

Women's Court: About the Process

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INTRODUCTION

The texts in this publication have undertaken the difficult task of presenting the complex process of establishing, bringing together and finally organizing Women's Court for the successor countries of SFR Yugoslavia.

Following the premise that Women's Court is a space for women's testimonies, a space for hearing women's voices as well as the space for acknowledging their resistance, in 2010 an initiative to go ahead with this process was revived during the course of which, the preparing and organizing the Women's Court gathered activists from all successor countries of SFR Yugoslavia.

The authors of the texts in this publication have taken an active part in this process, albeit not nearly in the same proportion, Rada Iveković and Daša Duhaček as much as their other activities allowed and Staša Zajović being devoted to it tirelessly and completely throughout the process. The approach of the authors is in each case different and hence sheds a different light on Women's Court. This makes their contributions complementary, and, importantly, opens up the space for continuous discussions concerning the many issues addressed here. However, besides having shared in this highly charged political activity of a somewhat long duration, what was also especially challenging was to write about a process which is still an ongoing one.

The text of Staša Zajović - being the contribution not only of the spiritus movens, but also of the major activist of the whole process - offers comprehensive and thorough insights of all the stages that Women's Court went through, gives an account of weeks, months and years of hard work, carefully documented and analyzed with profound political insights. The process of long and persistent feminist activism proved to be necessary in order to maintain the course and the sustainability of the events which were the building

blocks of the Women's Court. In that way the text of Staša Zajović has become a part of feminist history.

The text of Rada Iveković offers a thought provoking political and social assessment of Women's Court, presenting compelling arguments for its significance. In her text, she underscores the key dimensions of this political process, its uncompromising verdict about the events of the last decades in the Balkans, stemming from deeply personal stories of women who have suffered from the gravest injustices. Their testimonies point toward what Rada Iveković rightly names as "structural", state committed violence. Furthermore she highlights the outstanding fact that the systematic crimes committed have still to date successfully escaped punitive judicial system, local as well as international.

The third text (D. Duhaček) is an attempt to situate Women's Court within different theoretical concepts of justice, mainstream, transitional and feminist and concludes that the concept of Women's Court presents challenge to them.

These texts are a call for continuing to address injustices, acknowledge victims and their resistance and look to the new paradigms which the Women's Court brings.

Daša Duhaček

Staša Zajović

The Women's Court – a Feminist Approach to Justice

**Review of the
Process of
Organizing the
Women's Court**

Introduction

Most often, the institutional legal system does not serve justice, either at the international level or, even less so, at the national level. This is especially the case in the states of the former Yugoslavia, where political elites invest vast efforts to bypass justice or sacrifice it for the purpose of their political interests and in order to remain in power.

Also, the institutional legal system is usually not on the victims' side, and even fair trials do not imply justice for victims. More often than not, the institutional legal system does not acknowledge or sanction violence against women and all those who have little clout, primarily in terms of economic and political power.

The most important attempt to overcome the limitations of institutional legal system is represented by transitional justice¹. The concept of transitional justice has been developed over the past decades, both with regard to the need to provide response to complex questions of negative heritage from the past, and to the constant challenges of structural injustice. The content and models pertaining to this concept continue to be enriched. Namely, the civil society assumes responsibility for justice through the creation of different concepts of justice and its alternative mechanisms, with the people's tribunals and women's courts and tribunals as best known examples.

1 "Transitional justice" represents a group of responses, institutions, strategies and ways in which an authoritarian society moves towards democracy, that is, a group of institutions and of moral, legal, political and social processes, measures and decisions that are made and implemented within the process of democratic transition, i.e. the transition from criminal/dictatorship regimes towards the democracy (*Nenad Dimitrijević*, legal theorist and philosopher). Cited in: Staša Zajović, *Tranziciona pravda - feministički pristup*, Žene u crnom, Beograd 2007.

The first Women's Court was organized in 1992 in Lahore, Pakistan. Since then, about 40 women's courts have been organized worldwide, most of them in Asia and Africa. Since the time of the first women's tribunal (Brussels, 1976), about ten other women's tribunals were held in Europe, Asia, the USA. The most well-known among them was the one held in Tokyo (2000).

The Women's Court – a Feminist Approach to Justice, organized for the region of the former Yugoslavia, is the first such court on the European continent.

A brief history of the initiative to organize the Women's Court in the region of former Yugoslavia

The initiative for the *Women's Court* has existed for more than ten years. Žarana Papić, philosopher and activist of autonomous women's groups from Belgrade (Center for Women's Studies and Women in Black), as well as of women's peace movement in the former Yugoslavia, launched the initiative in Sarajevo (BiH) in 2000 together with Corinne Kumar, the coordinator of global movement of women's tribunals. The international conference on new paradigms of justice and creation of alternative space for women's testimonies was held at that time. The initiative attracted great interest and led to participation of women witnesses and activists from BiH at the Women's Court in Cape Town in 2001. Unfortunately, Žarana Papić died in 2002, but the activists who now represent the foundations and continuity of the Initiative Board have continued to take part in numerous international initiatives for justice such as women's courts and the Permanent People's Tribunal, in addition to organizing many conferences for peace and justice in their countries. After the death of Slobodan Milošević and the fact that he was not punished in the Hague Tribunal, Women in Black Belgrade re-launched the initiative (in

March 2006) for the Peoples' Women's Tribunal for Crimes against Peace, though its character was informal.

As is well-known, the Coalition for Establishment of a Regional Commission Tasked with Establishing the Facts about War Crimes in Former Yugoslavia/REKOM was launched in 2007. Almost all members of the Initiative Board for Women's Court have actively participated in it (and some of them are still very active in the Coalition). REKOM is an exceptionally important regional initiative, but due to its quite broad scope of activities it did not meet the expectation of fulfilling the women's/feminist perspective. Therefore, we continued to develop the idea about WC.²

Between 2008 and 2010, the activists who have been part of the initiative from the very beginning (Staša Zajović, Nuna Zvizdić and Biljana Kašić) organized informal working meetings and decided to re-start the initiative and to include activists from other countries.

From October 14 to 16, 2010, the international preparatory workshop "Court of Women for the Balkans: Justice and Healing" was held in Sarajevo involving discussions on the importance of WC and its experiences in creating new concepts of justice.

The workshop was organized by Women to Women from Sarajevo, with the participation of members of the *Initiative Board* of the WC and WC organizers from several other countries: Tunisia, India, Mexico, South Africa, Iraq and Cambodia. Also, a public forum "The Women's Court – Justice with Healing" was held on 16 October and was attended by workshop participants as well as by women from all over Bosnia and Herzegovina who enthusiastically embraced the idea of Women's Court.

At the end of 2010 (on December 24 and 25, in Priština/Kosovo), the initiative *The Women's Court for the Region of Former Yugoslavia*

² *The Women's Court – a Feminist Approach to Justice*, Women in Black and Anima, Kotor, 2011.

was accepted. The following were the members of the Initiative Board: Women to Women, Sarajevo (Bosnia and Herzegovina), Center for Women's and Peace Education 'Anima' from Kotor (Montenegro), Center for Women's Studies and Center for Women Victims of War, both from Zagreb (Croatia), Kosova Women's Network, Center for Women's Studies and Women in Black from Belgrade. Joint activities were agreed at the meeting and it was decided that Women in Black, Belgrade, will be the holder of program activities and in charge of coordination of activities with the organizations from the Initiative Board/IB of the Women's Court. At the meeting of the WC IB (21-23 September, 2012) a decision was passed to change the name "The Women's Court for Former Yugoslavia" into "The Women's Court – Feminist Approach to Justice", and the IB of WC was expanded to include the following organizations: National Council for Gender Equality, Skopje (Macedonia) and 'Lara' from Bijeljina, Bosnia and Herzegovina.

At the meeting of the WC IB in Skopje, in February 2013, the IB grew into the Organization Committee of Women's Court – Feminist Approach to Justice, consisting of ten **(10)** organizations: The Movement of Mothers of Žepa and Srebrenica Enclaves, Foundation CURE, Sarajevo (Bosnia and Herzegovina); Anima – Center for Women's and Peace Education from Kotor (Montenegro); Center for Women's Studies and Center for Women Victims of War, Zagreb (Croatia); Kosova Women's Network (Kosovo); National Council for Gender Equality, Skopje, Macedonia; Women's Lobby of Slovenia, Maribor (Slovenia); and Center for Women's Studies and Women in Black, Belgrade (Serbia). At the meeting, it was confirmed that Women in Black are the holder of program activities pertaining to the organization of the Women's Court, and that they are to arrange and coordinate all activities with organizations that are part of the Organization Committee (OC).

The specificity of the initiative for Women's Court is that it gathers women from all successor states of the former Yugoslavia

(SFRY): Bosnia and Herzegovina, Montenegro, Croatia, Kosovo, Macedonia, Slovenia and Serbia.

Already at the beginning of the initiative, different situations in countries of the former Yugoslavia implied appreciation of specific contexts and issues related to the heritage of recent past. Namely, not all women from the region of the former Yugoslavia were in the same position: some women suffered through the hardest wartime hardships (above all, in Bosnia and Herzegovina, Kosovo and Croatia), other women came from the states from which the war machinery was organized (Serbia and Montenegro, but also Croatia). However, the common experience of all women lies in the fact that they paid the highest price of war, militarism, nationalism, and criminal privatization. Therefore, besides the appreciation of the differences, this initiative also involved the search for common denominators of position of women (gender, political, economic, social, etc.).

A feminist code, developed together with the participants in the process of WC in the field, also implied consistent appreciation of different dynamics of the process of organizing, i.e., a different rhythm of activities in organizing of the Women's Court.

In accordance with the feminist principle of autonomy and appreciation of different rhythms of work, the members of the WC OC also worked in coordination with national and international institutions in order to open certain topics and awaken interest of women (in Croatia, the UNDP, state institutions and some women's NGOs are working on the issue of rape as war crime, the Kosova Women's Network together with the UNDP, the UN Office of High Commissioner for Human Rights and EULEX is initiating the question of war rape of women). In all states, the members of the WC OC are promoting the WC on diverse levels, national and international, as well as a part of their other activities,

especially those concerned with facing with the past, reconciliation, the 1325 Resolution, etc.³

Why feminist approach to justice?

The feminist approach to justice arose from the fact that initiators were women activists from feminist organizations, and that – during the process of organizing – the participants in the process were not simply adopting feminist principles of work, but they were also learning about feminist theories of justice.

Having in mind the importance of mechanisms of transitional justice for the participants in the process, and regardless of all shortcomings, we agreed that the “feminist approach to transitional justice does not negate the existing models of transitional justice and institutional mechanisms of justice, but rather tends to reflect on them and include the gender dimension in theory and practice of justice, and above all – to create new models of justice.”⁴

Among other things, the feminist approach implies the *inclusion of gender dimension in theory and practice of transitional justice* since, when we started with this approach, we encountered the deficit of experiences and theoretical reflections on justice from gender perspective and therefore tackled this challenge, which will be discussed later in relation to the methodology of work.

Feminist approach to justice is an act of feminist responsibility motivated by insights into invisibility of women’s contributions to the processes of transitional justice – women are marginalized and reduced to objects of violence. Contrary to that, the feminist approach represents the act of righting an injustice inflicted to a very considerable number of women who have participated in non-violent resistance to war, in processes of trust/reconciliation

3 The Women’s Court Organization Committee meeting in Ljubljana, 21-23 June, 2013.

4 The Women’s Court – a Feminist Approach to Justice, information leaflet, 2011.

and peacebuilding; in short, the feminist approach implies an act of inscribing the continuity of presence of women who were resisting the war.

Feminist process of organizing of the WC – what it consists of?

At the very beginning of the process of organizing the WC, the *feminist code* of Initiative's work was adopted and we present here some of its points:

- Assuming responsibility for the movement – equality in obligations,
- Establishment of the balance between emotions and principles, which means that relationships, ideas and goals we aspire to are important for us,
- Equality in engagements – this initiative involves fieldwork and elimination of a hierarchy between the theoretical contributions and activist engagement,
- Maintenance of relationships among us, the members of the Initiative, is equally important as the accomplishment of the goal itself etc.⁵

During the process of organizing of the WC and, above all, during fieldwork trainings, the activists were adopting the above-mentioned Code quite quickly in addition to amending the Code – in accordance with specific context in question – with the *Feminist Code for Activists engaged in the Fieldwork*. However, it turned out that the activists were often setting very high demands on themselves as well as on tasks that the institutional legal system should be able to fulfill, because of which, probably, it was not easy to fulfill many of those desires and intentions.

The discussions about the feminist code of work were held at all trainings for public presentations of WC, and the participants – mostly activists and, at the same time, witnesses – made demands with regard to specific contexts:

5 The Initiative Board of the Women's Court for Former Yugoslavia, meeting in Priština, December 2010.

- Serbia and Montenegro – putting pressure on the state towards penalization (through criminal and non-criminal sanctions), which can be explained by the burden of responsibility because of the state-organized crimes (Serbia and Montenegro);
- Bosnia and Herzegovina – because of the excessive NGOization and projectization, the demand is to work in accordance with one's own possibilities, instead of project-related impositions,
- Croatia – the return to peace activism as feminist groups have not been engaged in peace activism since the beginning of the 1990s.
- Macedonia – to have more contact with victims, and to organize testifying, etc.

At their work consultative meetings, the organizers of WC were very mindful of the feminist principles of work:

- *Horizontality/Decentralizing the work of the WC*: getting the work on the organizing of the WC down to the level of each individual country,
- *Permanent mutual support in common work*: common activist engagement; communication with women from academic community who will – together with the activists who are participating in the process of work on the organizing of the Women's Court – work on joint reflections of experiences gained in the fieldwork, as well as on deepening of knowledge necessary for the further process of work,
- *Sharing of knowledge and all resources*: Women in Black will continue with regular distribution of all materials (educational materials, publications, films...) to other members of the Initiative Board, as well as to groups that participate in the process of organizing the Women's Court⁶.

6 Work consultative meetings – The Women's Court – a Feminist Approach to Justice, Report for the Period from February 2012 to February 2013, published by WiB.

Within the discussion circles of leaders and organizers, we talked about the feminist approach to justice and the process of organizing of WC, that above all manifests:

Visibility and continuum of violence/injustice against women during the war and in the post-war period at both private and social level... (“Women still suffer through the consequences of violence from the war period”, in all three countries; “In this process, we encourage one another to talk about our experience, and it has also become clear to us that we are responsible for the narrative of the time and space we live in. Nothing, or very little, is known about what was happening to women in Serbia during the nineties” – an experience from Serbia).⁷

Revealing structural violence (ethnic, economic, political, militaristic) and its impact on women – (“Feminism must not settle with revealing gender violence only, since feminism also deals with the entire structural violence. Women’s testifying about intertwining of various forms of violence is also feminist. During this process, women never talked about just one form of violence.”)⁸

Process of common learning – (“The learning process is also a feminist one – how to listen and understand the other woman... We are here because nation was an excuse to commit crimes. Now, we need to meet the other woman, to see and hear her;” “Women witnesses identify the source of violence. They identified the state as organized patriarchy, and consider it to be accountable for everything. In this process, we have seen how personal is not only political, the personal is also international...;” “The opening of new subjects and knowledge – a knowledge that stems from experience, the questions that WC raises are concerned with concrete problems; Learning together – acquiring new knowledge, a space

⁷ Joint reflections on the feminist approach to justice in the process of organizing of the WC – Belgrade, December 2013; Zagreb, January 2014 and Kotor, May 2014.

⁸ Ibid.

to reflect on new theories,” this relates especially to Serbia and Montenegro).⁹

Equal value and importance of process and results – (“We are not focused on the results, but all elements are important. We care about women witnesses and we are moving boundaries. It is our life’s duty to give support, which is also challenging for our own boundaries. All participants are very positive”), etc.

Feminist analysis of militarist violence – the impact of militarist violence on women’s health – (“In Serbia, whose regime was producing and waging wars in the 1990s, the witnesses focused more on the militaristic violence and heard about the consequences of militaristic violence against women for the first time – and that is a feminist characteristic”); *women’s resistance to militarism...* (“The history has never seen women’s resistance. Women hid deserters. We revealed the history of resistance against militaristic violence, and doing that, for me, is something feminist.”)¹⁰

Above all, there is the feminist process of working with witnesses:

The feminist ethics of care for women witnesses – “Our process with women witnesses is a feminist one. Our care for them is crucial. The experience of institutional justice where nobody cared for women was a lesson for us. We provided a safe space for women. Also, our potential witnesses created a network, while we have just provided the space;” “Solidarity, friendship, support, closeness and understanding among witnesses, organizers of the process...”¹¹

Methodology of work – How did we work? Whose experiences did we use? What were the innovations that we introduced? What were the difficulties we encountered?

9 Ibid.

10 Ibid.

11 Ibid.

In the process of organizing the WC, we were also learning about experiences of women's courts and women's tribunals as well as other feminist initiatives (The Women's Commission for Truth, Justice and Reparation within the network Ruta Pacifica, Columbia). We were 'adopting' knowledge from all of them, and we used some forms of their work. However, we were primarily developing new models and methods of work. "There were many dilemmas and fears. In the beginning, we had a certain vision of the WC, and then a decision was made that this would not be an already existing model which we would just install, instead – we will reach our goal through process."¹²

Our *defining of the model* of the WC did not involve a mechanic application of known models. Instead, we were seeking methods of work compatible with our needs, above all: listening, heeding the needs of participants in the process, and primarily of potential witnesses.

They were precisely the ones who led us to seek, by setting demands not only for new methods of work, but also for new models of knowledge. Step by step, a community based on solidarity was created, a community of women victims of crimes and injustices in both the war and the so-called peace, a community of women of various ethnic backgrounds, lifestyles, educational levels, and generations. Together, step by step, we set out into new experiences and methods because "*experiential event is a methodological principle*" (Senka, Bar).¹³ This represented an exciting process of creation of space for joint reflection and for reassessment and elimination of hierarchy between diverse forms of knowledge, and above all – for valuing the experience as knowledge.

