal sense of power and her relationships to broader structures of society.

Taking into account the complexity of the sexual violence, the context which produces it and the impact it has on the victims perception of themselves, I argue that first and foremost, when it comes to victims of conflict related sexual violence “empowerment’ should be understood as process with the primary aim of help mitigate subjective obstacles survivors face, which is taking the power structures and their own embeddedness in those structures as given reality. The theoretical analysis on power and violence lead me to the point of realization that individuals resist not just oppressive social, economic, and cultural structures and constraints placed upon them, albeit with their own implicit consent, but process of resistance is taken up in the practice of every day, against their self and structurally formed knowledge and perceptions.

In the aftermath of conflict when the issue of responding and redressing conflict related sexual violence through transformative reparation programs is at stake, critically important is to understand that women’s agency is defined with terms and conditions that society itself has set for them. Thus, conceptualizing reparation as a framework that aims to transform oppressive social and cultural conditions, without realizing that oppression goes further that political, cultural, social and economic conditions and requires significant work for redefining women’s sense of self, their agency may not yield sustainable results.

Drawing from the analysis above, the present thesis contends that the primary focus of any reparation effort to be successful must start with helping victims to get rid of their scripted victim identities and help them to come with terms with what has happened to them. Victim identity influences women's desire to exercise their agency in a way which is directed at changing the structures they live in; and **having desire to act is as important as having access to resources to act.**

Once women have won this battle and redefined their relationships to themselves, reclaimed their body, can we talk about transforming structures of oppression and inequality which surrounds them. Having this in mind, empowerment, and reparation may be re-imagined as work rooted in the transformation of both, personal and societal conditions through emancipatory cultural change. This, I argue, can be carried out by not victims but actors enabled with "recourses" to act and importantly by initiatives born out from the context, as paradoxical as it may sound, which has in itself produced individual subjectivities of victims.

It is necessary to develop contextual, culturally sensitive measures aimed at providing support to women in a way that makes possible for them to recreate and reproduce individual subjectivities which is based on self-worth, belief of change, finding peace with them and creating bond with other women who have gone through the same. For example accepting and defining rape as it is and sharing if desired with other survivors or members of society in the words Juantee "binds women to others in human way." Women need viable alternative options to feel secure and emotionally supported. This is particularly true for victims of sexual violence in light of additional psychological trauma and disempowerment ensuing from sexual violence.

Victims possess a critical agency which may not necessarily translate into their will to resist the "normal arrangements" of society, though there is the possibility to escape the violence and dominations through critical reflection, re-creation, and reproduction of resisting individual subjectivities in their 'everydayness'. It is there, where the real potential of reparation initiative to lead structural changes in the society is to be found.

Now the question is how can intervention aimed at empowering survivors of CRSV in the context of reparations programs be designed to contribute victims becoming actors equipped with resisting subjectivities? To this end, I heavily rely on the work of Brazilian educationalist and thinker Paulo Freire. Due to the limited space, I will not review his work with full extent, but focus on his concept of Conscientisation – **significance of critical awareness as imperative of empowerment.**

Paulo Freire was a strong believer in the potential of education as force of liberation and saw 'education as practice of freedom'.¹³⁹ Freire's work is useful when it comes to conceptualizing empowerment as he treats individual as subject 'capable of transcending and recreating the world'.¹⁴⁰

Due to Freire's insistence that 'one must read the world in which word exists'¹⁴¹, his work has been increasingly cited to support the claim that 'the local' should be the primary site for any development intervention and thus has been connected to debate around empowerment in this sense. Besides the fact that his thought provides theoretical weight in favor of localizing reparations initiatives in post-conflict settings, his work 'pedagogy for the oppressed' provides useful insights for conceptualizing empowerment initiative as developing critical consciousness.

The analysis on power and violence has illuminated that women and particularly survivors of sexual violence may perceive themselves more as objects to be acted upon rather than subjects in their lives, thus limiting their effective and meaningful participation in the empowerment process. Freire's concept of conscientisation, helps to bring the social context, power structures and people's own way of thinking to the surface, thus may be significant contribution to conceptualizing empowerment in this sense.