Regardless of the extent to which the Women in Black, as holders of program activities, had preconceived models, plans and pro-

12 Ljupka Kovačević, Working meeting of experts, artists and organizers of the WC, Radmilovac, February 2015.

13 Meeting with potential witnesses, Tivat, November 2014.

grams, we were easily getting into an exciting undertaking with women in the field, feeling somewhat anxious, but mostly without a fear of ‘defeat,’ of challenges and contradictions – and into a joint production of knowledge and a new paradigm of knowledge.

Besides the women in the field, we encountered solidarity and strong support from women within the academic community, primarily from the philosopher Rada Iveković,¹⁴ as well as from our internationalist women friends, and Carlos M. Beristain, another internationalist friend.¹⁵

The process of organizing the Women’s Court included many methods of work, among which were the following:

Training sessions for public presentations which were one segment in the organization of the Women’s Court – aiming at informing the public – primarily in local communities – about the concept and content of the WC and the feminist concept of justice. The aim was to include and train as many women (and men, too) as possible in the process of preparation of the WC through creation of support groups for organizing and holding of the WC, etc.

Ten **(10)** consultations/trainings were held in the countries of the former Yugoslavia, primarily in Serbia and Bosnia and Herzegovina, while the activists from Kosovo and Slovenia participated in trainings in Macedonia and Croatia. All trainings were carried out by *Women in Black* Belgrade, with the exception of Kotor where the training was organized by the activists of “Anima.”

Regional educational seminars – consisted of workshops, lectures, video presentations and screenings of documentary and

14 Rada Iveković, female philosopher and feminist activist, Paris.

15 Carlos M. Beristain, an activist, medical doctor, and mental health expert, who has been working with victims of political violence in Spain, Latin America and Africa for more than 20 years. Since 2009, he has been working in the Women’s Commission for Truth, Justice and Reparation in Columbia together with the feminist network Ruta Pacifica/Women’s Peace Route.

feature films. These three-day seminars had an interactive and interdisciplinary character, placing the equal value on activist experience and academic knowledge. Among other subjects, they included the following: the international institutions of justice and institutions of justice at a national level; rape as war crime; Hannah Arendt's ethics of responsibility; alternative models of justice, and specifically – the women's courts and tribunals; 'Towards the Women's Court for former Yugoslavia – together, we are creating the Court', women testifying, etc. **16** regional seminars were held, all of them realized by Women in Black, in some countries in co-operation with the members of the WC OC.

Public presentations/PP of the Initiative for Organizing the Women's Court – are an integral part of the research-activist process in order to inform the public about the initiative, to gather information, proposals, suggestions concerning the concept and vision of justice and the selection of themes at the Women's Court.

Since the beginning of 2011 and until the end of 2014, **136** public presentations were held in about hundred towns throughout the region, organized by the members of the WC OC, as well as by local civil society organizations.

After two years, we realized that women hesitated to testify, and that the PP are not sufficiently 'safe' space for testifying. In accordance with the needs of participants in the process, primarily the needs of potential witnesses, we did not only search for a new form of education, but also for a safer space for testifying. Apart from the above-mentioned seminars, these were also the feminist discussion circles.

Feminist discussion circles/FDC – joint reflections on important issues we are engaged in, primarily the feminist approach to justice, but other issues as well. For each of the circles, we prepared *readers* – intended for joint learning and getting acquainted with the works of relevant authors. The *FDC* encouraged the exchange among women: those who directly suffered violence, be it in war

or after the war, and women from the activist and academic community. The FDCs were also a space for joint critical reflection, a space of mutual learning for women who survived the hardest forms of war and post-war violence, for activists and women from the academic community. Feminist discussion circles later became an integral part of feminist ethics of care – the support to potential witnesses.

The practice of FDC began in 2012 and **16** of them were held until the end of 2014; most of them were held in Serbia, and some of them in Montenegro, where women from the entire region participated. The following thematic units were discussed in the previous FDC: From Maternal Politics of Peace to Feminist Antimilitarism; A Course on Genocide; Feminist Ethics of Responsibility; Feminist Ethics of Care; Alternative Models of Justice – Legal Practices in Communities; New Paradigms of History and Women's Testifying, etc.

Work consultative meetings of the Organization Committee of the WC/WC OC

At these meetings, the results of the activities were analyzed and future steps in the process of work were defined. The analysis of difficulties and obstacles has confirmed the following:

A negative impact of projectization (NGOization) on women's groups, the rivalry and competitiveness among them. This problem is related to all war and post-war areas and has caused difficulties in the process of organization, especially in Bosnia and Herzegovina; but no one of the civil societies in former Yugoslav countries is without it.

The WC process uncovered that the process of NGOization has influenced the decrease in critical potential of women's movement for which the NGO elites were specifically created.

The experience has shown that, in some communities, women outside the activist circles (or, rather, outside the NGO sector) are more rebellious, expressing their critical attitude toward centers of power more often and more directly than the NGO activists who are – primarily due to reasons pertaining to projects as well as to fight for survival of their groups – subordinated to the state and donors.

Length of the process of organizing of the WC can also be explained by refusal of any impositions by donors, and by our consistent adherence to an attitude according to which the donors, foundations, solely have the role of technical assistance. Such an attitude of the members of the WC OC resulted in having extremely small funds for this process, which is one of the reasons why the process lasted longer than planned.

In accordance with the feminist ethics of the process of organizing the WC, and apart from joint work consultative meetings of the WC OC, many other forms of work at the country-level were initiated: regular operational working meetings, workshops, legal team meetings, discussion focus groups, discussion circles, joint reflections on the WC process, etc.

Engaged Art – documentary movies about feminist approach to justice, film screenings and debates

As part of the activities in organizing the WC, Women in Black have also arranged the following educational events:

- Screenings of documentary movies about institutional mechanisms of justice on international and national level;
- Screenings of documentary movies about experiences of women's courts on the international level;
- Screenings of documentary movies about experiences of women's groups and networks related to violence against women, women's struggle for peace and justice, and feminist approach to justice;

- Screenings of documentary movies produced by Women in Black – Group for Video Activism - about feminist approach to justice, peace and security.

Every screening was followed by discussions about the films and the initiative for organization of the Women's Court.

The Group for Video Activism of WiB prepared **73** documentary films on the above-mentioned topics.

During the organization of wide range of educational activities, **we also encountered numerous challenges and difficulties.** Women activists (and men activists to a lesser extent) from around 200 civil society organizations took part in the process of organization of the WC, mostly in public presentations (although, also in other previously mentioned forms of work). The expectations that their concrete contributions would be higher were not met due to the following reasons: lack of critical attitude, excessive focus of the NGOs on the state (present in all countries); the international foundations/donors impose subjects and networking from the top-down, the NGOization, rivalry caused by fight for survival; civil society organizations are dominantly pro-government, and indifferent to issues of transitional justice.¹⁶

Considerable differences were observed regarding the intensity of activities of the members of the WC OC in the process of organizing the WC. On the one hand, this is in accordance with the feminist principle of autonomy and appreciation of different rhythms of work, and on the other, this made comparative analyses of the processes impossible, and especially – it affected the late inclusion of potential witnesses to joint regional work.¹⁷

The process of organizing the WC has strengthened the cohesion among feminist groups engaged in facing the past from the feminist perspective, while the participation of other women's civil society organizations was below the expected level: the process has encouraged coopera-

16 Joint reflections on feminist approach to justice in the process of organizing of the WC – Belgrade, December 2013; Zagreb, January 2014 and Kotor, May 2014.

17 WC OC meeting in Ljubljana, June 2013.

tion, friendship, mutual trust and solidarity among the activists within the WiB Network (Serbia); the process has encouraged the feminist movement to become active regarding the lobbying for the rights of women victims of war rape, by taking part in drafting of the Law on the Rights of Sexual Violence Victims (Croatia); the activists gathered around the WC mostly see themselves as alone in local communities and they recognize feminism only in their gatherings around 'Anima' (Montenegro).¹⁸

Experiences from the field – lessons learned from the participants during the process of organizing the WC (2011 – 2014)

The attitudes of participants in the field about the institutional mechanisms of justice

During the process of organizing the WC (in 2011 and 2012), the majority of participants in all regions were often expressing the opinion that the Hague Tribunal is the only institution that deals with war crimes committed in the region of the former Yugoslavia and that it is often the only instrument that serves justice.

Concerning the obstacles and the limited scope of institutions of justice on a national level with regard to serving justice, the participants mentioned that the authorities see local war crime trials exclusively as an international obligation, and as an extremely pragmatic matter which can serve to gain political points and economic benefits; for political elites, the trials have no connection whatsoever to justice, the admitting of crimes, the respect for the dignity of victims, the change of value system and moral order.

¹⁸ Joint reflections on feminist approach to justice in the process of organizing of the WC – Belgrade, December 2013; Zagreb, January 2014 and Kotor, May 2014.

The witnesses are of the opinion that mistrust in institutions of justice is deepened both at the national and international level, and that in the case of the most recent verdicts (in November 2012) passed by the Hague Tribunal, the state that had organized the crime (Serbia) has been granted amnesty. The loss of credibility of the institutional legal system is also expressed in the fact that those accused of war crimes before the Special Court for War Crimes in Serbia are released pending trial, that the number of trials in that court is drastically decreasing, also that the prosecutors are using the verdicts of the Hague Tribunal.¹⁹

The critical attitude toward the institutional legal system at both international and national level was deepened during an intensive work with potential witnesses for the WC (in 2013 and 2014) who are of the opinion that:

- Impunity prevails in all states of the former Yugoslavia, both at the levels of state and society: there is a large number of unprocessed crimes in spite of the existence of a sufficient quantity of collected evidence;
- In each of the states, there is a big gap between the normative and the factual state – between the law and its application;
- In each of the states of the former Yugoslavia, there is a problem regarding witness protection, as there is no political will at the institutional level for the adequate protection of witnesses;
- In almost all communities, witnesses are exposed to various forms of repression and retaliation by institutions, but also in their social communities, they are exposed to pressure and even retaliation; if they testify, they fear for their safety and the safety of their families, while the absence of an adequate system of protection is discouraging them from revealing facts about the crimes;

19 Women's Court – a Feminist Approach to Justice – 2012 Report.

- In many communities, women who testify about rape as a war crime are exposed to stigmatization and harassment by social community, which often discourages them to testify or forces them to leave the country, etc.
- Reparations are a very rare practice, and even when they do exist, they are material in nature, while other forms of reparation, that would involve a wider social community, are absent (symbolic, moral...).²⁰

Potential witnesses were suggesting measures to see the justice served: among the models of transitional justice, they were mostly advocating non-criminal sanctions – for the restorative justice (healing, reconciliation, trust, symbolic reparations), and then for the institutional reforms (lustration, material reparations, rule of law...); criminal sanctions (courts and trials) were the last to be mentioned, confirming the significance of joint peacemaking work with witnesses, and, on the other hand, the awareness about how the legal system does not serve justice, as well as the existing mistrust and disappointment in the institutional legal system at both national and international level.²¹

Evidently, the process of organizing the WC indicated a necessity for joint creation of a different model of justice.

About the significance of organizing the Women's Court

In the process of getting acquainted with the concept of women's courts and tribunals, the participants have decided for a model of court that combines the elements of both women's court and women's tribunal. The women's court allows more space for testifying, healing of traumas and regeneration of relationships, but it is

20 Regional meeting of potential witnesses, Tivat, November 2014.

21 Women's Court: Feminist Approach to Justice – Tivat, Regional meeting of potential witnesses, 20-23 November 2014.

necessary to put pressure on the institutional legal system through the WC.

During the process of organizing the WC, the participants talked about the reasons for organizing the WC:

- **To make the continuity of violence against women committed in peace and in war visible** – *“We, who have survived the war trauma, should speak; because when women speak out and when their individual suffering becomes visible, that is what we need.”* (Duška, Zenica, BiH)
- **To give voice to individual experiences of women and to include women’s experience in public memory:** *“Women’s stories should become a part of the official history, what women say (transcripts, recordings) should be included in educational system, it is necessary for future generations...”* (Eva, Niš, Serbia)
- **To acknowledge the victims’ sufferings, to establish the facts and to put pressure on community and the institutional system:** *“Unfortunately, the victims are not satisfied with anything in our environment and their status of victim is not recognized.”* (Besima, Sarajevo, BiH) *“A worldwide network for protection of witnesses needs to be developed in order to influence decision-makers to implement all UN Security Council resolutions related to that.”* (Sevdija, Kosovo)
- **To understand the context (social, economic, family, cultural, personal and political) in which violence against women is happening and in which that violence is made possible:** *“The restorative justice is meaningful, among other things, if it uncovers the causes of violence and thereby contributes to illuminating the causes and ways in which something could have happened.”* (Marija, Vrbas, Serbia)
- **To satisfy the needs that the institutional justice does not fulfill and to make space for the creation of new approaches to justice:** *“At the institutional level, the justice, neither international nor national, cannot be satisfactory*

for the victims, even when such trials may be the fairest and the best ones.” (Ljilja, Belgrade).

- **To empower women and to create networks of international women’s solidarity:** *“As their goal, the women’s courts have also set the gatherings, the development of solidarity networks that are based on values instead of project levels, that is – the connections from bottom-up instead of top-down...”* (Nela, Zagreb, Croatia)
- **To prevent future crimes and to establish a just peace for future generations through the facing with crimes from the past and the illuminating of social mechanisms that made them possible:** *“The Women’s Court will not pass sentences, but it can contribute to the creation of a climate of opposition to crimes, which is a big stake for the future. We all have to influence people from our communities, to change people’s consciousness... We have to be like weeds, to spread...”* (Ana, Leskovac, Serbia)

This argumentation in favor of organizing the WC is mostly associated with the first two years of the process, and it was constantly amended and enriched in the period that followed.²²

What time period should the WC deal with?

At all seminars and with almost unanimous approval, it was stated that the Women’s Court should deal with the violence committed during and after the wars of the 1990s: *“At this Court, we want the continuum, the unbroken thread of violence against women in both war and peace to be shown.”* (Sabina, Pljevlja, Montenegro); *“To show at the WC the continuum, the unbroken thread of violence when a woman’s body becomes the battlefield, and how after the war it becomes a redundant, worthless piece of goods on the market within the process of privatization, through economic politics...”* (Nevena, Leskovac, Serbia)

22 Creating the WC Together – Regional Seminars, in the Annual Report for 2012.

In brief, during the organization process, the Women's Court has assumed a definite form as:

- a space for women's voices and for their testifying about the experiences of injustice suffered during the war and in peace – instead of being objects of injustice and violence, women are becoming the agents of justice;
- a space for women to testify about violence in private and public sphere – instead of being objects of narration/history, women are becoming the agents of narration/history – a source of information about their own experience;
- a space where women can testify about organized resistance – contrary to the dominant perception of women as powerless and passive victims, women are taking on the role of agents in struggle against injustices and violence.²³

About the venues of the Women's Court

Depending on the region where the seminar "The Women's Court – a Feminist Approach to Justice" took place, there were various suggestions for the place where the WC should be held (the final event in the years-long process). However, the suggestions most commonly heard were the following (by frequency):

Belgrade – The common denominator of the arguments in favor of holding the court in Belgrade was the following: the accountability of the regime in Serbia for committed crimes, the pressure on Serbian public to admit the crimes, the possibility of catharsis in the 'belly of the beast,' and the recognition of resistance and efforts and the peace engagement of Women in Black.

On the other hand, the objections to Belgrade as a place to hold the court ranged from the comments that it could be used as an act of 'washing of hands' from the accountability of Serbia for the crimes, mentioning of the issue of whether the witnesses

23 The Women's Court – a Feminist Approach to Justice – Annual Report for 2015.

would feel safe in Belgrade about which the activists from Serbia mostly talked about. After the elections in Serbia (in May 2012) and subsequent coming into power of those who were the direct perpetrators or accomplices in the crimes of the 1990s, the safety is endangered even more, especially after continued pro-fascist attacks on Women in Black in 2014.

Sarajevo – The choice of Sarajevo as a place to hold the Women's Court is based on the reality and symbolism of suffering. Sarajevo is also mentioned as a place remembered as 'the most Yugoslav city,' a multi-ethnic city, as well as a geographical center of the former Yugoslavia.

At the end of 2013, it was decided to hold the final event of the Women's Court in Sarajevo, from March 7 to 10, 2015. However, due to the impossibility of holding this event on the previously planned dates, it was agreed to hold the event from **May 7 to 10, 2015** in Sarajevo, Bosnia and Herzegovina.

Feminist ethics of care – work with potential witnesses

How did we work with potential witnesses of the WC? What difficulties and challenges did we encounter? How did we overcome them? How did the witnesses become the agents of the entire process of organizing of the WC?

In the process of drafting the program (in the beginning of 2011), it was planned to hold public hearings. At the working meeting of the Initiative Board for the Women's Court for Former Yugoslavia, a plenary decision was passed to organize a simulation of Women's Court called 'testifying.' At that initial phase of work and under certain conditions, the following was decided:

- To organize testifying exclusively in closed groups and in safe space at seminars;

- That men shall not be present during the testifying (and at seminars in general) so that women would not be inhibited to speak about the violence, above all about the sexual violence.

In the period between 2011 and 2012, the experience has shown that:

- The ‘simulation’ of the WC for women has not been a problem for the most part; they were sharing their experiences very concisely, and almost all of them were speaking within the suggested time frame for testimonies (15-20 minutes); after testifying, they had a feeling of relief and an increased feeling of closeness with the group;
- The concern that it would be more difficult in some communities proved justified (BiH, seminar in Mostar). On the one hand, the amount of painful experience was the greatest there, and on the other, women had already been exhausted by testifying which put them in the role of objects;
- Those who testified were usually activists – women with previous experience with appearing in public; there were also women who have never attended a seminar and they testified too, which was not a problem for them;
- The expert-witnesses: they are workshop participants who, on a voluntary basis, offered to be the members of the jury (this is what they called themselves). In all places where women were testifying, the ‘jury’ has recognized the forms of violence, and the political, social, and economic context of violence very well. Therefore, on the basis of the texts of testimonies and the testimonies themselves, they were very competent in their interpretations of the context, assuming the role of witnesses/experts.²⁴

In 2013 and 2014, the work with potential witnesses intensified, and it was carried out in the following forms: working meetings with witnesses (Serbia and Montenegro); individual talks with witnesses, joint meetings with witnesses by country, and regional

24 WC – Feminist Approach to Justice, Annual Report, 2011 and 2012.

meetings with potential witnesses, to which we shall give the most attention in this review. Before that, we will mention some observations from our work with the witnesses.

The testimonies within the process of organizing of the WC have shown that:

- There is a great need for a safe space,
- There is a fear of re-traumatizing,
- There is a fear of public appearance,
- There is a fear for one's own safety and safety of family members,
- There is a fear of retaliation, by the society, as well as by the state,
- The im/possibility of adequate protection of witnesses.

Extreme insecurity prevails in all communities (in political, ethnic, gender, and social-economic terms) which increases the vulnerability of women.²⁵

The fieldwork experience with witnesses has also shown the following to prevail:

- Traumas that have not been processed or overcome,
- The ineffability, 'indescribability,' of traumas, with the presence of strong need to name the traumatic experience, to put it into words and integrate it in one's own life,
- The struggle against oblivion – the struggle for dignity,
- The struggle to make the memory of personal tragedy a part of social remembrance, because the past cannot be overcome without that,
- Continuous and persistent demands to find out the truth about the missing; fear and worry that the truth will not be

25 Women's Court – Feminist Approach to Justice – Report from January to December 2014, published by WiB, January 2015.

found out while the relatives of the missing are still alive, etc.²⁶

What are the specific problems regarding the testimonies in particular countries?

Bosnia and Herzegovina: Women are afraid to testify, above all because of the re-traumatizing, which is especially the case with women survivors of the war crime of rape:

“The rape as a war crime is a ‘worn-off’ subject because already with the signing of the Dayton Agreement, Bosnia became worn-off as a piece of news; the demands for quick work on reconciliation ensued, and programs for recovering from trauma were no longer topical...” (Marijana Senjak, a therapist in ‘Medica Zenica’)²⁷

Women victims of rape in war were victims during the war, but they are also victims in time of peace: “For twenty years now, women continue to cope with the same problems. They lack support, the state did not take care of them, not all of the women even have health insurance, they have problems with children born out of rape. Nobody cares about those women, except the NGOs, when they give their statements and testify...” (Sabiha Husić, a therapist in ‘Medica Zenica’)²⁸

Women victims of rape in war are faced with serious consequences of post-traumatic disorders: “All this is an obstacle to testifying, because the victims of war crime of rape are neither cared for nor insured. And because of that, women do not want to take part in

²⁶ Regional meeting of potential witnesses, Tivat, November 2014. (Prepared by Staša Zajović)

²⁷ Marijana Senjak, Zagreb, 20 January 2012.

²⁸ Meeting of the members of the Regional Organization Committee with experts, Zagreb, 22 and 23 November, 2013.

court proceedings, or to appear in public. We have to take into account the multiple forms of trauma...”²⁹

Women victims of rape in war are afraid of mis/use on all levels, including by the NGOs: “... nobody even listens to what we talk about, they just listen to us superficially... And then, they manipulate with us and everyone is concerned only with their own benefits. I still experience humiliation...” (a witness from BiH)³⁰

Transformation of suffering into a struggle against oblivion, and a struggle for dignity: “I’ve freed myself from fears. I am proud. I cannot forgive. And especially, I cannot forget.” (a witness from Bratunac, BiH); “We should speak out. Not only in Bosnia, but everywhere... Regardless of everything that had happened, I have a life desire to be helped to build a house in which I used to live. There are many reasons for this: not to let it be forgotten and to name that house ‘A House of Pride.’” (a witness from Foča, BiH)³¹

The laws on civilian victims of war are deepening ethnic divisions: In 2006, the Federation of BiH was the first in the world to recognize the right to reparations for women who survived the war crime of rape, without requirement to prove physical disability. However, this law (on civilian victims of war) does not apply in the Republic of Srpska, the other entity in Bosnia and Herzegovina. “That law brought some satisfaction for women survivors. Around 500 women obtained disability pensions. The amount is small, they receive 574 marks (around 270 euros) per month. They have social insurance and free healthcare. The law was not passed for the entire territory of the state. We want it to be the same for all.”³²

Croatia: Ethnic-based violence, in combination with other forms of violence such as economic, social and gender. Self-victimization

29 Ibid, from Marijana Senjak’s presentation.

30 Regional meeting of potential witnesses, Brčko, BiH, 26-28 September 2014.

31 Regional meeting of potential witnesses, Tivat, Montenegro, 20-23 November 2014.

32 Regional meeting of potential witnesses, Brčko, 26-28 September 2014.

– perception of the members of a certain nation as the only victims – is present, but this is not specific for Croatia only, but for almost all other countries of former Yugoslavia. The commonalities among almost all witnesses – not only in Croatia, but elsewhere, as well – are the extremely difficult economic conditions they live in.

Retrograde tendencies in society: after joining the EU in 2013, the retrograde tendencies have even become more pronounced in Croatia; and the violence against those who are perceived as different is creating fear. The fear among the potential witnesses of minority ethnic origin is also amplified by the relation of institutions, i.e., the non-acknowledgement of suffering caused by the state: “Sometimes, testifying is very hard for women; they are reluctant to speak, and even if they do, they need support since there may be various consequences for them and their families.”³³

The victims of sexual violence in war suffer from serious post-traumatic disorders: “Today, after twenty years, in a group of women who have survived rape in Vukovar, fear turned into phobias, they are afraid of public space, and their sense of security is jeopardized. Women are depressive and with pronounced somatization. Also, the recovery in women was not accomplished due to broken family relationships. This is a consequence of not working with the women on time.”³⁴ Namely, the talks about passing of the Law on the Rights of the Victims of Sexual Violence have started only twenty years after the war. The leaders of the process of organizing the WC in Croatia are of the opinion that the greatest success was achieved by lobbying for the rights of women victims of war rape, and by participation in drafting the Law on the Rights of the Victims of Sexual Violence.³⁵

33 Peace meeting of the activists from Croatia and Serbia, Poreč, 25-27 April 2014.

34 Meeting of the members of the Regional Organization Committee with experts, Zagreb, 22 and 23 November, 2013.

35 Joint reflections on feminist approach to justice in the process of organising of the WC, Zagreb, January 2014.

Although the process of organizing the WC in **Macedonia** was somewhat lower in intensity, the noticeable things were ethnic distancing, constant rise in ethnic tensions, and creation of fear among population, which additionally deepens the ethnic gap.

Regarding **Kosovo**, women victims of war crime of rape are in a difficult position: “The position of women victims of war crime of rape is especially difficult. E.g. one witness who was a victim of war crime of rape testified in the Hague, and when she returned to Kosovo, she was stigmatized and harassed for years and because of that she had to leave Kosovo.”³⁶ Kosova Women’s Network, a member of the Organization Committee of the Women’s Court/ WC OC, is initiating the question of rape of women as a war crime together with the UNDP, the UN Office of High Commissioner for Human Rights and EULEX.

Serbia: Apart from the rise in ethnic distancing, the normalization of nationalist ideology, poverty and growing hopelessness, the witnesses in Serbia were also faced with problems specific to the state that is carrying a burden of the criminal past. Namely, many women (primarily from Serbia, but also women from Montenegro who did not have the experience of war and extreme violence) were withholding themselves from the testifying, and they still do, because their problems seem insignificant to them in relation to sufferings of women from BiH, Kosovo, and Croatia during the war. Thanks to the joint work with witnesses from all countries of former Yugoslavia, and to their learning about one another and about facts, and above all thanks to their mutual care and support, this *hierarchy of sufferings* has been overcome to a considerable degree: “In the process of organizing, the witnesses are canceling out the hierarchies of pain. While listening to the story of a woman from Serbia about the mobilization of her two sons for war in

36 Regional meeting of potential witnesses, Tivat, 20-23 November, from Nora Ahmetaj’s presentation.

Kosovo, a woman from Srebrenica who has lost everything is not judgmental and there is no hierarchy of pain or guilt.”³⁷

However, the joint reflections of witnesses from Serbia and Montenegro as a part of the process of feminist ethics of care revealed the existence of numerous fears among the witnesses:

- Fear of current authorities in Serbia and Montenegro – the same political elites are in power, the same political subjects from the 1990s (the creators, accomplices, perpetrators of war violence...), they have just ‘changed their suits’ and ‘whitewashed their political biographies,’
- Because of their political engagement, they fear for their family members, especially for their children,
- Fear of losing their jobs, of suffering economic consequences because of their activism,
- Persecution due to their belonging to a certain minority group (ethnic, political, sexual...),
- Abuse of social networks for propagating hate speech, for persecution and even lynch of women activists for peace and human rights defenders, and above all the Women in Black, etc.³⁸

Individual testimonies – During the process of organizing the Women’s Court in Serbia, a great number of women took part in various forms of educational activities. However, the number of women who were ready to testify was far smaller, or they would refuse to speak in front of a group. We have realized how important it was to encourage **personal** contact with potential witnesses.

Women in Black prepared a publication, *A Guide for Individual Testimonies*, using the experiences of *Women’s Commission for Truth*

37 Peace meeting of the activists from Croatia and Serbia, Poreč, 25-27 April 2014.

38 Testifying of Women – a New Paradigm of History, Vrnjačka Banja/Serbia, 3-5 September 2014.

established by the organization Ruta Pacifica/Peace Route from Colombia.³⁹

Although a number of women who testified in this manner is not representative, it is still highly indicative. The testimonies have shown that women were testifying about all forms of violence (militaristic/ethnic/gender-based).

Regional meetings with potential witnesses – at our mutual meetings with potential witnesses for the Women’s Court, we wished to cultivate and develop the feminist ethics of care and responsibility in order to:

- Create confidential and safe space for women who were testifying within the process of organizing the WC, as well as for women who would testify for the first time;
- Cultivate mutual support and solidarity, honoring women for their acts of testifying, civic courage and responsibility,
- Create a system of support for potential witnesses – together, we create our concept and practice of feminist ethics of care, etc.
- To reflect together on important social issues, to exchange knowledge, experiences, dilemmas, challenges...⁴⁰

How did the potential witnesses become the agents of the (entire) process of organizing of the WC?

The first meeting of potential witnesses from all countries of the former Yugoslavia was held in September 2013 and, until the end of 2014, seven (7) joint regional meetings were held; additionally, about ten other meetings were held in the countries of the former Yugoslavia.

39 Women’s Court – Feminist Approach to Justice – 2013 Report, published by WIB.

40 Meetings with potential witnesses – the feminist ethics of care, Vrnjačka Banja, September 2013, Women in Black.

In some of first regional meetings of potential witnesses, most of the time was dedicated to women's testimonies, mutual acquaintances, encouragement of the witnesses to direct the process and make requests to the organizers. Gradually, a community of women based on solidarity has been created, a community connected by common experience of suffering, but also by the experience of individual and collective resistance.

As the event of holding the WC was getting closer, at numerous regional meetings the potential witnesses were expressing their needs and suggestions regarding the testifying at the final event:

- *Psychological strengthening and support* – the significance of emotional exchange and strengthening of group cohesion;
- *Continued psychological support and care* – for potential witnesses, by the organizers, experts and activist community, and also the support from the audience at the WC;
- *Fine-tuning of the testimonies* – group work concerning the form of the text(s) – joint learning process;
- *Preparation of the witnesses for their public appearance* – the significance of preparation for their presence in public space, etc.

Together, we write the alternative women's history – the joint work on texts of the testimonies and preparations of witnesses for the final event were carried out in several phases:

Regional meeting of potential witnesses, Tivat/Montenegro, November 2014

In accordance with the feminist ethics of common work – the production of knowledge based on experience – at the regional meeting in Tivat, Montenegro (November 2014) the process of work on forming the texts of the testimonies followed. Worries and uncertainties were present throughout the preparatory phase, since we did not have any references for this kind of work – neither in academic, nor in the activist field – but the outcome has

confirmed the importance of feminist approach, i.e., the common creation of knowledge.

The work went in the following ways:

The testimonies of all women who participated at this meeting were prepared;

- *The process of reading and editing* – most of the participants decided to immediately proceed into the group work that was carried out according to thematic units/types of violence; each of the witnesses was given her text beforehand; first, they read the texts by themselves for any corrections, additions, and reviews, and then they discussed it together in the group – each group had facilitators (present members of the Organization Committee, the Executive Board and the organizers of the WC);
- *Individual mentoring* – it was agreed that the changes may also be made orally, and a ‘mentor’ provided support for it;
- “A Small Guide for Testifying” – instructions for text editing (*The Tree of Testifying*);⁴¹
- *Work in groups* – testimonies were commented thematically, divided into the groups: for ethnic violence, militaristic violence, sexual violence, sexual crimes, economic violence;
- *Joint analysis* – presentations of working groups;
- *Reading of edited testimonies* – of witnesses who wanted to do so.

The participants’ comments about the work on their testimonies can be briefly summarized as follows:

- *The entire process was exceptionally interactive and fruitful* – all women worked on the fine-tuning of their testimonies very thoroughly (even above the organizer’s expectations),

41 From the regional meeting of potential witnesses, Vrnjačka Banja, September 2014.
(prepared by Staša Zajović)

- *Our feminist approach which states that women are not only a source of information, but agents and interpreters of history was confirmed* – women were giving explanations not only about what they endured and the facts pertaining to that, but also about the circumstances/context, the causes of violence;
- *Potential witnesses have shown clear awareness that they are not ‘representing’ only personal experience, but the experience of many women* – a limited number of women will testify in the court, but it is important for the court to reflect what has happened to many women;
- *Testimonies should be genuine and authentic* – a testimony must not be artificial, a personal touch must be seen in it, an energy of the person who testifies,
- *Testimonies should help lessen and also cancel the hierarchy among victims* – potential witnesses come from different contexts, but all of them strive toward the equal value of experiences of pain and injustice,
- *Testimonies should speak not only about the sufferings, but also about women’s resistance.*
- *Textual interventions* – one part of the potential witnesses decided to edit their texts/testimonies afterward, and many of them have done so, while some of them decided to complete their texts in quiet of their homes and send them later.

As the work on the texts of testimonies continued, there was a discussion about the codes of ethics and of research ethics. On the last day of the working meeting (November 23, 2014), participants expressed an absolute satisfaction with the content and the method of work, but above all, they emphasized the relationships of trust, closeness, and solidarity: *“I am carrying with me from this meeting even more enthusiasm and energy to continue my struggle”* (Saha, BiH); *“I carry my compassion for my friends, warmth and inspiration for further work”* (Nadežda, Serbia); *“I am full of strength to continue to live in accordance with my principles, in knowing that some women had worse experiences. This gives me strength to move on”*

(Fahrije, Kosovo); “*I gained knowledge, self-confidence and strength...*” (Nela, Croatia), etc.

In order to continue with the joint interactive work on the texts of testimonies, the participants suggested holding working meetings in their states (for the purpose of psychological support, empowerment, further work on their texts...).

Regional meeting of potential witnesses, March 2015, Andrevlje, near Novi Sad

The above-mentioned method of work continued, and preparations of the witnesses for the final event of the WC in Sarajevo were the central focus of this meeting:

- *Joint work on texts of the testimonies*: the methodology of work (development of structure of the testimonies, i.e., editing of testimonies by witnesses themselves, discussions, etc.) established at the previous regional meeting in Tivat (November 2014) was complemented with some new elements: each of the potential witnesses was given her revised text, amended in accordance with the work done in Tivat; and every potential witness was been working on her own text individually.
- *Simulation of the WC* – oral presentations of texts in front of an audience, as it would be in public at the final event of the WC in Sarajevo: 32 women testified (10 women from BiH, 5 from Montenegro, 6 from Croatia, 3 from Macedonia, 1 from Slovenia, 7 from Serbia), while the witnesses from Kosovo were not able to come to Andrevlje, but they will participate at the final event in Sarajevo.
- *Follow-up/Monitoring of testifying* – the participants were asked to note their observations about the testifying (Was the testifying clear enough? Do the testimonies reflect experiences of many women?)
- *Discussion* – about testifying/public appearance; after each cycle of testifying/on the particular form of violence.

- *Impressions of witnesses themselves about their testimonies* –

Are you satisfied with your testifying/public appearance?

Joint analysis of testifying/public appearances has shown the following:

- *Democratic, horizontal character of work* – the significance of creation of space where women victims of violence are becoming the agents of history (“*Let us write the history, we are the sources of truth...*”)
- *Witnesses’ honesty and openness* – acceptance and appreciation of other’s comments, which was also accompanied by the witnesses’ high expectations from themselves, and by their fear that they will not ‘meet the expectations;’
- *Awareness about the witnesses’ responsibility* in terms of representing experiences of many women, and not just their individual experience, which helps to understand the broader context (political, ethnic, social-economic, gender) in which violence was committed;
- *Awareness and clear attitude about the continuity of injustices and impunities* at the level of states, and society too – dissatisfaction with the institutional legal system, a need to put pressure on the institutional legal system through the WC; resentment due to indifference of wider social community for the suffering of victims, indicating a strong need of witnesses for their individual experiences to become a part of the collective social remembrance as a precondition to healing, trust and a just peace;
- *Compassion, solidarity and mutual support of witnesses* – creation of women’s community based on solidarity, outside and beyond the ethnic and state borders and divisions;
- *Acknowledging the courageous act of testifying - acknowledging women’s heroism* – acknowledging the struggle of witnesses to rebuild their lives, and to gain trust through their participation in the WC;
- *Acknowledgement of the NGOs* (the witnesses particularly emphasized contribution of WiB) who have been giving

continual support to them and continue to do so, and that were giving, and continue to give, to women victims of war and postwar violence the only shelter and hope in achievement of justice in the absence of the institutional support;

- *Acknowledging the anonymous people* – especially the members of other nationalities/ethnicities who were giving support to victims regardless of the risks and consequences, which indicates the need to develop different relationships in society – the relationships of compassion, dignity and culture of human rights;
- *The witnesses also spoke about their fear of public appearance:* about the consequences of their testifying for their family members; this is especially related to women from Macedonia and Serbia, confirming the climate of growing fear, retaliation, and insecurity and also of the complete denial of injustices and sufferings at the levels of state and society.⁴²

In the process of organizing the WC, the leaders encountered many problems (moral dilemmas, feelings of guilt), above all because of the extremely difficult economic problems that the witnesses were facing; the leaders faced with pains and traumas of the witnesses, but also with their own unprocessed and suppressed traumas; we became aware of how needs of witnesses surpass both our and our groups' possibilities, we became aware of our own fragility, and our need to work on ourselves in order to be able to help others, etc.⁴³

We also talked about the effects of what we heard from the witnesses on our physical and health integrity as organizers and leaders of the process: What was the influence of the

42 Regional meeting of potential witnesses, Andrevlje, 20-22 March 2015 (prepared by Staša Z.)

43 Joint reflections on the feminist approach to justice in the process of organizing of the WC – Belgrade, December 2013; Zagreb, January 2014 and Kotor, May 2014.

witnesses' stories that we heard in the fieldwork on our body and our mental health?