The basic assumption of Freire's work is that man's ontological vocation is to be a subject who acts upon and transforms his world. This assumption is motivated by his strong conviction that every individual has an innate capability to look critically at the world. The ability to take step back, critically assess the power dynamics, which are at play in society, must be supported by the process of conscientisation. If intervention aimed at empowering marginalized groups was to be defined taking into Freire's idea, it would mean that the process must primarily concern itself with aiding survivors of conflict related sexual violence become aware of the unequal power structures they are surrounded by and enhance their innate ability of critical assessment. Once an individual becomes aware source of her oppression, she is more likely to decide to start resisting and changing those structures. However, simply becoming aware of the power dynamics and effects of self-stigmatization on one individual perception of self may not be enough to achieve a desired result. It is equally important that individuals 'perceive themselves as able and entitled to make decisions' with an aim to

¹³⁹ Moacir Gadotti, Reading Paulo Freire: his life and work SUNY Press, 1994).

¹⁴⁰ Paulo Friere, "Pedagogy of the oppressed," New York: Herder and Herder (1970).

¹⁴¹ Mônica Mazzer Barroso, "Reading Freire's words: are Freire's ideas applicable to Southern NGOs?" Center for Civil Society international working papers (2002). at 2. Paulo Freire, Mentoring the mentor: A critical dialogue with Paulo Freire Peter Lang Pub Incorporated, 1997).

modify asymmetric power relations in society.¹⁴² Both goals, in Friere's view can be achieved through dialogic education.

His idea of dialogic education places paramount emphasis on educator, not as person equipped with superior knowledge, but teacher who genuinely engages with participant, respects participant's structurally formed knowledge and perception and be prepared to 'enter the reality of participant's lives.'¹⁴³ Such an approach differs significantly from idea of participation as ultimately capable of empowering itself, as according to Friere individual will not be able to participate in transformation of her society apart from the reflection-action process.¹⁴⁴ Friere's conception places essential emphasis on creating prerequisite conditions for participation in order the latter to achieve its empowering goal.

It has been maintained elsewhere that in the context of empowerment, despite participation of one affected by the project has become buzzword in development theory, in reality, Friere's ideas has not been fully translated into practice and even being marginalized.¹⁴⁵ In following section, I present a case study from Guatemala regarding working of Maya indigenous women's group, who seemingly has designed their strategies of working with marginalized women in Guatemala in the wake of internal conflict taking theoretical relevance of Freire's idea of empowerment and transformation.

6. Case Study: Practices of Indigenous Organization in Guatemala

In the following chapter I will contextualize the work of indigenous women's rights organization "Kaqla" based in Guatemala. The analysis will focus on their strategies of helping Maya women in the post-conflict setting in their personal transformation and empowerment through healing and critical reflection which has led to personal and social transformation for indigenous women in Guatemala. Their work helps us ground the assertion that empowerment means starting with resistance work within individual and translated into the broader context of societal change.

¹⁴² Rowlands, 1997.

¹⁴³ Monica Mazzer Barroso at 8, citing Blackburn, J, 'Understanding Paulo Freire: Reflections on the origins, concepts and possible pitfalls of his education approach', *Community Development Journal*, Vol 35, No1, pp 3-15.

¹⁴⁴ Paulo Freire, *The politics of education: Culture, power, and liberation* Greenwood Publishing Group, 1985). at 156.

¹⁴⁵ M. A. Rahman, "Participatory development: Towards Liberation of Co-optation?" *Community empowerment: A reader in participation and development*, ed. Gary Craig and Marjorie Mayo Zed Books, 1995).

At the outset, I will provide a brief background about the conflict in Guatemala, the prevalence of sexual violence followed with detailed examination of organizations' strategies. The material on their activities has been drawn from existing literature. No new empirical study has been conducted for the purposes of the thesis.

6.1. Guatemalan Internal Conflict

The conflict in Guatemala was the bloodiest and longest in Latin America. The conflict started as a class struggle. Growing agricultural business interest of wealthy minority elite resulted expropriation of land from indigenous people.¹⁴⁶ Original inhabitants 60-70 percent of which belonged to indigenous population were primarily used as seasonal labor without recognition of their ownership of land or worker's rights. In early 1960s growth of leftist Socialist political movement became visible. The tensions led to armed confrontation between State Army and left-wing Guerillas and lasted for 36 years.