Here are several statements of the organizers from Croatia and Serbia: "I have high blood pressure and I can't sleep;" "I realized that we, activists, are ourselves very traumatized. We have suppressed our personal traumas;" "I can't get rid of the feeling of guilt. The stories are multiplying, and I've had nightmares and ended with neurodermatitis..."; "Every one of us is going through numerous problems. We all feel guilt."⁴⁴

Until the final event in Sarajevo, the work with potential witnesses continues on local, national and regional level, with participation of the organizers of the WC, feminist therapists, and artists.

Engaged art and witnesses – during the entire process of organizing the WC, the participants expressed a need to take part in artistic-activist initiatives, street actions, theatrical plays, and screenings of engaged documentary movies.

Artistic-activist planning of the final event - joint work of artists, witnesses, organizers/activists has confirmed the value of socially engaged art, which was manifested in this process in the following ways:

Activist/participatory approach to art – the creation of artistic forms in accordance with needs and suggestions of a range of participants in the process, as broad as possible, but above all of the witnesses at the WC; the witnesses as agents of artistic forms have suggested a whole range of artistic interventions using the artifacts that make visible the women's everyday experience and their everyday struggle to renew broken threads of life, etc. The fact that about 20 witnesses have decided to continue with the artistic work on those artistic forms until the final event, individually or in smaller groups, shows the significance of creation of space that liberates and encourages women's creative potentials.

44 Ibid.

Continuity of joint work of witnesses, activists, and art collectives – it should be mentioned that the art collectives (DAH Theater, Act Women, Škart, the Art Clinic) which are very professional and have international reputation, have been working continuously with the Women in Black on the artistic dimension of facing the past, so that together we could make visible the issues that were declared invisible and ‘non-existent’ – the issues of responsibility for crimes committed in our name, but also the resistance of women to all forms of injustices during and after the war. It is also significant that the entire work of art collectives is done on a volunteer basis.⁴⁵

The forms of violence about which women testified in the process of organizing the Women’s Court

Women’s testimonies highlight the following as the most frequent forms of violence (by frequency):

Ethnic violence

This involves women’s testimonies heard during the process of organizing the Women’s Court, in the period from 2011 until the end of 2014 (on various occasions: at seminars, in feminist discussion circles, at regional meetings of potential witnesses for the WC, and the like). Here, in this part, the focus is on ethnic violence, having in mind that women primarily testified about the ethnic violence during the war, which confirms a high degree of traumas from that period that have not been overcome. Unfortunately, the violence of ethnic type, intertwined with the militaristic/gender-based/economic violence has extended into the so-called peacetime period.

45 Regional meeting of potential witnesses, Andrejvlje, March 2015. (prepared by Staša Zajović)

The war crimes – mass killings of civilians, inhumane treatment, camp detentions, and torture due to one's ethnic background

“Bratunac had already been occupied. We were supposed to get a permit allowing us to freely move around the town. This was happening on the third day of Eid, in April of 1992. Everyone who stayed was killed. In my street, there are no men any longer. Only women and children remain. Everyone was killed.” (a witness from Bratunac, BiH);

“We didn't know where they were taking us... there was no sound, even the children didn't cry. We were already dead. In just one day, 700 people were killed from the entire village...” (a witness from Dulići, BiH);

“Prijeedor was a slaughterhouse. There were the death camps Omarska, Keraterm, Trnopolje... They put half of the town in those camps. We had to mark our houses with white ribbons, so they would know we are Muslims” (a witness from Prijedor/Bihać, BiH);

“We were placed in houses and guarded by soldiers-criminals. Every day, the Serb army would pass by the house and shoot... One day, all able-bodied people were caught by a chetnik gang and crammed into one house. All Bosniak houses in Foča were turned into prisons and places of abuse, beatings...” (a witness from Foča, BiH)

“I cannot forget that day, 12 March 1993. When that blood-soaked July of 1995 happened, I came to Tuzla with my two sons. I lost 22 family members. They were bothered by us just because we were Muslims, with different names and surnames...” (a witness from Srebrenica, BiH)

“On 26 March 1995, at 5 in the morning, Serbian policemen surrounded us... All of us, from the village Velika Kruša in Orahovac municipality, were there. We were all together - men, women and children. The displacement lasted until 11 in the morning when the infantry began to set the houses in the village on fire (...). On our

way to the border, we were mistreated by policemen and paramilitaries, they were asking money from us and they were beating us... We barely managed to arrive safe and sound to Albania. We stayed 3 months in Albania, until the end of the air strikes. I didn't have any news about my husband. When I returned from Albania, I heard that he was killed, and to this day, I don't know who did it, where is his body, whether he is still dead or alive" (a witness from Velika Kruša, Kosovo)

Multi-ethnic families/marriages/communities – the targets for exile, exclusion from community because of their 'otherness' – violence against members of multi-ethnic background...

"I was born in Croatia, and my nationality is Croatian. My husband is Serbian and we lived in Zadar. In 1991, my husband was mobilized into Serbian army, while our 4-year-old daughter and I stayed alone in our flat in Zadar. Our neighbors were both Croats and Serbs, and I was afraid of both. Because of our multi-ethnic marriage, I was very afraid for the life of my daughter and my own..." (the witness is a refugee from Croatia, now living in Serbia)

"I am Croatian, and my husband is Orthodox. My husband was captured by his own people because he didn't want to take sides, he couldn't shoot any of them." (a witness from Osijek, Croatia).

"I was born in Slovenia. I am one of the 25,600 erased persons. Since we didn't submit a request to obtain Slovenian citizenship, we were revoked permanent residence in 1992. They erased us. In a day, we became nobody and nothing. I was afraid to talk with anyone. It was awful to live in fear and without any documents, any rights. There was silence, and we didn't tell anyone about what was going on." (a witness from Ptuj, Slovenia)

"My mother is Serbian, and my father is Croatian... I was quickly evicted from the flat, they expelled us in winter, with my father suffering from stroke. My mother died, and I stayed alone in that flat with my father who had a stroke while my husband was forcibly mobilized."

He was also a child from multi-ethnic marriage, just like me, and he didn't want to go to the army, and of course he had to. Regardless of serving in the Serbian army, they nevertheless evicted us.” (a witness from Banja Luka, BiH)

“My neighbors wouldn't give me the time of day. They completely ignored me...” (a witness who moved from Belgrade to Zagreb)

“We had to place white ribbons on our houses and on our arms so that it would be known that we were Muslims.” (a witness from Prijedor, BiH)

Death threats on the grounds of ethnic allegiance, multiple discrimination – on the basis of gender, ethnicity and economic status:

“I received threatening phone calls, they wanted to kill me, they were forcing me to go to Hungary... It was very hard for us, the minorities in Vojvodina, because the threats we endured were indeed a form of ethnic cleansing. Many people did leave” (a witness from Bečej, Vojvodina/Serbia).

“I remember a woman who went to the police station to have her papers issued, and while she was there she accidentally said ‘hleb’ (Serbian word for ‘bread’). She had to flee as she was in fear of being lynched.” (a witness from Split, Croatia)

“As a Serb, I had to leave home because of my ethnicity. We used to have a wonderful, normal life, a secure job, our own home, and all of that fell apart like a house of cards. We used to live in Zagreb, where there was no war. Uniformed members of CNG (Croatian National Guard) broke through our front door, using a gun or something. ‘You have to leave by 8 a.m., there's no room for chetniks in Croatia.’ We left and came back after two days. There was a note on the door saying we weren't allowed to enter. They told us we could choose where to go, but that staying in Croatia was not an option. Some of us ended up as refugees in Bosnia, others left for Serbia.” (a witness from Croatia)

Expulsion from job, mistreatment due to ethnicity

"I was expelled from work in Belgrade because I'm a Croat. The newspaper where I used to work was based in Zagreb. They fired me because they regarded me as a Serb." (a witness from Belgrade)

"All my problems started at the beginning of the 1990s. Since me and my husband were Muslims, we started to experience various forms of humiliation and insults. We also received threats. Everything was marked by war and the defense of Serbian identity. Soon, we were both declared redundant and fired from work. And all this was an introduction to ruining the company so it could be privatized." (a worker from Pljevlja, Montenegro)

"I lost the job I had in the 'Poliester' company. I lost it because of my name and surname. My colleagues from work, of the Orthodox religion, managed to win in courts (for their legal complaints due to violation of worker's rights), and we, Muslims, we got nothing..." (a worker from Priboj, Serbia)

"Everyone knew that my father was Croatian, and that my mother was Serbian, and that I came from Belgrade. They knew all the details about my moving to Zagreb. I got fired as a curator in a museum in Zagreb." (Witness from Zagreb)

"When I started working in the Kamensko factory, ethnicity was of no importance. That's how it was in the beginning, and later they added 'a Serb' to my file. We had a good boss. There was no discrimination until 2000. I did the same job as the other workers, but while they were getting raises, I got pay cuts. I was told my work was worth that of a 'Gypsy'. I had to work sixteen hours a day, and I was a single mother. After my colleagues went home, I would stay and work through the night. My children, already traumatized by the loss of their father, had to stay home alone. (a witness from Zagreb, Croatia)

That April 1, 1993 was crucial for us workers of Muslim ethnicity. That day we were asked to declare who we are. I was feeling so miserable. I was born here. My grandfather and great-grandfather

were born here... We were sent on unpaid leave, until the manager decided to summon us. We were thinking about whether we should show up. If we went, we risked our lives. He called us seven days after the abduction of people in Štrpci. (On February 27, 1993, nineteen Muslim passengers were abducted from the Belgrade-Bar train, later to be executed.) I stood in front of the factory and that was the first time we had to group according to ethnicity. Some 200 people stood there. We weren't allowed to enter the factory where I'd worked my whole life. Some told us we were a mob that didn't want to work. It was apartheid. There was this deadly silence. Like we'd never met each other. We all got fired..." (a witness from Priboj, Serbia)

Violence at state borders due to the ethnicity: *"Toward the end of that year, [my husband], daughter and I left for Serbia. We arrived at the Rača border crossing and saw the sign saying 'Non-Serb population not allowed to enter into the Republic of Serbia.' Which meant that my husband could cross the border, but I had to go back..."* (The witness is a refugee from Croatia, now living in Serbia)

Racial discrimination against the Roma population: *"One day in 2009, I heard some noise, screams and crying. I saw bulldozers and excavators. Dragan Djilas, the mayor of Belgrade, ordered the police to destroy Roma shacks. They were destroying that Roma settlement in order to build a road for the Universiade. That's when they brought the police here, and the dogs. They put a fence around us so that we couldn't be seen. The Roma people knew they were left with nothing. They weren't allowed to go downtown. They couldn't work. The press wasn't allowed to report on this. I decided then to fight against it. I had to wrestle with the Center for Social Work. I'm all alone. If they want to kill me, they'll do it sooner or later. I've put my fear aside and moved on."* (a witness from Belgrade)⁴⁶

46 From the report and the testimonies about ethnic violence, prepared by the WiB Working Group for the meeting of experts, Radmilovac, 13-15 February 2015. The working group members were Ivana Vitas, Marija Perković and Staša Zajović.

Militaristic violence

Testimonies showed the interconnectedness and interdependence of different forms of violence/injustice which stem from militarism. Militaristic violence is inextricably linked with gender-based, ethnic, class and political violence.

According to women's testimonies, the militaristic violence was manifested as a **war against civilian population**. Witnesses (from BiH, Croatia and Kosovo) mostly spoke about the Serbian armed forces as perpetrators of crimes, which was also discussed in the testimonies about ethnic violence.

Women from all parts of Serbia, but also from other states, testified about the widespread practice of armed forces, both regular and paramilitary: giving opiates to men in the war zone. *"There, on the front, they were getting drugs, alcohol and medication. They were just handing out drugs to them. Many got killed in Kosovo; they lost their lives because they were intoxicated. No one was looking after them."* (a witness from Leskovac, Serbia)

Women also testified about the violence committed by former combatants, and about the effects of the PTSD syndrome. The institutions did not deal with it, but solely the relatives of the mobilized men: *"My brother started taking drugs. Three years after the war, me and my sister - not the institutions - had to deal with all that..."* (a witness from Tetovo, Macedonia)

Women testified about **the continuation of the war by other means**, about humiliation and extreme poverty after the cessation of war activities: *"There are no shootings, but there are still mistreatments. And suffering, suffering for the dearest ones, no employment, no return, no home, and other constant mistreatments and everyday humiliations..."* (a woman from Srebrenica, now living in Tuzla, BiH)

In this part, we will mostly deal with the **forced mobilization** – taking men into war by force, and above all with its consequences

on women who were the relatives of the mobilized men. Namely, neither national nor international institutions of justice do not recognize forced mobilization as a crime, which is considered by the witnesses as ultimately unjust and unjustified. They advocate the mandatory inclusion of this unrecognized, concealed and suppressed crime of forced mobilization as one of the questions posed by the Women's Court.⁴⁷

Forced mobilization – a practice in all states of former Yugoslavia:

Bosnia and Herzegovina: *There were people who were forcibly mobilized in all states of the former Yugoslavia. They attempted to mobilize my husband in Tuzla, but he escaped to Croatia. When the Operation Storm was about to begin, they tried to forcibly mobilize him again. That time, he escaped to Hungary. My son-in-law, my daughter's husband, was forcibly mobilized. He would still be alive if he hadn't been mobilized. He left behind a one-year-old child. Forcible mobilization was conducted in all of our states. No one wanted to go to war and kill people, but they had to because somebody forced them to...* (a witness from Tuzla)

Montenegro: *"Mobilization was conducted on a great scale. One had the impression that the whole Montenegro went to war. People were hunted down and persecuted, but still many Montenegrins refused to go to war and they threw away the weapons. I was among a group of people in Bar who were helping all men who wanted to go into hiding..."* (a witness from Bar)

Croatia: *"In Croatia, the forced mobilization was a form of ethnic cleansing. 'One morning (18 August 1992), the uniformed people came and took my brother from his work place. He had done no harm*

47 Since the beginning of war until today, the number of forcibly mobilized men has never been disclosed in Serbia; a number of deserters and runaways from the war zone has also never been found out – the unofficial numbers range from 380,000 to half a million; a number of men who fled abroad in order to avoid going to war has never determined – it is estimated that the number is up to half a million, but the estimation is not a reliable one; the military and civilian authorities were refusing and still refuse to publicize the information about these crimes because it was considered (and still is) a military secret, etc. (Staša Zajović, from the preparatory material about the militaristic violence for the meeting of experts of the WC, February 2015)

to anyone. This happened to him just because he was a Serb... ” (a witness from Novigrad); the persecution of women because their husbands were the JNA (Yugoslav People’s Army) members: *“In that unfortunate year of 1991, just because my husband was an army officer, uniformed members of the Croatian National Guard barged into our apartment... They were searching the place for weapons, because my husband was an officer.”* (witnesses from Zagreb and other areas)

Macedonia: *“They came with contingents of weapons to our village. There were a lot of rifles and all kinds of things. They were distributing them from door to door. They forced us to take those, although we didn’t want to. They would come around and register us... We had to take it. That’s how they led us into war.”* (a witness from Tetovo)

Forced mobilization in Serbia – women mostly testified about this, while the violence was manifested in many ways:

The unacknowledged war crimes of forced mobilization/taking away of male relatives to war –

(“There was no willy-nilly, you could either go to prison, or to war; there was no choice...” witnesses from all parts of Serbia)

Forced conscription of men who were the members of minority groups in Serbia: *The men belonging to the minority groups such as Croats (Sombor, Novi Sad, Vrbas), Hungarians (Trešnjevac), Roma (Mladenovac), Rusyns (Kucura): “I have two sons. One of them served the army, while the other was called up to join the reserve. I took to the street and protested several times. I received threatening phone calls, they wanted to kill me, they were forcing me to go to Hungary”* (a witness from Bečej).

Forced mobilization of men who publicly expressed a dissenting political view: many anti-war activists were targets of

continuous persecutions and mistreatment by the military authorities, which was especially the case in smaller towns.

Forced mobilization of men with a refugee status in Serbia:

“Arkan’s troops were gathering men who came from Krajina and then they transported them back to the front. My husband didn’t leave house for six months...” (a refugee from Croatia, living in Serbia)

Forcibly mobilized male relatives - cannon fodder in wars of conquest, primarily those led by JNA (Yugoslav People’s Army): *“My son was 17 when he was called up. He was underaged. He spent half of his military service in another state and I don’t know if he was a terrorist... because he served in the JNA”* (a witness from Novi Bečej, Serbia)

Militarist violence in peacetime: killing of soldiers doing military service in the army barracks in Serbia, about which the mothers of the killed soldiers testified: *“My son was killed during peacetime. I lost him while he was doing his regular military service in Topčider. Two soldiers were killed in the army barracks in Topčider, and the killer hasn’t been found yet. I don’t know why they killed them. Have they seen something they weren’t supposed to see? Did they see something they weren’t supposed to? They (Dragan Jakovljević and Dražen Milovanović) were locked up in the military court three days before they were killed.”* (a witness from Bela Reka, Serbia)⁴⁸

Militaristic violence against women and the entire families:

“Both of my sons were mobilized for war, and one of them was underage...” (witness from all over Serbia); women who were hiding their sons to save them from going to war, and those who went to

48 On 5 October 2004, the soldiers Dragan Jakovljevic and Drazen Milovanovic were killed in a military object ‘Karaš’ within the army barracks located in Topčider. The guardsmen were killed in the barracks under dubious circumstances. There is reasonable doubt that they were killed because they had seen Ratko Mladić, the accused before the Hague Tribunal for the genocide in Srebrenica, among other things. In spite of the Decision reached by Serbia’s highest judicial authority, the Supreme Court, which demanded from the Higher Public Prosecutor’s Office and the Higher Court in Belgrade to speed up the investigation, it is still at the stage of preliminary criminal investigation.

the war zones to search for their relatives (the witnesses from all over Serbia) had the hardest burden to bear.

Mistreatment and oppression of women – military authorities denying access to information, psychological violence – night phone calls asking questions like *“Do you have a son who is a soldier?”* (witnesses from all over Serbia); *“Women whose sons were mobilized kept constantly going from one recruitment office to the other, in search of information. Nobody would give any, and there was no information on those who got killed...”* (witnesses from different parts of Serbia); women also testified about the threats of arrest as they objected to having their sons taken to war... (witnesses from almost all parts of Serbia).

Women’s resistance against forced mobilization – Testimonies have shown numerous forms of individual and organized resistance in different parts of the country. Due to media restrictions, women’s resistance was not visible. Even after the war, both this crime and the resistance against it still remains invisible and forgotten. It is very important that the witnesses from other countries have said that they hadn’t been acquainted at all with the scope of the crimes of forced mobilization in Serbia, and even less with the women’s resistance to it. To a great deal, this not only influenced the change of common attitudes about the ethnic and political homogenization by the majority population in Serbia, but above all, it has contributed to a growing mutual closeness, empathy and elimination of hierarchies of suffering among women of diverse ethnic and state backgrounds: *“Now that a mother from Serbia is speaking openly, it is a lot easier for me. We are victims, but I don’t blame your son or your husband. They were forced, this was the case in BiH, too.”* (a witness from Tuzla, BiH); *“I didn’t know that the mothers in Serbia protested, wanting their children to be returned from the war zone”* (a witness from Sarajevo).

Typical statements of the witnesses from Serbia:

"We decided to fight. I made an agreement with my sons that we would cheat the state and disobey the law. It was a conscious decision to lie, we did it consciously, I didn't want my sons to go to war..." (a witness from Kruševac)

"Women were asking for information about their children, they wanted to see where they were and how they were doing. Gatherings started spontaneously. Mass protests and demonstrations..." (a witness from Kruševac)

"In the meantime, my husband was also called up. I told him he had the right to avoid the military service, since his own brother was also mobilized. He refused, and then I told him that it was all over with our marriage..." (a witness from Leskovac)

"I demanded the army to return from the war zone, and I stayed in the Parliament with about ten other women for another night and day... This incursion of mothers into the Parliament of Serbia represented a spontaneous and strong reaction against the war. (a witness from Belgrade)

"He was afraid he would be sent to prison. I told him that would be the better option, that I would visit him every day and bring him food. I would be able to tell my children that their father spent time in prison because he didn't want to shoot at other people... He went [to the recruitment office] to explain he had a handicapped child to look after; they discharged him." (a witness from Kraljevo)

Consequences of forced mobilization (health, psychological, emotional, economic, social, political) on the forcibly mobilized men were **deep traumas** (the majority of testimonies speaks about their silence about the experiences from the war zones). The consequences on health, and above all the consequences on the psyche of male victims of forced mobilization were particularly observed: *"He came back home a different person..."* is a commonly heard type of testimony of women witnesses.

Majority of those who were forcibly mobilized ended up in an even worse economic position due to diminished work capacity, handicap and growing unemployment. Women had to deal with all these problems in all areas of Serbia, especially with the dramatic rise in violence committed by the mobilized men after they returned from the war zone.

Consequences on the relatives of the mobilized – given that this subject is practically unknown and almost invisible, women's testimonies brought to light some dramatic facts:

Female relatives of forcibly mobilized men carried (and continue to carry) a huge burden, suffering the consequences of this crime: *psychological and emotional traumas; political traumas: being stigmatized by the state and the society; constant fear of forced mobilization and providing cover for their male relatives; at the same time, some of these witnesses had health problems due to stress (fear of their male family members getting arrested; not knowing the whereabouts of their male relatives, etc.).*

Health problems experienced by female relatives and the children of forcibly mobilized men: these women suffered illness as a consequence, mostly cancer (throughout Serbia):

"I didn't sleep, didn't eat. Then I found out I got breast cancer... Everything compressed into one - military, war, cancer..." (a witness from Vojvodina)

"Then I got ill. Due to stress I got breast cancer..." (a witness from Kruševac)

"In my case, one of the consequences was that in 1996 I gave birth to a child with some birth defects. I was enquiring about what led to it. It's a very rare diagnosis, but I found out that in July of that year, more children were born with that defect than during the entire year. Fathers of those children were all men who were in the war..." (a witness from Kraljevo)

Political oppression - although this is a widespread crime, in spite of continued effort, we failed to encourage a larger number of women to testify about forced mobilization in Serbia. It was obvious that women were afraid to talk about the crime of forced mobilization for several reasons: the current political situation - atmosphere of fear, censorship and self-censorship; fear of reprisal by the state; the all-present militaristic and nationalist culture; fabrication of facts. Many women testified to that:

“Women are afraid to say anything about what their men did there - there’s a conspiracy of silence...” (a witness from Vlasotince)

“Women are not allowed to talk, they are afraid of other people’s judgment. Women refuse to testify because that brings them back to that time of suffering. Since these people came to power, they are afraid they would lose their job if they talk about crimes.” (a witness from Leskovac)

“My son didn’t tell me anything about his war experience, and he still doesn’t want to...” (a witness from Leskovac)

“I’ve kept quiet after the last elections (March 2014), startled by the percentage of people who voted for Vučić/SNS (Progressive Party of Serbia). I didn’t use to have any fear about speaking openly, but now I’m very afraid of the consequences my testimony could have for my children...” (a witness from Kraljevo)

“While I was gathering testimonies about forced mobilization, women who I interviewed would tell me that their husbands or brothers mustn’t know about it. Otherwise, there would have been consequences for them. None of the women described a complete event from the war front - what exactly happened to their husbands, brothers, sons - because they didn’t have full information on that. They were describing their feelings, and how they managed to transform their feelings into action. They were talking about their own feelings. Women were afraid that they, and their children, would suffer consequences, if their stories

were to become public. They were afraid of losing job and not being able to get a new one... “(an activist from Leskovac)

“Now, after fifteen years, we’ve allegedly had a change of those in power. But in fact, the same ones who were in power at the time of our suffering are back now.” (a witness from Belgrade)

The situation in Montenegro is similar – *“All the perpetrators are still here. The context is somewhat worse than it was then. My child will never be able to find work, just as I’ve never found job. The same political elites are in power.”* (a witness/activist from Pljevlja)⁴⁹

In the analysis of the testimonies about all forms of violence, and especially about the militaristic violence/injustice/crimes, the witnesses place the burden of responsibility on the states/institutions, on the nationalist politics present in all states, and primarily on the Serbian regime; on all armed formations, and primarily the JNA, the police and the paramilitaries (although all participants agree that they were acting under the auspices of the regular armed forces).⁵⁰

Sexual violence about which the potential witnesses testified (from Bosnia and Herzegovina, and Croatia) during the process of the organizing of the WC mostly relates to the period of war. The women testified about sexual crimes (rape, sexual slavery and forced pregnancy).

Sexual crimes were committed by members of all armed formations, of which the witnesses most frequently mentioned the Serbian armed forces. Women were raped because of their national or religious background or simply because they were women - most often due to both reasons:

49 From the Report on the militaristic violence prepared by Staša Zajović for the meeting of experts, Radmilovac, 13-15 February 2015.

50 Regional meeting of potential witnesses, Tivat, November 2014; prepared by Staša Zajović.

"The chetniks barged in and took her away, naked. They took all seventeen of them. She later "served" in the army, they did with her as they pleased... In the meanwhile, we went down to Srebrenica. My cousins were telling about all the things that had been done to them, and to my sister-in-law. She later killed herself, and two of my relatives left from America. They never came back." (a witness from Srebrenica, Bosnia and Herzegovina)

"They called out me and two other girls. They took us to an empty house in Bratunac. We were raped that night. They would take us to special rooms. That night a soldier raped me, while those two girls were raped by another two soldiers. They left the next day, and another one came to guard us. The night fell, when a group of soldiers barged in. I know a lot of them, they were my neighbors. They gathered us and took us to rooms. Several soldiers raped each of us throughout the night." (a woman from eastern Bosnia and Herzegovina)

"I was captured by the soldiers behind the house... They threatened to cut off my arms... And there, they had their turns over me. Every day, two or three of them... I asked why they were doing that to me. Then, they said that I was 'ustasha.' They were beating me in between the rapes, using their shirts filled with sand to beat me over my back. I had lice. Even today, I cannot wash away that dirt from myself. The dirt will remain." (a witness from Croatia)

"I spent one month in the first camp. I experienced various forms of torture, including sexual violence. I was in a camp that was unregistered. Those were abandoned camps... I was freed by UNPROFOR. They took us to Bjelašnica where we stayed until the end of August 1993. Then they captured us again. I was tortured there in different ways by members of the Army of Bosnia and Herzegovina." (a witness from Tuzla, BiH)

"I was captured as a 13-year-old child. I spent three years in the camp kept by the Serbs. I was freed by a Serb soldier who took me to his home. I have a son with him. After six years, I came to the free territory and saw my parents for the first time. I survived multiple

rapes. The first time I was raped, I was 13." (a witness from Vareš, Bosnia-Herzegovina)

The witnesses also talked about the stigmatization of women who have survived the war crime of rape, and about the abused they suffered from the media. However, the women also testified about the resistance, primarily through activism, empowerment in women's groups, professional development, and creation of spaces for testifying, also about the help of their female friends and their demands for perpetrators to be punished.⁵¹

Economic violence occurs in almost all the testimonies of women about the war and the post-war violence: how companies are intentionally pushed into bankruptcy, suspicious privatizations, misappropriation of social wealth, and how those who had monopolies over privatizations were getting rich, about the legal violence of institutions of the system in the area of labor rights, and the revoking of social rights. Percentage-wise, women are the biggest victims of economic violence.

The witnesses spoke about the economic violence in wartime:

Economic repression due to ethnic background (expulsion from work - already mentioned in the part on ethnic violence of this paper - as testified by women from Croatia, Serbia, and Montenegro).

Economic repression due to resistance to regime was mostly testified by the women from Montenegro, and Serbia: *"I am a victim of Slobodan Milošević's regime since I haven't had any income for ten years and six months..."* (a witness from Vojvodina); *"Still today, I claim that the only reason why I lost my job was because my father was stating his anti-war opinion very publicly, and I was supporting him."* (a witness from Pljevlja, Montenegro).

51 From the report on sexual violence, prepared by Miloš Urošević for the meeting of experts, Radmilovac, 13-15 February 2015.

They also testified **about the economic violence against the exiled and the poor**, about the organized and systematic collapse of factories and companies, about drastic decreases of personal income (PI) of workers, evading employer contribution payments, or paying them only on the basis of the minimum PI, which later influenced the workers' pensions. In brief, they testified about *the direct connection between the war economy and poverty*.

However, the largest part of the testimonies related to the post-war period, specifically to the **process of privatization as a crime against women**: illegal employment, largely unreported; overtime and unpaid work; work without the right to rest or break; preventing the fulfillment of right to maternity leave; sexual extortion and mobbing; lower wages for female labor force; impossibility of employment for women older than 45; impossibility of employment of young people.

In brief, women testified about the elimination of elementary labor rights, and about living in **constant economic lack**, deprivation, under the constant threat of poverty; about living in permanent fear:

"The employer contributions weren't paid for full 10 years..."

(a woman from Nikšić, Montenegro)

"I asked for the right I had as a mother - the right to maternity leave. An employee in the public health institution where I worked gave me an ultimatum saying: 'You'll either work or be fired.' Between the work and the child, I chose to be with the child. And since 2004 until today, 2013, my trial with the institution still lasts. And now the case is with the Strasbourg court against the state of Montenegro." (a woman from Nikšić)

"I have 9 years of service, I am 50 years old, with a screw in my leg, an excess in weight of 60 kg, angina pectoris and asthma. I have never had a permanent placement..." (a woman from Zrenjanin, Serbia)

"I worked in the 'Prvi Partizan' factory until 1993. Since then, I have changed at least ten jobs, I wasn't registered in any of them. I've always worked for a minimum wage." (Woman from Užice, Serbia).

"At one point, we were working for 12 hours for the whole three months, and they didn't allow us to talk. They turned off the music. (...) When we had periods, we had to wear red ribbons so to be known how many times we were going to use the toilet, or you had to have a doctor's confirmation that you had some problems in order to be allowed to go to the toilet more than twice." (a woman from Zrenjanin)

"When they employ a young woman, he also wants to sleep with her. They are forced to sleep with their employers in order to get a job. This must be heard..." (a woman from Srebrenica, living in Živinice, BiH).

"I had to put up with various insults and indecent proposals, and if I would complain to anyone, they'd say I was to be blamed for it. Because of that, I kept quiet almost all my life, but not anymore." (a worker from Pljevlja, Montenegro)

Women also talked about the organized resistance and union organizing: *"I was just fighting for my rights. And I resent that a lot to people didn't support all this that needed to be done. And as far as I'm concerned, I think I've done the right thing."* (a worker in the 'Lenka' factory, Bijelo Polje, Montenegro); *"It was in 2009, on February 15, that we decided to go on hunger strike. Over 70 of us took part in the strike..."* (a worker from Nikšić); *"The Women's Section of the union within the 'Equality' association is fighting against the growing exploitation of women workers. We started a support group that, in a safe space, gives space to women workers to speak about the problems they encounter and provides the possibility of getting advice on how to fight against discrimination, mobbing and inhumane conditions at work place."* (a witness from Zrenjanin)

Possible conclusions

The process of organizing the Women's Court was based on the *democratic and horizontal character of work* (whereby a space was created for women victims of violence to become the agents of history). That process was marked by an exceptional interactivity and a fruitful contribution of the participants in the process, confirming our feminist approach, according to which women are not only the sources of information, but also the agents and the interpreters of history. The potential witnesses have shown clear awareness that they represent not only their personal experiences, but also the experiences of many women.

The testimonies within the process of organizing the Women's Court have shown that:

There is a great need for safe space,

There is a fear of re-traumatization,

There is a fear of public appearance,

There is a fear for personal safety and safety of family members,

There is a fear of retaliation, both by the society and the state.

Thanks to the politics of feminist ethics of care and responsibility, a strong network of potential witnesses for the Women's Court has been created. They have become the agents in this process, creating many activities and demanding new forms of political education. The feminist ethics of care and responsibility has resulted in production of new feminist knowledge and in affirmation of the politics of solidarity that eliminates hierarchy between the activists and the community of victims and between the academic knowledge and the experience.

The need to pass on this knowledge, the need for common learning and political education, for creation of theoretical knowledge based on experience, the need to get acquainted with the experi-

ence of women's international movement for peace and justice in the world – all this was confirmed. The educational activities have created the space and the prerequisites to overcome the dominant narrative about the wars in the former Yugoslavia, and to change the common attitudes where witnesses will become the agents of peace and justice.

The process was permeated with endeavors resulting in credible and authentic testimonies that would help alleviate and even eliminate the hierarchy among victims, as well as with the need that the testimonies should speak not only about the suffering of women, but also about their resistance.

The difficulties that marked the process were in part caused by the already mentioned repressive atmosphere that is producing fear and a feeling of insecurity among the witnesses, and in part by the organizers' inability to overcome their own moral dilemmas and feelings of guilt caused, above all, by extremely difficult economic problems that witnesses are faced with.

We should not lose sight of the effort that needed to be put in the overcoming of negative influence of projectization (the NGOization) on women's groups, which has – in a concrete case – led to slowing down of the process of organizing the Women's Court. Also, our insistence on autonomy in relation to donors has resulted in scarce funds that were at our disposal for the needs of the process.

The process of preparation of the Women's court has clearly shown that:

In all states of the former Yugoslavia, the impunity prevails both on the state and the society level, and it can even be said that there is a continuity of impunity;
In each of the states, there is a huge gap between the normative and the factual state as well as the problem of witness protection;

In almost all communities, the witnesses are exposed to various forms of repression, retaliation by institutions, but also by a social community; they feel unsafe in relation to their testifying – both in terms of personal safety and safety of their families; the absence of an adequate system of protection is discouraging them to reveal the facts about crimes,

In many communities, women who testify about the war crime of rape are exposed to stigmatization and harassment, which often discourages them to testify or forces them to leave the country;

Witnesses demand criminal sanctions, but still, they mostly advocate for non-criminal sanctions – the restorative justice, which confirms the significance of joint peacework with witnesses;

The witnesses are aware that the legal system does not serve justice; they have the feeling of mistrust toward the institutional legal system, both nationally and internationally.

The final event in Sarajevo is not the end of the process, but an incentive to continue with the creation of new models of justice from the feminist perspective. That is, above all, an obligation to the witnesses, but also an expression of our responsibility toward the grave burden of the recent past.

(April 2015)

Daša Duhaček

**Women's
Court:
A Feminist
Approach to
In/Justice**

"The Women's Court: A feminist approach to in/justice" European
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“Δίκης ὄνομα οὐκ ἂν ᾔδεσαν, εἰ ταῦτα μὴ ἦν”

(“They would not have known the name of justice if these things were not.”) Heraclitus

“Justice, a commodity which in a more or less adulterated condition the State sells to the citizen as a reward for his allegiance, taxes and personal service.” (Ambrose Bierce, *The Devil's Dictionary*).