December 26 1996 marks the end of hostilities between Government of Guatemala and National Revolutionary Unit and start for long peace and reconstruction process, following the conflict which brought extensive damage. The UN Sponsored Commission on Historic Clarification established as an outcome of peace agreement found that over 200,000 people were murdered or displaced, 400 villages were destroyed, and 1.5 million people displaced. Sexual violence was widespread during the conflict.¹⁴⁷ According to one study analyzing prevalence and patterns of sexual violence in Guatemala at least 354 sexual crimes have been recorded. The majority were perpetrated by state forces. Rape comprised 84 percent of all sexual violence. It was concluded that that majority of sexual assaults were directed against indigenous Maya women.¹⁴⁸ Almost half of the recorded violence occurred during community sweeps and village massacres and was suggested to be part of generalized campaign to terrorize civilian population.¹⁴⁹

The peace agreement signed on 12 December 1996 is an ambitious comprehensive document and contained the political will to investigate root causes of conflict, urged to take steps towards equal redistribution of wealth and creation of inclusive, multi-ethnic society.¹⁵⁰ Complying with

¹⁴⁶Timeline: Guatemala', [BBC News](#) 2015, .

¹⁴⁷Michele L. Leiby, "Wartime Sexual Violence in Guatemala and Peru*," [International Studies Quarterly](#) 53.2 (2009): 445-68., at 453

¹⁴⁸ *ibid*,

¹⁴⁹ *ibid*, at 460

¹⁵⁰ Susanne Jonas, "Of Centaurs and Doves: Guatemala's Peace Process," [Boulder, CO, and](#)

ambitious framework is ongoing struggle of Guatemalan government with obstacles on its way hampering progress in the implementation process. ¹⁵¹

While it should be noted that truth commissions in Guatemala were pioneers explicitly addressing gender based violence taking place during the conflict, critics from human rights groups have emerged regarding implementation of national reparation programme.¹⁵² Along with truth, justice and non-repetition, the reparations formed integral part of transitional justice processes in Guatemala. Though only initiated in 2003 by government agreement National Reparation Programme was established covering wide range of crimes. The violations eligible for reparation included enforced disappearance, extrajudicial execution, physical and psychological torture, forced recruitment of minors, forced displacement, sexual violence, violations against children and massacres. ¹⁵³ A comprehensive reparation programme incorporated elements of individual and collective, materials as well symbolic reparations; though in practice the reparations provided have been almost exclusively limited to economic reparations.

Furthermore, Public Reparation Policy acknowledges the need for specific attention to victims of sexual violence due to its psychological impact and stigmatization. While victims of the internal armed conflicts were offered physiological assistance civil society organization have revealed that main purpose of physiologist being present at the interviews was to assess the credibility of women's stories in light of the allegedly several instances when persons were lying about their experiences to be eligible for reparations. ¹⁵⁴ Impunity Watch further observes lack of understanding of stigma attached to sexual violence in Guatemalan community as the cheque was presented to them in a public ceremony. ¹⁵⁵ As of 2011 the crime of sexual violence is no longer repaired connection with the civil war. ¹⁵⁶

As demonstrated, transitional justice initiatives directed to redress the harm

Oxford: Westview Press (2000). at 299; Elizabeth M. Cousens, Donald S. Rothchild, and Stephen John Stedman, Ending civil wars: the implementation of peace agreements Lynne Rienner, 2002).

¹⁵¹ United Nations Verification Mission to Guatemala, Ninth Verification Report, 20 August 2004).at 5; 'International Conference: The Guatemala Peace Accords Ten Years Later: An Analysis and the Outlook for International Cooperation, *Conclusions*', 2-3 May 2007).

¹⁵² Human Rights Council, Analytical study focusing on gender-based and sexual violence in relation to transitional justice - Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/27/21, 2014).at 7.

¹⁵³ Programa Nacional de Resarcimiento, Política Nacional de Resarcimiento (Guatemala, 2010).

¹⁵⁴Sanne Weber, "Giving a voice to victims. Towards gender-sensitive processes of Truth, Justice, Reparations and Non-Recurrence (TJRNR) in Guatemala [pdf] Impunity Watch," Utrecht: Impunity Watch (2012)., at 39.

¹⁵⁵ *ibid*, at 39

¹⁵⁶ *ibid*

suffered by survivors of sexual violence in Guatemala seems to have failed women and have not produced the results it was set out to achieve. However, despite the failure of formal transitional justice initiatives victims of armed conflict have found culturally pertinent way to deal with painful past and contribute to development inclusive society. Understanding how Maya women managed to have their voices heard “re-defined who they are in relation to those who threaten them, thereby altering the very relations of power which rendered them ‘insecure’”¹⁵⁷ is aim of the following section.