“We live in violent times:...times in which dominant political thinking, institutions and instruments of justice are hardly able to redress the violence that is escalating and intensifying” (Corinne Kumar)

Women's Court is an umbrella term, a common denominator, for a series of initiatives which differ from the mainstream judicial procedures and have been taking place over a period from the early 1990s to date. These initiatives are not conceptualized as alternative to the official judiciary systems but aim to represent a supplement, and are therefore complementary to these official systems, especially with a view to transitional justice mechanisms. This text while focusing only on one of those initiatives - the one following the violent break-up of Yugoslavia - will contextualize Women's Court not only within the recent and a short, albeit a very significant history of alternative (transitional) justice systems, but - importantly for the argument of this text - will also situate this initiative within relevant theoretical concepts of justice. This

why an explanation Women's Courts and its history of that initiative will be followed by placing it within the mainstream concept of justice as well as within the feminist and the transitional justice concepts. Finally, returning to this initiative, some key issues will be highlighted and assessed, despite the fact that this initiative is still an ongoing process and is therefore understandably difficult to evaluate.

Courts of Women, a new paradigm

In order to do justice to the multitude of victims who suffered during the wars 1991-1999 fought in the wake of the break-up of Yugoslavia, a regional initiative brought together a number of women and women's groups from all successor countries. These groups and individual women had a long history of political alliances in antiwar and/or feminist activism, cooperation and exchange, and last but not the least, personal friendships based on these political choices.

Women's Courts have a history of two decades. The Courts of Women are "...a global movement that seeks to relook at rights and *other notions of justice from the lives and life visions of women* – particularly from the global South." (eltaller, 2013, emphasis added)¹

From the first Women's Court, in Lahore, Pakistan in 1992 to date close to forty tribunals and/or courts were organized: in 1994 Bangalore in India, then in Cairo, Tokyo; and then again in Bangalore, in 1995, but also in 1995 in Kathmandu, followed by women's courts in Beirut, Beijing, Nairobi, Cape Town (2001),

1 "Conceived and initiated by **Corinne Kumar** through the **Asian Women's Human Rights Council** in 1991 in the Asia Pacific region the Courts of Women have subsequently moved through El Taller International into different regions of the world: Africa, the Arab world, the Mediterranean, Central and South America. El Taller is an international NGO based in Tunis, Tunisia with over 500 partner organizations in the world. El Taller seeks to be a space for reflection, exchange and networking for a wide spectrum of civil society and social movements." (eltaller 2013)

Lusaka (2004), etc. Most of these poignant gatherings were held in what is referred to as the global South, i.e. in Africa, South East Asia, and Latin America. During these proceedings a staggering range of human rights abuses were *named*: war crimes against women, violence and crimes against women committed in the name of customs and religion, military violence against women *and* whole populations, economic violence and violations of work place rights, domestic violence against women, abuse of women's reproductive rights, crimes against native people, specifically political violence, ...and the list which names injustices against women, but also includes whole populations, can go on: "...from the violence of poverty, globalization and development, the violence of cultures, caste and racism to the violence of military sexual slavery, nuclearisation and of all wars." (eltaller, 2013) In many cases the proceedings of the alternative justice demands led to concrete steps of either the national or the international judicial mechanisms.

After so many proceedings, and sessions these courts and tribunals have crystallized some basic principles. They are not convened by official institutions – national or international – but by women's groups and organizations and, they are marked by the process through which they are being built. The duration of this process is not predetermined or assumed, but is dependent on the context. Very much emphasis is laid on the process itself since the aim of the court is, to a large extent, achieved precisely through a series of mobilizing activities throughout the duration of organizing the court, almost as much as on its culmination, the event of the court proceedings itself. This is because the process is primarily devoted to raising the awareness about the violations of human rights, the awareness of the community, local – or as the case may be – regional, but also raising the awareness of the international community. The core of the process is *listening* to women since it is their testimonies which are the heart of the court proceedings. The women whose voices are heard at these public hearings have suffered grave injustice, they have been deprived of their rights, in a way in which it sometimes becomes difficult to even name all the

rights violations to which they have been subjected; it is therefore a loss of a right to have any rights at all. (Arendt, 1968: 296) “The unique feminist methodology evolved by the Courts of Women revolves around weaving together the personal, the political, the affective and the aesthetic. It seeks to invite the audience to relook at these issues not as experts but as witnesses to the violence of our times.”(eltaller 2013)

One of the landmarks of the process is that in its extensive format great care is taken that it is inclusive, meaning that a great effort is made to give a voice to *all whose voices have not yet been heard* and, if it were not for this court, would not be heard. The process involves a wide circulation of the relevant information, a series of round table discussions, public debates, workshops, seminars, and educational activities. Raising the awareness of the public also works through art: theatre performances, film screenings, and exhibitions. It is therefore also an event of aesthetic significance, using artistic performances to deliver and spread widely the message that injustice was inflicted.

Women’s courts and tribunals are to some extent structured as legal proceedings, but it is only metaphorically that they are designated as a court or a tribunal. Even as a metaphor it may be somewhat misleading since in one fundamental aspect these courts are structured almost in direct opposition to legally binding proceedings. Namely, these proceedings are not adversarial, have no official, executive punitive (state) power, and therefore cannot enforce their judgments. But, what also follows from this concept is that, precisely for that reason, they do not have to take into account what is otherwise referred to as recognized rights of the accused, the indicted perpetrators. The goal of the process is much less on the emphasis on individual names, but it is focused on naming and, as precisely as possible, designating the social, political, economic forces which have offered structural support to, and thus led to, injustice. Mainstream judicial processes have quite rightly protected everyone’s indisputable right to be treated as

innocent until proven guilty; however, it is almost a truism to remind ourselves that, while protecting this basic human right, these processes have all too often allowed for injustice to go unpunished and the *rights of those who have suffered to go unrecognized*. Women's courts and tribunals have in that respect – while focusing on those who have suffered – for decades been a public conscience and a reminder of this suffering. Importantly, many women have perceived this as a support. It is self understood that these courts and tribunals have never presumed to present in any way a substitute for official judicial processes, but to be an important and a much needed supplement to them.

The process is centered on the ones who have suffered injustice, and recognition of her rights which have been violated. Women's courts consist of women's testimonies. They testify to their grievances, they tell their stories publically to an audience which will empathize and offer support. Importantly these testimonials are not of those who are usually referred to as victims, but very much so, stories of survivors. Moreover, these are the stories not only of survival, but of resistance. They are personal *and politically relevant* testimonies bearing in mind that, substantial political changes are not going to be brought about by following familiar paths, which have all too often neglected injustice. Perhaps these changes may be brought about by taking steps, albeit small ones, which begin with establishing the power of naming, rewriting the past, introducing and establishing new subjects, new authorities of history, and thus shaping new possibilities in the present for the future.

The proceedings include a form parallel to a jury, inasmuch as it renders a judgment, publically condemning the violence. And, importantly, these proceedings, besides personal stories, also include a relevant political analysis which provides a context for these individual testimonies.

What is the result? It is raising the awareness of a wide community about the violations of human rights. This Court does not render verdicts, and does not pass punitive sentences. However it does

issue public statements which reach a wide, often international, audience and bring pressure to bear, not only on the perpetrators, but also on the institutions and decision making bodies, national and international. It also often makes recommendations about the follow up of these processes. “The Courts of Women are public hearings. They are sacred spaces in which we hear individual testimonies of survival and *resistance* that guide us in our search for *new paradigms of knowledge and justice* that challenges the one, scientific, neutral, objective, universal knowing as the only way to know.” (eltaller, 2013)

*

After having followed and supported ICTY² it became clear to women’s and feminist groups in successor countries of Yugoslavia that the processes conducted by the existing institutional system and embedded in the *mainstream concepts of justice* – despite its efforts and certain achievements – will not address all the grievances of those who suffered. Moreover, the approach to those who suffered will not be in compliance with feminist insights. Therefore, the injustices suffered called not only for extending the concept of transitional justice - which was also being built and challenged throughout the 1990s - but definitely invited a feminist intervention into conceptualizing justice, especially since, “...many victims of sexual violence who have testified before the ICTY have found their experiences as witnesses humiliating and disrespectful.” (Franke, 2006: 818)

2 International Criminal Tribunal for the former Yugoslavia (ICTY) was established by UN in 1993 to deal with war crimes and atrocities committed during the armed conflicts following the break-up of Yugoslavia in 1991. ICTY indicted 161 individuals and as of July 2011 has no fugitives; for some indictments were withdrawn, some indictees were acquitted or transferred to stand trial in their countries; & 4 were sentenced and for 20 the process is still going on.

The initiative to start the process of establishing a Women's Court was first voiced in Sarajevo in 2000 and supported by over one hundred participants of an international conference on the new paradigms of justice. It was put forward by Zarana Papić (1949-2002), a feminist activist and theorist from Serbia, and, Corinne Kumar, the international peace activist from India. For a period of time, after Zarana's death, the initiative lay dormant and was postponed owing to other issues, assessed at the time as more pressing.

After Milosevic died in 2006 in The Hague without a conviction, Women in Black, the most persistent and uncompromising feminist pacifist group from Serbia, revived the initiative to work on the Women's Court primarily citing the numerous crimes committed by the Milosevic regime, pertaining particularly to the crimes committed during the wars in the break-up of Yugoslavia in the 1990s. The fact that Milosevic was not pronounced guilty, and was not sentenced of any crime amplified what most probably would have surfaced anyway: that the officially acknowledged judicial system or systems, national or international, *do not suffice in the process of reaching justice*. This main indictment for the crime against peace was broken down into the following long list of injustices suffered by many, formulated then and exactly reproduced here in no particular order, because it appeared to have been a simple pouring out from many women's voices: "persecution of those who are different (ethnic, ideological, sexual), forced conscription, pyramid bank schemes, poverty, smuggling, corruption, sex trafficking, prostitution, hate speech, war propaganda, war mongering, abuse of the educational system, using the educational system as an instrument of war, destructing physical, emotional and moral integrity of women raped in war, abuse of medical and health institutions for war purposes, producing nationalism, racism (targeting Roma), restricting the freedom to move, terminating communications, exodus of the young generation, taking away the future, police brutality against peaceful demonstrations and defenders of human rights," (Kovacevic et al. 2011, 134) etc.,

etc. This resonated with a need to extend the limitations of mainstream concepts of justice.

The original initiative was that this public hearing – tribunal and/ or court - was to take into account the period from September 1987, when the notorious 8th Session of the League of Communists of Serbia marked the beginning of Milosevic's rise to political power, until the end of his regime, in October 2000 and it was to cover the whole territory of what used to be Yugoslavia. Meanwhile the initiative has evolved and now, the Women's Court is to extend into the first decade of the third millennium and thus cover the injustices inflicted during that period also. The proposal was that this women's tribunal/court was to be founded as a coalition of civil society groups and peace activists of the whole region. This was then, at the time of the first decision – as it is now – still a challenge.

However, in 2007 another related initiative was proposed. It was named RECOM.³ . It was assumed that this initiative would include all the elements of the already proposed women's tribunal/ court, but owing to its overwhelming task after a certain period of time, it became clear that this will not be possible, and although many civil rights, feminist, pacifist groups continue to support this important initiative, some of them once again picked up the idea of Women's Tribunal/Court, yet again as a supplementary proceeding aimed at reaching justice for victims. The discussions were renewed and the idea of Women's Court revisited and once again articulated through a process which took place over the period of 2008 and 2009 in Zagreb and Belgrade in a series of informal meetings. The core group which initiated the Women's Court included Nuna Zvizdic (Women to Women, Sarajevo), Biljana Kasic (Centre for Women's Studies, Zagreb) and Stasa Zajovic (Women in Black, Belgrade); in 2010 other feminist groups, and activists,

3 Regional Commission Tasked with Establishing the Facts about All Victims of War Crimes and Other Serious Human Rights Violations Committed on the Territory of the Former Yugoslavia in the period from 1991-2001

from the region joined in: Nela Pamukovic (Centre for Women War Victims-Rosa, Zagreb), Ljupka Kovacevic (ANIMA , Center for Women's and Peace Education, Kotor), Rada Boric, (Centre for Women's Studies, Zagreb), Igballe Rogova (Kosova Women's Network) and Dasa Duhacek (Center for Women's Studies,Belgrade), who is also the author of this text.

Finally, in October of the same year in Sarajevo there was a preparatory workshop entitled *Court of Women for the Balkans: Justice and Healing*. It was an international meeting which brought together the experiences of Mexico (Sylvia Marcos), South Africa (Ivette Abrahams), Cambodia (Vichuta Ly), Iraq (Erman Khamas) and last but not the least the exceptional world-wide experiences of Corrine Kumar (Kovacevic et al. 2011, 134).

The decision therefore was to establish a Women's Court. What followed was a thorough research devoted to gathering and systemizing a large amount of data on the previous experiences of alternative justice proceedings. These included, generally and especially data on the previously organized women's courts and tribunals from Lahore to Cape Town and New York: searching through archives, films, video materials. This was a learning process which used as its primary source the documented experiences of women whose suffering as victims of human rights abuse has, during their participation in women's courts, strengthened them to become not only survivors, but a part of the *politically articulated resistance to injustice*. Each story of the painful experience induced eruptions of indignation, sometimes rage, always empathy. It was followed by a discussion, and sometimes by heated debate and, it had a mobilizing effect leading to a logical outcome: what is to be done? It became clear that facing *injustice* may well, in and of itself, given time, slowly construct, and lead to politically relevant consequences.

However, during that period another perception became clear, that this region needed to build its own, context specific approach to setting up the process and organizing women's court or a tribunal.

Women in Black as a feminist pacifist group made this organization and the coordinating of these numerous activities their priority. Other groups continued to support the process actively, but coordinating and negotiating which accompanied all the stages was the process for which, from then forward, Women in Black assumed full responsibility. The first stage of the process has ended. By the end of 2010, when the activities intensified, the main parameters were set and we entered the second stage of the process. The claim was that it is a feminist approach to justice. (Kovacevic et al., 2011: 134) However, it became clear that the approach is centered round *injustice*.

Theorizing in/justice: mainstream and feminist approach

Establishing a court, a tribunal may be and is according to any standard dictionary designated as an “instrument for administering justice.” The fact that the process of establishing a Women’s Court does not follow the mainstream judicial procedure is not surprising; but then it does not even follow any mainstream *concept* of justice. However, it may be even more surprising that this process does not actually follow any other conceptualizations of justice, not even those which themselves do not quite fall into the mainstream theoretical debates on justice; and, which may, perhaps somewhat arbitrarily, and in reference to mainstream concepts of justice, be classified or just named, as concepts of transitional justice and feminist theories of justice.

The process of establishing a Women’s Court lies, or more precisely falls between the cracks of the existing concepts of justice and is not being built following any one of them. In order to clarify we need to look more closely into these concepts of justice. The first is the mainstream concept of justice, developed over the centuries through complex theoretical argumentation and in its modern version practically implemented as a part of a modern, liberal, and

a presumably democratic state. The second concept belongs to theories of justice which are developed within feminist theories which are critical of the mainstream. And the third concept to consider, is, historically speaking, a relatively new one, named transitional justice. It is self understood and almost a truism that none of these concepts of justice are uniform since each presents a roughly simplified generalization, just a tendency of a general approach.

Concepts and models of justice are many, and, although among them, some share one or more attributes, they mostly differ, sometimes in a profound way. In order to fully assess the approach of the Women's Court today we can go back to the early, perhaps even initial, approaches to this important topic offered to us in Greek philosophy. Two different venues may be singled out, one the approach of Heraclitus of Ephesus, who in his dynamic, complex understanding of our world did not use justice, but quite astutely *injustice* as a point of reference, and Plato, who in his vision of the ideal enveloped the world in an aspiration to, and requirement for, justice.

According to Clement of Alexandria, Heraclitus from Ephesus left us a fragment (number 23) which read "They/Men would not have known the name of justice if these things were not," meaning that we (here using the term men generically) would not know of justice if it were not for the lack of it, or, more precisely if there was no injustice. Therefore, Heraclitus focused his attention to *injustice*. It is my argument that this makes him significant in our contemporary conceptualization of the issue in question and is directly relevant to the way Women's Court is conceptualized. Namely, Women's Court does not use the approach through the (abstract) concept of justice, but instead it is grounded in addressing (concrete) injustice. Of course, conceptually speaking it would be hard to move forward into the analysis of the phenomena of injustice without the notion of justice. However, what placing justice as the point of reference and the defining concept has led to is the following: as this abstraction of justice has become stronger,

the *injustices* have grown more pale and have even had a tendency to fade away before our very analytical eyes. This is the same “tendency in philosophical ethics that allows one, having proved that evil is *conceptually* impossible or theft a contradiction in terms, to disregard the *fact* that people continue to go around murdering and robbing each other.” (Denneny, 1979: 263, emphasis added).

Taking Heraclitus seriously suggests that beginning to contemplate the issues of in/justice precedes Plato and Aristotle. However, it is these two major philosophers who have articulated the main parameters for understanding the problems concerning justice today. They have both, albeit each in a different format placed the concept of justice as an overarching virtue and a meta-norm. This direction may have led away from perceiving of injustice and easily overlooking its existence, its myriad, ever multiplying appearances. Some of Aristotle’s conceptual distinctions have been – undoubtedly owing to their applicability – carried to modernity. One of them is distributive justice (Aristotle, 1976: 177). This approach to justice sets forth the criteria for allocating the goods, but also status, privilege, position. In modern and contemporary theories, distributive justice plays an important role and will be critically assessed by feminist theorists of justice.

Along the similar lines in modernity, after rising above the concepts of divine justice, after introducing and legitimizing secularization, one of the key approaches to justice is based on social contract theories. At the core of the social contract is the concept of justice, where contract is a framework for equal (individual) rights and the law governing the political community. However, if from the outset the basic suppositions for entering the contract (i.e. reason and moral judgment), are denied to any person – as they have been denied to many, based on gender, “race” and class – then they have simply been left out of the contract. (Pateman, 1988)

The key contemporary treatise on the subject of justice is *Theory of Justice*, written by John Rawls. His focus is on the justification of justice as the underlying principle of social and community

organizing: “Justice is the first virtue of social institutions,” (Rawls, 1971: 3) he claims. Although he further claims that his approach will also offer “principles that govern how we are to deal with injustice,” he does acknowledge a limitation which lies in that for the most part he examines “the principles of justice that would regulate a well ordered society.” (Rawls, 1971: 3). Therefore in the concept of justice which Rawls presents the main attributes of the modern approach are fully developed: it is grounded on the social contract and it is conceptualized as distributive justice.

Rawls’ theory of justice was the main point of departure for the first feminist analysis of mainstream theories of justice. Susan Moller Okin addressed justice from a gender perspective, her main argument being that “[a] central source of *injustice* for women these days is that the law...treats more or less as equals those whom custom, workplace discrimination, and the still conventional division of labor within the family have made very unequal.” (Moller Okin, 1990: 4, emphasis added). Although she was aiming at a comprehensive analysis, her analysis is, for the most part, focused on the private sphere and the family. It was her argument, later taken over by many, that the family in offering the first and the early experiences of systematic injustice in a life of a young person can hardly school anyone in the principles of justice. Rawls is credited for being the only theorist who “treats the family seriously as the earliest school of moral development” (Moller Okin, 1990: 21). However, this did not aid him in perceiving injustice in the ways that the traditional family is fundamentally structured. As opposed to this, Moller Okin’s leading question is “how [then] are we to *become* just” (Moller Okin, 1990: 21 emphasis in the original), obviously targeting the family as the format of naturalizing inequality and thus educating one to become accustomed to injustice.

To underline: *all feminist theories basically originate in the experiences of injustice*, but if they approach the issues at all it is to theorize the concept of justice. The intervention of Women’s Court is

that it throws light on the injustice. More to the point, feminist theories are all inspired, even provoked, implicitly if not explicitly, by the pervasive injustices of the whole social and political order, regardless of whether it is private or public. However not many feminist theories approach the problem of discrimination by naming it and conceptually defining it through injustice *per se* (or even justice). . For example, Carole Pateman, although challenging the foundations of the modern political order, i.e. the social contract does not use in any aspect the argument of justice in her thorough analysis of the different forms of the social contract construct. (Pateman, 1988). Naming injustice as a point of departure has even less been the case. And even when that has been on the agenda, some blind spots still remain.

Nancy Fraser, in her book which bears the title *Justice Interruptus*, examines the contemporary social order in a period of post real socialism, where presumably even the concepts of social justice have faded away. Her approach is aimed at retaining the approach of social justice, through the principle of *redistribution*, but also taking into consideration the principle which marks the possibility otherwise denied to many, i.e. the principle of recognition. Both demands are based on injustices, one of unfair distribution and another of denied recognition, and interpreted either as socio-economic, or cultural and symbolic injustice. And although Nancy Fraser quite rightly explains that socioeconomic injustice is “rooted in the political-economic structure of society” (Fraser, 1997:13) and cultural/symbolic is “rooted in social patterns of representation...” her whole approach is geared towards balancing the injustices she is interpreting and not primarily addressing the pervasive *structural injustices* of the social order, which she claims to acknowledge.

The other contemporary feminist theorists who have analyzed justice also deserve to be singled out, although clearly coming from different theoretical positions: Martha Nussbaum and Iris Marion Young. Without addressing the detailed unfolding of these

theories, we can say that the difference between these concepts is that Nussbaum retains the traditional central conceptual paradigms, whereas Young is, among other things, invested into not only “displacing the distributive paradigm” but also challenging the argument of the social contract theory – therefore questioning the central parameters of the liberal political theory.

Martha Nussbaum explicitly states that “[T]heories of social justice should be abstract” (Nussbaum, 2006: 1). In that respect she stands apart from the approach of Women’s Court, and, precisely along those lines moves on to state that ‘one of the strongest’ approaches to justice is the idea of the social contract theory. The requirement for justice is best met within the presupposition of the equal worth of all persons, and this is assumed to be the grounding of the modern social contract. However, Nussbaum also acknowledges that the public-private distinction – and social contract rests on that distinction – has not recognized the equal worth of women, or to be more precise, has allowed the inequality of women, both, in the private and the public spheres, which she, in part does recognize: “Attending adequately to the problem of gender justice....involves acknowledging that the family is a political institution, not a part of the private sphere immune from justice.” (Nussbaum, 2006: 1). Nussbaum especially singles out Rawls, as the most persuasive author of this foundational political theory, although she notes that he does leave some unresolved issues. These issues – doing justice to people with impairments, different and all nationalities, members of all species – may be resolved, claims Nussbaum, through/by what she calls a capabilities approach, where justice is – or should be – the outcome. It may appear that Nussbaum is close the idea of Women’s Court. (Nussbaum, 2006: 82; Nussbaum, 2000). However, in this context the problem is in the following: “...my capabilities approach is another member of this family [i.e. family of liberal conceptions] and thus my proposal to add to the Rawlsian conception *advances, rather than displaces*, Rawls’s larger project” (Nussbaum, 2006: 6, *emphases added*). Therefore, Nussbaum retains the traditional approach

of liberal political theory where the social contract is the central conceptual paradigm, with its presupposition of the private/public dichotomy, and the implicitly built in inequality of women. This approach does not recognize, either the theoretical contribution nor the political implications, of the sexual contract which is underlying any form of the social contract (Pateman, 1988)

Although I. M. Young does not discuss social contract theory extensively she clearly states that it cannot serve as a point of departure in her theoretical approach to justice. Contractual relationships are for the most part established between individuals, as members of *social groups*, and not – as the theoretical assumptions underlying social contract would have us believe – between individuals who have formed *associations*. In order to explain she differentiates between an association and a social group, precisely through a relationship which an individual establishes to them. “*Individuals constitute associations*, they come together as already formed persons and set them up, establishing rules, positions, (...) *Groups*, on the other hand, *constitute individuals*. A person’s particular sense of history, affinity, and separateness, even the person’s mode of reasoning, evaluating, and expressing feeling, are constituted partly by her or his group affinities.” (Young, 1990: 44-5, emphasis added). Therefore the position of the individual as a member of a social group – which s/he is within the social contract – allows for less possibility to challenge the existing political framework and the ossified social order of injustice. The problem with the distributive paradigm is that “it does recognize the limits of logic of distribution ...” where the “scope of justice” is identified with distribution, which has a “focus on possession”. The problem is not only that everything is assumed to be quantifiable and measureable, but that this reification of social life and relations and processes is reduced to “what individuals have, how much they have, and how that amount compares with what other persons have.” (Young, 1990: 25). Young concludes that neither the social contract, nor the distributive paradigm can suffice in dealing with the *structural injustice* of the existing social order. It

is the structural injustice to the individual which determines her theoretical position.

Stepping away from the theorizing about justice, instead of falling back on traditional philosophical *theorein*, as oriented towards *looking*, Young in this respect follows Lyotard; and he gives absolute priority to *listening*, precisely because this concerns “the game of the just. And in this game, one speaks only inasmuch as one listens, that is, one speaks as a listener...” (Lyotard in Young, 1990: 4). Furthermore, Young goes on to emphasize that “[j]ustice ... claims ...are ...*calls, pleas, claims upon some people* by others. Rational reflection on justice begins in a hearing, in heeding a call, rather than in asserting and mastering a state of affairs, however ideal. The call to ‘be just’ is always situated in concrete social and political practices that precede and exceed the philosopher” (Young, 1990: 5, emphasis in the original).

Although nominally Young appears to follow what has been the main political and ethical terminology, namely the concept justice, her concern *is injustice*. It is this core concept which defines her position. “Normative reflection arises from hearing a cry of suffering or distress, or feeling distress oneself. The philosopher is always socially situated, and if the society is divided by oppressions, she either reinforces or struggles against them. With an emancipator interest, the philosopher apprehends given social circumstances not merely in contemplation but with passion...” (Young 1990, 5-6) This is why she goes on to address the structural problems of oppression and domination as defining issues of injustice. And, with this approach Iris Marion Young comes very close to the concepts of Women’s Court: while pressing us to listen to those who have suffered injustice, she almost recycles the claim that “[t]he unique feminist methodology evolved by the Courts of Women revolves around weaving together the personal, the political, the affective...” (eltaller, 2013)

To conclude, the difference between Nussbaum and Young is that while the former is attempting to remedy the central paradigm of

the social structures, the latter is questioning it and opening the possibly to subvert it. Therefore, with the exception of Iris Marion Young, for the most part, feminist approach to justice and injustice has not overturned the mainstream approach.

Transitional justice

The events of the Second World War mark a turning point in questions of justice and injustice. When we claim this, we then refer to the following "...facts [which] are: that six million Jews, six million human beings were helplessly...dragged to their deaths. The method employed was that of accumulated terror. First came calculated neglect, deprivation, and shame ...Second came outright starvation, combined with forced labor, when people died by the thousands...Last came the death factories – and they all died together, the young and the old, the weak and the strong, the sick and the healthy; not as people, not as men and women, as children and adults, boys and girls, not as good and bad, as beautiful and ugly – but brought down to the lowest common denominator of organic life itself, plunged into the darkest and deepest abyss of primal equality, like cattle, like matter, like things that had neither body nor soul, nor even a physiognomy upon which death could stamp its seal." (Arendt, 1994: 198).

Hannah Arendt, at first responded to these facts with disbelief. It "was really as though the abyss had opened" (Young-Bruehl, 1982: 185). She, as Giorgio Agamben after her, later articulated her response as a lack of - coupled with an absolute necessity to – understand/ing. "Thanks to a series of increasingly wide-ranging and rigorous studies ...the problem of the historical, material, technical, bureaucratic, and legal circumstances in which the extermination of the Jews took place has been sufficiently clarified (...). The same cannot be said for the ethical and political significance of the extermination, or even for a human *understanding* of what

happened there...(Agamben, 1999: 11, emphasis added). To aim was to look “[b]eyond the capacities of human comprehension ...and beyond the reach of the human justice...” (Arendt 1994: 198, emphasis in the original).

It is in recognition of these staggering, frightening events that the international community established a series of mechanisms and practices later to be designated as, and commonly referred to, as transitional justice. These practices were an attempt to establish or perhaps even restore justice but were, in effect, recognition and acknowledgement of *injustices* already committed.⁴

Although the scope of issues addressed under the umbrella of transitional justice is built around the legal procedures, it was precisely because the laws and legislatures/judiciary, national or international, could never encompass the complexity of the problems – it is therefore for those reasons that the transitional justice widened its scope so that today it includes political, social, philosophical, historical, artistic and approaches that need not be accurately placed under any of the aforementioned rubrics.

The legal approach remains the core of transitional justice. The precedent was the International Military Tribunal in Nuremberg which started at the end of 1945 and delivered its verdict almost a year later. It was clear not only from the first of such proceedings, but even more so in the aftermath of dealing with other post totalitarian and post dictatorship systems that the legal approach itself was first open to legal problems. Namely, one of the main principles of the rule of law is that one can be tried only under the laws valid at the time of the alleged criminal act. (Teitel, 2000:13) If we were to follow this principle we would have to conclude that no one accused in the Nuremberg Tribunal broke any laws. The

⁴ Transitional justice is an English term now widely in use but coined to include the original terms referring to the historical processes of *Entnazifizierung* (denazification) as well as defascistization, or *Vergangenheitsbewältigung* (coping, or dealing with the past, overcoming the past). Another way of articulating the same process is *Coming to Terms with the Past*. Transitional justice is thus often also connected to Restorative Justice.

counterargument could only fall back on moral, or even more problematic, political rationale.

However, even if the legal system could provide an unproblematic framework it was evident in many cases of the violations of human rights that the legislature, in and of itself, cannot and will not respond to the need and expectation for justice, since history points out that whole communities deny even the fact that crimes did take place and consequently deny their responsibility for the crimes which were committed (Cohen, 2001). Moreover, the requirement for substantial changes of the political communities where such violations occurred would not undergo any substantial changes if a full scope of measures, well beyond the legal procedures were not undertaken. Some of these measures and mechanisms, shaped over the second half of the XX century experiences of unthinkable violations of human rights and challenges to humanity included, but are not limited to: truth and reconciliation committees, lustration, opening secret police dossiers, rehabilitation of political prisoners, reparations, public apologies, archives, memorials and museums....

However, as significant as these extensions of legal measures were, they did not necessarily include a gender perspective. Transitional justice mechanisms attempted to remedy this, especially in the aftermath of the Balkan conflicts. "Efforts to 'add gender' to transitional justice have been most prominent with respect to legal treatment of sexual violence in conflict. In the course of 1990s the major focus of transnational feminist mobilization concerned the need to end impunity for violence against women." (Bell and O'Rourke, 2007: 26).

Even more importantly, the critique was that the concept of transitional justice should be reassessed, since it is "inevitably linked to a notion of what is the transition 'from' and 'to'". (Bell and O'Rourke, 2007: 35). This surfaces prominently with the idea of restorative justice. Namely, "...the notion of 'restoring' that lies at the heart of this conception of justice speaks of a return to a

set of relationships that for women may have been fundamentally *unjust*.” (Bell and O’Rourke, 2007: 41, emphasis added). Following some of the historical instances it becomes clear that “rebuilding post conflict societies is almost inevitably a process of re-masculinization.” (Franke, 2006: 824).

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There is an important distinction between these two contemporary venues of conceptualizing justice, i.e. mainstream and transitional. Although they appear to be running along parallel lines in one important respect they are going in opposite directions and consequently often bypass each other. Namely, one is turned toward the future and the other towards the past. It is the conceptualization of justice in its normative format which aims at being generalizable in its prescriptive mode and it is turned towards the future. Transitional justice is inevitably turned towards the past. Moreover it dwells in the past, because it is not so much about the justice, but precisely because it is about the *injustice*. It addresses the issues applicable only *post festum*, after the fact, it fills the gaps which appear to *remain in time* and are created by grave injustices, those which are *already* committed and are therefore *irreversible*. However, without addressing these injustices which to victims appear almost as gaps in time, are perceived as time stolen, it will hardly be possible to lay a solid foundation for the future. Unless dealt with, the past will remain in the present and the future will stay out of reach.

Women’s Court, again

Whereas the international community had access to the full disclosure of all the violations of human rights throughout the 1990s during the break-up of Yugoslavia, through independent media, peace keeping forces, human rights organizations, activists, researches – the case was quite different with media manipulation

of public spaces in successor countries - and this refers mostly to Serbia. The problem of course was not that the facts on mass murders, genocide, forced exile, mass rape were not known. Anybody who wanted to know could have. But the political set up created and manipulated by the Milosevic regime allowed for many who chose to deny these facts an easy way to do so. Without further extending the issue of civic responsibility and individual moral issues, the point here is that it was then, and even more importantly, still is possible to persist in maintaining this state of denial (Cohen, 2001). The consequences are dire: not any of the political, economic, cultural, or problems in educational systems, health care, can be fully explained, since they are left without any serious resolve as to their origins (for example, Serbia's official statements about the 1990s still maintain that Serbia was not in wars.)

Women's Court in Serbia, definitely, but most probably in other successor countries may contribute to dealing with this state of denial. And this would be its effect of political significance. To reiterate: the initiative to set up a Women's Court that is to follow from the wars fought after the break-up of Yugoslavia was present among feminist activists, for almost a decade, but it was only after the meetings in 2010 that it entered the second stage and moved from an idea towards its realization. In the decade in which it first surfaced it appeared that the parameters were set and the way Women's Court was organized by El Taller would strictly be followed. However, from the outset of intensifying activities in the second decade the emphasis was on giving voice to the women from of what was once Yugoslavia and thus articulating a context specific process and, it was agreed that Women in Black from Belgrade will coordinate activities on behalf of the Initiating Board.⁵

⁵ During the period which followed other groups joined the Initiative: National Alliance for Gender Equality from Skopje (representative, Savka Todorovska), Women's Lobby from Slovenia, Mothers of Srebrenica (Kada Hotic and Munira Subasic), CURE, Sarajevo and others.

The first round of intensified activities was focused on a series of seminars, with a double purpose, one to *listen* to women's grievances and to hear from them criticisms of their respective state institutions, but at the same time to inform and educate all activists who were involved in the experiences of alternative systems of establishing justice. The unprocessed grievances, unanswered resentments, processes of mourning which were rarely heard and almost *never received a response* – all these when carefully considered will comprise the contents of Women's Court proceedings. The point here is precisely that there was never any recognition of numerous - at times even appears to be an endless number of - violations of human rights.

In the second half of the year 2011, a series of workshops/trainings were organized for many activists in order to assist them in preparing public presentations of Women's Court. Varied, numerous materials, such as videos, films, brochures, for these training seminars were all prepared and distributed by Women in Black. In a geometric progression, the number of public presentations of the initiative to hold a Women's Court grew and spread the convincing stories of women's response to violence and resistance to the violations of their human rights. Importantly, the feedback from these presentations also grew and the structure of the Women's Court began to take shape. Namely, it became clear what the *process* of working towards the Women's Court was bringing - the voices of many women from every part of what used to be Yugoslavia.

Besides the presentations of materials concerning the previous alternative justice systems, such as tribunals and courts every public presentation included a discussion about the following issues: first and foremost, a response to the proposition of organizing the Women's Court, and as the majority responded with a positive answer then the main question was which issues should such a court address, where should it be held, and which period of time should be covered. The issues were slowly articulated, taking shape

and finally crystallized. The testimonies of witnesses will address the following violations of women's rights: ethnic violence, militarism, gender based violence (war rape, domestic violence, political repression of women human rights defenders) and economic violence against women. After a series of discussions each group, each country focused on gathering, documenting, as concretely as possible, individual stories of either ethnic or economic or gender based violations of human rights. It was also clear that they could not be easily differentiated, set apart, so that ethnic violence spilt over into poverty and economic deprivation, war rapes were ethnically motivated, and so on. Once thus specified, the activities in 2013 were focused, more and more, on bringing potential witnesses into the process of building up the Women's Court for Yugoslavia; and listening to often painful stories of individual women, their grievances and resistances; this was becoming the core of the process. These women, regardless of the support of many other women around them, will have to face fears for the personal safety and the safety of their family members as they relive their traumatic experiences.