6.2. Creating Resisting Subjectivities: Work of Kaqla Indigenous Maya Group

Signing the peace agreement marked long-anticipated end of hostilities. Though Maya Women’s struggle against the oppression which has kept them under the restraints for decades was just beginning. Historically indigenous women were actively participating in revolutionary movements, organizing marches demonstrations and meetings, but they would regardless find themselves excluded from decision-making process in the post conflict settings. 158 Maya women in Guatemala were not the exceptions. They took active part in revolutionary movements, which has opened up space for their social and political activism.¹⁵⁹ While conflict created opportunities to step outside the traditional gender norms, former women activist argue that mobilization was not in itself emancipatory, since the revolutionary organizations were still male-dominated and patriarchal.¹⁶⁰ The end of hostilities did not alleviate intersecting vulnerabilities of the Mayan women, but it created space for indigenous women to meet, share experiences, question oppressive power structures and articulate their struggles in a political agenda. These processes were visible across Latin America.

It was against this background and in the immediate aftermath of the Peace Accord in 1996, Kaqla Maya Women’s Group (*Grupo de Mujeres Mayas Kaqla*)- network of primarily Maya indigenous women in Guatemala was founded. Initially women began to meet to share their experiences and help

¹⁵⁷ Stern, Naming In/Security-Constructing Identity: "Mayan-Women" in Guatemala on the Eve of "Peace", Doctoral Dissertation Thesis ed. Department of Peace and Development Research, Göteborg University, 2001).

¹⁵⁸ R. Aida Hernandez Castillo, "Between complementarity and inequality: indigenous cosmovision as an element of resistance in the struggle of indigenous women," Indigenous Struggles in the Americas and Around the World—Land, Autonomy, and Recognition. Toronto: York University (2005).

¹⁵⁹Tine Destrooper, Come Hell or High Water: Feminism and the Legacy of Armed Conflict in Central America Brill, 2014).

¹⁶⁰ Destrooper, T. 2014. Come Hell or High Water: Feminism and the Legacy of Armed Conflict in Central America. Leiden: Brill. at 103.

each other to come with terms with painful past. They found that recovery programs were unable to incorporate the realities of indigenous women and grasp the extent of harm women endured under severe violence, they therefore organized several discussion forums to reflect on their identity and their rights as indigenous women.¹⁶¹ The informal gatherings turned into formal network with aim to “promote reflection, debate and generate proposals on different issues related to gender, ethnicity, and class”.¹⁶² Their mission statement shares their cosmology and vision of society they would like to live in:

*“We want a happy, democratic, fair , inclusive society , which transforms (personal and family relationships), which proposes and builds relationships of equality between men and women , indigenous and ladinos , based on respect for diversity and self-determination of peoples in harmony with nature.”*¹⁶³

What is important to underline is that members of Kaqla define it as a social movement with special emphasis on transformation and they perceive transformation to be primarily personal process, which takes place through re-thinking culture, questioning power structures that have kept them under the restraints. Having a space where they can safely reflect on issues such as racism, patriarchy, gender, class, allowed them to question, reject, respond and negotiate the structure of dominations that has dictated their lives.

In its work, Kaqla adopted a variety of approaches and techniques, such as political analysis, psychosocial assistance, awareness raising workshops, self-advocacy training, cultural events, body-based work (e.g. yoga or movement therapy) and community outreach projects. One of the members of the network speaks how oppression has affected their individual subjectivities and speaks of necessity to deconstruct internalized oppression.

*“Oppression goes further than political, cultural, social and economic conditions, it affects our authentic self, our potentials, our emotional and spiritual self, and in order to overcome these effects and traumas, it isn’t enough to do a theoretical or political analysis. We must transcend”.*¹⁶⁴

¹⁶¹Tine Destrooper, "Reconciling Discourses on Women's Rights: Learning from Guatemalan Indigenous Women's Groups," Journal of Human Rights Practice 7.2 (2015): 223-45,, at 225.

¹⁶² <http://mujeresmayaskaqla.info.gl> (last accessed on July 27 2015)

¹⁶³ <http://mujeresmayaskaqla.info.gl> (last accessed on July 27 2015)

¹⁶⁴ Tine Destrooper, "Reconciling Discourses on Women's Rights: Learning from Guatemalan Indigenous Women's Groups," Journal of Human Rights Practice 7.2 (2015): 223-45,. C iting Grupo de Mujeres Mayas Kaqla, 2004, Kaqla Grupo de Mujeres Mayas. 2007. La Internalizació n de la Opresion: Una Propuesta Metodolo ´ gica (2nd ed). Guatemala: Kaqla.

*“We knew our rights and what inequality is, but our heart and head have different ways of being...I knew that wearing my traje was right, but I was still afraid and too rational [to start wearing it]... I started wearing my traje once every part of body, my center, felt like I could do it”.*¹⁶⁵

Women who have fall prey of conflict and have suffered extreme violence, prioritized personal healing over political work.¹⁶⁶ Each member brings its own cultural vision and engages with productive transformative learning experience through reflective practices which has brought emancipatory changes. Kaqla women fight for radical transformation of systems that has governed their life. And in this process emancipatory learning have yielded significant results. Young Kaqla activist whose story has been introduced by Jackie McVicar and Behrang Foroughi tells how things changed gradually for Maya women when they began to talk about ways racism hurt them, how their feeling of inferiority by oppression affected them, and how they got sick because of resentment.¹⁶⁷

“And there were times when we began to cry together,” says Abelina, when the women talked about how they lived through sexual violence. “We were already conscious about our rights, about inequality, and we knew we needed to start taking the shape of a new kind of leadership”¹⁶⁸

The Kaqla group perceives personal empowerment prerequisite to societal one. In light of the internalization of the oppression and treatment of indigenous women in the aftermath of Peace accords as poor, helpless victims, subject of paternalistic charity Kaqla attempts to debunk victim psychology and promote line of thought that women are responsible for their lives. They claim:

*“If we want to eradicate oppression, we can and should exterminate the oppressor that is in each of us. We can’t change what’s around us if we don’t change ourselves”*¹⁶⁹

Kaqla’s aim to empower women, so they can see themselves how dominating structures affect their rights and claim their rights. One of the interviews of Tina Destroper recalls the difficulties women faced to access justice after the conflict:

¹⁶⁵ Jackie McVicar and Behrang Foroughi, Responding to Crisis through Healing and Transformation: A Case Study of Kaqla Maya Women’s Group in Guatemala2013).at 386

¹⁶⁶ Tine Destroper, Reconciling Discourses on Women’s Rights: Learning from Guatemalan Indigenous Women’s Groups, at 230.

¹⁶⁷ Jackie McVicar and Behrang Foroughi, Responding to Crisis through Healing and Transformation: A Case Study of Kaqla Maya Women’s Group in Guatemala2013).

¹⁶⁸ Ibid, at 386

¹⁶⁹ Jackie McVicar and Behrang Foroughi, Responding to Crisis through Healing and Transformation: A Case Study of Kaqla Maya Women’s Group in Guatemala2013). Citing Grupo de Mujeres Mayas Kaqla, 2006, p. 13).

“During the transition women have often been forced to tell their stories in a way that made sense to the international organization in order to gain access to legal mechanisms for redress. Many women felt frustrated and saw this as an inadequate means to work through the trauma . . . some women felt upset that they had to come up with a coherent narrative before being granted access to justice. Their stories are not linear narratives...Here we want to show women other means to work through their experience, we want to show them that there are other ways to access their rights”

The work of Kaqla group shows their perspective of societal change which places special emphasis on deconstructing internalized oppression, which I believe should be vision of empowerment and transformative reparation program. Importantly, Kaqla’s work provides additional inspiration to better understand long standing debate between equality which successful transformative reparation programme attempts to achieve and complementarity on the other hand.

Bringing grassroots perspective to otherwise “top-down” standards settings in human rights is not something new. Merry Sally Engel and Nyamu-Musembi have called for increased focus on realities of rights holders and how they make sense and translate human rights in their daily lives.¹⁷⁰ Localization of human rights also means that right holders are given space to develop their voice and agency , sense of empowerment in a way that allows them identify their own every day human rights violations .¹⁷¹

Kaqla women’s group successfully incorporates the rights discourse in its workshops of personal healing. Their understanding of women’s rights is shaped by their own struggles and indigenous cosmology that revolves around the idea of complementarity between man and women. The discourse of complementarity has been criticized by some feminist academics on the basis that concept is used to idealize the culture and deny the unequal power relation that exist between the sexes. Hernández Castillo however claims that indigenous women employ concept of complementarity not to idealize the culture, but to question and context the ways man are reproducing these power relations against the long-standing principle of

¹⁷⁰ See: Celestine Nyamu Musembi, "IDS Working Paper 169," (2002)., Sally Engle Merry, Colonizing Hawai'i: The cultural power of law Princeton University Press, 2000)., Sally Engle Merry, Human rights and gender violence: Translating international law into local justice University of Chicago Press, 2009).

¹⁷¹ Tine Destroper, Reconciling Discourses on Women’s Rights: Learning from Guatemalan Indigenous Women’s Groups, at 230.

duality of the Mesoamerican cultures.¹⁷² Members of Kaqla group are not avoiding to discuss asymmetric power relations that dictate their lives, moreover reclaim their indigenous identity and use complementarity and duality, though notions admittedly corrupted by colonizers, as critical to analyze narratives of their everyday life.

One of the participants of the workshop who was interviewed by Tine Destroper explains:

“What we develop here is a form of senti-pensar, a new way of thinking, which revolves around our own experience . . . This, is important for me, because I am the one creating this. I have a voice in deciding how I want to deal with the structures which oppress me. “

Kaqla group and their activities managed to put back ownership and participation of person over empowerment process very goal of which is to emancipate the latter. Interviewees of both studies indicated that they had a high degree of agency over their own emancipation process and felt more involved.

The work of Kaqla group was chosen to demonstrate their unique approach to post conflict reconstruction process, personal and societal change, and women’s rights. The practice of the organization was taken from two different field studies. Their work no matter how unique does not permit generalization. Not should be expected that the presented strategies can be used without any adaption in another context. Despite this limitation, their way of thinking about women’s empowerment and societal change, which seems to become central tenet of reparations initiatives in post conflict settings, provides useful insight when designing such an intervention. In addition, their way of working in the post conflict reconstruction setting, in my view prompts interesting research potential for assessing the role of women’s groups and civil society organization in transitional justice processes.

7. Conclusion

In light of re-imagining reparations for conflict related sexual violence as a project of emancipation embedded with deeply transformative processes, the present study hoped to provide more nuanced understanding of empowerment of survivors of CRSV.

In doing so, I have deconstructed the notion of power as it relates to conceptualization of empowerment. Namely, I have considered how structural power produces subjects and in the words of Foucault how female

¹⁷² R. Aida Hernandez Castillo, "Between complementarity and inequality: indigenous cosmovision as an element of resistance in the struggle of indigenous women, at 9.

bodies are ‘born in docility’ and obedience through power. As the present study ultimately aimed to answer what it means to empower survivor of CRSV in post conflict settings, I found it necessary to address significant social implications of sexual violence and related stigmatization on individual subjectivity.

Drawing from feminist and social psychology literature I conceptualized violence as constitutive of subjectivity and argued that sexual violence and the reaction it elicits from society is additional constraint imposed on capacity of an individual to challenge and consequently change oppressive social structures.

Taking into account ‘how societies establish means of categorizing persons’ and how these attributed given by the community is ‘felt to be ordinary and natural for members of each of these categories.’, drawing from work of Paulo Friere, I argued that first and foremost, when it comes to victims of conflict related sexual violence ‘empowerment’ should be understood as a process with the primary aim of help mitigate subjective obstacles survivors face, which is taking the power structures and their own embeddedness in those structures as given reality.

The theoretical analysis on power and violence lead me to point of realization that individuals resist not just oppressive social, economic, and cultural structures and constrains placed upon them, albeit with their own implicit consent, but process of resistance is taken up in the practice of every day, against their self and structurally formed knowledge and perceptions. Therefore, I have highlighted the importance of creating *culturally pertinent spaces* for women to help them transform relationships they have with themselves by giving survivors a *space* necessary to deconstruct internalized oppression.

I have further argued that in order to affect broader societal change, greater emphasis should be placed on creating *prerequisite conditions* for effective participation of survivors of sexual violence. As limiting the understandings of empowerment simply to the participation of a survivor, whose agency is defined in the term of existing societal conditions, may not be enough for radical change.

Exploring strategies of Maya indigenous women’s group in Guatemala in the wake of the internal conflict helped ground theoretical assumptions with practical considerations. In addition, it inspired potential research avenues for studying role of women’s groups and networks in the process of conflict reconstruction.

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