The time covered by the Women's Court should extend into the last decade, since the conclusion is that peace is not just the absence of armed conflict, but much more. The *locus* of this important event had significance. The suggestions were either Belgrade or Sarajevo with directly opposing explanations, the first that it was "the belly of the beast" regarding the wars fought in 1990s, and the second that it was the city which suffered the most. This issue is not resolved to date, although the decision is more likely to be Sarajevo.

The number and the substance of activities organized in the region, and, to a large extent coordinated by Women in Black, as well as the local women's groups, is impressive: there were 33 public presentations on the Women's Courts and/or Tribunals organized in 28 cities, with the participation of close to 450 activists. However if the total number of all activities (public presentations,

consultancy meetings, seminars and workshops) connected to the process of preparing and organizing the Women's Court is considered then these figures are even higher: 200 civil society groups have given their support in over 100 cities and towns of what used to be Yugoslavia; this included over 4000 participants and over 250 activists who have planned organized and carried out all these activities (Report for 2013, zenskisud.org)

Parallel to the public presentations there were consultancy meetings of the organizers/leaders of these presentations. These meetings provided the much needed space and time for exchanges of sometimes very diverse experiences and responses to the presentations of the materials on women's courts generally and also included the debates on the many aspects of organizing Women's Court in our region. These meetings led to the conclusion that the specificities of each context following from every successor country of Yugoslavia must be acknowledged and taken into account in the next steps of organizing this process. Thus the process became increasingly complex, in as much as the context here refers to the respective differences within different states, which in turn aspire to mark the national identities. As is known, but at this point needs to be underlined, the clear aspirations of making nation states were not met in all cases during the wars in the 1990s. It is my assessment that these issues are brought to bear on the identities and political choices of all the actors involving the conceptualization and will continue in organizing the Women's Court for Yugoslavia. However this requires further clarification and caution since the process is still an ongoing one and the complexity of the issues can only grow in its complexity, even become more entangled.

The assumed principle of the core group, though not explicitly formulated, albeit sometimes unfolded in its detail and articulated as a feminist code of this particular process, is that we will abide by our own political choices of peace and (feminist solidarity), consciously building a critical distance from our respective nationalist policies.

These issues will be raised against the backdrop of different, often divergent political settings and yet, the goal is that they remain in harmony and certainly (need) not be unison. For example in Serbia the issues will be raised against the backdrop of strengthening nationalist, right wing retrograde political forces; in Kosovo this is happening against the background of the founding of a young, new nation-state; in Bosnia in a somewhat dysfunctional political union of former war enemies coming from different ethnic/national/religious/cultural background, etc. etc., Yet, from each of these successor states there are one or more representatives in the Initiative Board, who have initially gathered as feminist activists with a long history of political alliances, camaraderie, mutual support throughout difficult times and last but most certainly not the least – more than two decades of building personal friendships. There are, also, albeit to a much lesser extent, generational divisions, the core group belonging to the old alliances, and some younger activists joining in at a later date.

While refraining to pass any judgment whatsoever, or assigning any value judgment, we need to be aware that among these some are preoccupied with supporting their respective nation states in the making; to make the matters more complicated the nation building process was and still is challenged, attacked, injured precisely by the states whose citizens are activists belonging to the same core group. Therefore the most challenging task will be to balance the loyalties, political and other choices, options within the process....These loyalties are diverging from each other.

A concerted effort leading to a common goal of addressing different injustices will require extremely nuanced political options.

However the process is already well under way. If successful, it will be against all odds, and, have an effect of political miracle, comparable only to creating after WWI, country, Yugoslavia from the opposing sides in the same war. At the same time it will be a concrete policy statement distinct from the abstraction of justice,

and, in keeping with the theoretical standpoint of placing *injustice* as a point of reference in our real world.

During the recent period there were meetings of the Initiative Board. At one of the last meetings in Skopje in February in 2013 it was agreed that this group will be renamed as the Organizing Board. The dates hereto only proposed were then agreed on by consensus, ; November 2014 was going to be the time when the Women's Court for the crimes against peace during the period of 1991-1999 in the Balkans is going to be held. We have entered the third stage, leading the final event, Women's Court. Meanwhile, the dates have been postponed to the spring 2015, the main problem being raising funds to cover the minimum of expenses. The core group is still faced with a complicated task at hand, namely navigating through the maze of mapping the next very intense activities of the process leading to this event. This means continuing to listen and hear the voices of women, people whose rights have been denied, violated, pulling these voices together so as to create a harmony of strong, clear tones which will send an unequivocal message into the public space. The message should be an outcry against injustices.

Women's Court for Yugoslavia will not produce any names – since that is not the goal – but will clearly point to and offer ample evidence of the institutions and forces on the public scene - the concrete social, economic and political forces which should bear the responsibility of decades of devastation. But what will give it strength is the passion of this, older generation feminists from what was once Yugoslavia. It will be a legacy of a generation of feminist activists who, consciously or unconsciously, are burdened with responsibility, even at times with a feeling of guilt, because they did not - regardless of the fact that they could not - prevent or save or rescue or guard against or stop the brutal conflicts... None of this was achieved despite decades of tireless peace activism. So, the feeling is one of having a debt. Now, instead of joining in the palliative simulations of political solutions – of-

ten project/donor driven – or useless prescriptions and so called healing therapies, these women just want, before taking their leave of the public scene to cry out from the top of their voices this articulate, loud, resolute *no to all injustices*.

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Rada Iveković

Violence and Healing: The War and the Post-War Period from the First Generation and Beyond¹

_____ have been able to write this one and some other texts without gaining insight from the preparatory work for the Women's Court and from the statements and testimonies of women witnesses, thanks to the patient and remarkable work of the Women in Black group (Belgrade) and by other feminist groups or peace associations from Yugoslavia and post-Yugoslavia. For this, i am especially grateful to Staša Zajović and Women in Black's energy and commitment to gender justice. My special thanks also go to Lina Vušković who patiently read and commented the original of the present paper (and some others), submitting queries until we clarified ambiguous points. Thanks to her, the text is more readable i am sure, and the author is exclusively responsible for all places that have remained obscure. The shortcomings of the original as well as of the translation that i also interfered with in order to check the philosophical coherence, are mine since i am not (neither is the translator, whom i thank for her efforts) a native speaker of English (R.I.).

The war and war violence in Yugoslav countries (hereafter: “in Yugoslavia”) took place in their most brutal forms from 1991 to 1999. The post-war violence of varying intensities has never been discontinued since 1999, and has been going on to this day. Besides *the first* and the most affected generation by the war, *the second generation* that grew up in peace – however unsatisfactory that peace may have been – now takes part in reflecting on the occurred past and present violence. It is possible that views of these two generations do not coincide completely. For the third generation, the war may already be history, which does not mean that its traces and consequences are eliminated or healed.

The women’s war and post-war direct testimonies and incredibly sharp observations clearly highlight, criticize and condemn the local patriarchy, entangled in the social-economic system, in the war and in the peacetime order. Courageously and with great lucidity and hope in the accomplishment of justice, they draw attention to the wartime expulsions, exile or even imprisonments that are often extended beyond the conclusion of peace (resulting in becoming homeless due to expropriation or the destruction of homes, forced evictions, exodus, deportation...) They emphasise and denounce the brutality of the physical and sexual torture of women, girls and even infants, and sometimes even violence against men, regardless of the motivating cause (“ethnic”, “political” or other). They highlight and condemn nationalist bestialities of every kind, committed by state armies, by national self-appointed units, by militias and terrorist groups of most diverse denominations, by the neighbours and friends, by enemies, the crimes committed against individual females, as well as against their extended families and

communities. They emphasise the militarization, and societies turning rude and wild overnight. They underline the consensus that, to a large degree, exists around the *systematic impunity of violence against women*, including violence after the war. Indifference in this regard prevails in society as well as among state authorities. The testimonies demonstrate an excellent level of political analysis of the economic violence and property relations, of the change in the social-political system and its connections to all other forms of violence in a patriarchal society. Although, on the whole, they appear fragmentary and lacking in accompanying explanations and context, some of the testimonies are tiny amazing pearl of conciseness, of *precise thought born from tormented and tortured lives*, and are sometimes complete political programmes. All testimonies speak about the great and irreversible loss of the dearest ones, of property, of peace and good life, as well as about the bereavement of one's own selves, in terms such as: "On 15 August 1992, I died. I am alive. Because I need to tell the truth (...)."

What can we conclude from the testimonies?

An overall devastation

Having read the women's testimonies on the economic, ethnic, sexual and militarist violence during the Yugoslav wars of the nineties and throughout the post-war period, we may be tempted to hastily conclude on some of their common features, while overlooking the scope of a potential future project to grow from the expression of feminine receptivity and derived from it. Jumping to conclusions could lead us to see only the testimonies' dark sides ("it is all terrible and hopeless" - a view that would not be completely wrong), and not the astoundingly lucid reflections that the women get from them, or that we can ourselves draw by analysing them.

What should certainly be taken into account in the scrutiny, and *what, by the nature of things, is not abundant in the testimonies, is*

the international context (in all the phases during these two and more decades). An “objectivised” trans-Yugoslav narrative of the country’s falling apart is also missing – but it is in a way nevertheless suggested through diverse *individual* testimonies that paint *together* a complex mosaic.² The testimonies, that give partial pictures since they are focused on individual fates, nevertheless highlight, in the complexity of causes and conditions of war, two main aspects: 1) the “redistribution”, i.e. *plundering* – at the end of socialism – of social wealth, and 2) the general international circumstances in which this was taking place: we know them through retrospective historical deduction to be neo-liberal (the latter is however less obvious with individual witnesses). The two aspects are closely connected, but in different manners within different stages of the process of war and of the subsequent “transition.” The plundering of “nobody’s” social wealth by the new elites multiplied by 8 (i.e. in each of the eight constituent units of the former federal state) would not have happened had the international loans taken by SFRY with the West not come due at that time³. The unifying umbrella of the League of Communists here proved to be powerless in maintaining the cohesion and it soon fell apart. The leaderships at the level of federal units had already contributed to the rise of nationalisms by shifting the responsibility for the crisis to other republics and blaming the federation. Western creditors chose to put their trust in the nationalist leaders Milošević and Tudjman – nationalist winners of multi-party elections in Croatia and Serbia – rather than in the reformed communists represented by the last federal Prime minister Ante Marković⁴. A house with-

2 This would be an important topic to develop, but it is not our task here.

3 For a more thorough analysis of history, as well as the beginning of the history of the Party’s of falling apart and subsequently of that of the SFRY, which was a party state, see Darko Suvin, *Samo jednom se ljubi*, Rosa Luxemburg Stiftung, Beograd, 2014. Our description here is just a cursory one and without references to documentation.

4 Of course that Ante Marković’s economic program was a neo-liberal one and went with the grain of the “international community”, so that despite its initial real success it would probably not have led to a more egalitarian society. However, if this program had received international loans (which it didn’t), it may have been possible to preserve

out foundations - worn-out, uncompetitive economy, and without a roof - the League of Communists, the former hegemonical authority having collapsed, came down when people started seeking refuge in the next readily available authority : the nation. There, new oligarchs (former party-state and economic powerbrokers) found their way in and hastily “bought up” the companies and estates across the country for nothing. Overnight, people lost their jobs (for various reasons, ethnic, political, economic and other, and women foremost), they lost their bank savings, and were left without authority to appeal to and from which to seek legal remedies. Suddenly, there were as many nations as there were oligarchies in becoming, eager for their own piece of the pie and ready to wage war for it. Overnight, any kind of legal order disappeared through the overall pillage, and there was no end to crime. Bank savings and properties were seized from people; various social benefit institutions were forcibly made to melt away, existing social funds were depleted (pension, housing, health, and education), looting flourished under the nationalist excuse that it was “others” who had taken everything from us.

The “international community”, however, did not consider the anti-nationalist oppositions or their unification worth of being supported. It saw the solution in the transition from socialism to capitalism rather than in the reform of socialism.

A nationalist discourse, well described in feminist literature and elsewhere, has been used to justify the state of anarchy, crime, mafia, looting, violence and war. It served the purpose of war mongering and it has not fallen silent even today, some twenty to twenty-five years after the war.

The women’s testimonies suggest that a deeper legislative overhaul will be needed across the Yugoslav countries in order to address these problems and seek legal remedies. As far as property relations

the unity of country and to avoid war. Or it may already have been too late, in case the nationalisms had already gone too far – which is plausible.

are concerned, beyond and even regardless of the violence, of the dispossession and the deprivation suffered, what remained after the war is mere chaos and human conditions practically impossible to resolve.

The testimonies, to start with, cannot easily be categorised as dealing separately with economic, ethnic, sexual or militarist violence. We then claim that a great deal of such long-term, diverse and profound brutality has been turned into constant *structural violence* so that we nowadays live in violent societies. The first thing that we observe is that there is a continuity between those supposedly separate forms of violence, and that *all, each and every one* of them, can be classified as political, but also as social, in addition to the specific qualification of each of them. Another continuity that we observe is the one between the war and the post-war violence. Several women say it explicitly.

If there is continuity between the war and the post-war violence, *how then not to assume that there has been a continuity between the pre-war and war violence against women too?* We here refer to the SFRY, itself not at all flawless with regard to women; after all, none of the known countries are (*toute proportion gardée*). Such continuity undoubtedly exists, and therefore should be described. But the conclusion about the timelessness of violence against women and against other “weak” groups in society should not lead to the conclusion about “an eternal feminine” and its fatality, about the immutability of the status of women and about a supposed normality of violence against them. On the contrary. To claim that there has been continuity in the violence on women at all times leads us to think of the need of understanding its different circumstances, common traits and causes in view of seeking repair. Feminist “theory” and “practice” cannot move away from one another. There is evidence of the timelessness of violent hostility towards women, by which brutality to other groups – depending on the historic segment - can by no means be denied because, on the contrary, all those different types of violence are connected,

concordant, interdependent and complementary. Such facts cannot lead to fatalism, but to the probing of women's knowledge and into further struggle: we are sick and tired with eternal brutality.

The most important conclusion from the tribunal will relate to the women's *demands in view of* the building of a future just and democratic society that includes gender justice. This will also take into account their political, social, economic and cultural claims as well as the proposed legal remedies. The horizon of women's *cultural* expectations⁵ should be taken into account, as cultural aspects are most easily disregarded. The democracy we aim at cannot be achieved through a merely formal "state" democracy (or a "democracy" usurped by the state), but it must also comprise sex/gender democracy, equality before the law as well as material equality. And of course, it should be an effective democracy regardless of the demographic social fabric disrupted through the war and in a society that is still plural (though traumatically altered) from the ethnic, national, linguistic and all other points of view, in addition to all the other war-related disturbances.

Along with *mass rape*, "*ethnic cleansing*"⁶ has certainly been the most dramatic aspect of the Yugoslav wars. Neither was a "specialty" of this or that people, this or that nation or even the Balkans, but, as a rule, they came together. Ethnic (racial; national) and sexual violence heavily supported one another in various proportions. Ethnic or national violence has usually a clearly described perpetrator: the state, the authorities, a state-in-becoming, a nation-in-becoming, an army, or some militia in their name. A slight shift in thinking is needed in order to see that the sexual war-violence - and even the violence in troubled neither-war-nor-peace circumstances - actually has the same perpetrators, and not merely "individuals". This also holds true for situations in which

5 For example, coming out of a militarised culture and militarised society that had become more primitive, more rural and more violent than it used to be on the eve of the war.

6 Though the term is problematic in several respects, it is commonly used. We nevertheless use it and cannot initiate here considerations of its inadequacy.

“our side” is supposedly not at war, i.e. when “our” troops wage war on the territory of the others. When describing such situations one should in principle distinguish between the civilian population and an army. But in civil wars – and this is what those wars basically were, although they can claim some hybridity too – such a distinction is almost impossible to make. In any case, in those wars, it is the civilian population that suffers most, and conditions of *apartheid* are created in war zones if the population that is considered “allogeneic” has not been completely deported through the “cleansing”. The post-war economic stalemate, unresolved and unsolvable political, property and other relations in Yugoslavia’s successor states have led to a long-term stagnation in all aspects of life. The horizon of any kind of political solution of the complex questions resulting from the warfare has been erased.

As a consequence of the war, almost everyone in the region blames the others, which is completely in disharmony with feminist ethics, and actually with ethics as such *in general*.

To summarize, Goran Fejić describes it as follows⁷:

By shifting the responsibility for the economic crisis and the soaring inflation to “others” and to the federal government, local nationalist politicians were trying to save their shaken political legitimacy. Along the way, they were stirring up the feelings of every national group for being the victim of others or of some Leviathan of the federal command system.

Industrialised Slovenia, exporter of finished goods, wanted to keep a larger part of the earned foreign currency. Less developed republics complained about subsidizing the industry of more developed republics by their supply of cheap raw materials. Ethno-nationalisms kept boosting one another and filling the vacuum left by the depressing reality, the disappearance of ideology and the absence of any trans-Yu-

7 The passage in italics that follows is his, for which i thank him. And i also thank Goran Fejić for his critical remarks and attentive reading of my papers in general. Thanks to him this version should be more satisfactory.

goslav public space where divergent interests could be cleared through dialogue and produce something new. Our crisis was only producing, dumb and murderous identity rage.

In April 1990, nationalist parties won the elections in Slovenia and Croatia, while Milošević received electoral blessings in Serbia in December of the same year. In a booming voice, he was leading his “anti-bureaucratic revolution.” After abolishing the autonomy of Kosovo and Vojvodina (the two “autonomous regions”), he supported nationalist aspirations of Serbs in Croatia and Bosnia. Tired by the crisis and the sclerotized regime, the people followed its new prophets. In Serbia, this came to be known as “the advent of the people.” At the beginning of his rise, Milošević named Kosovo’s disobedience a “counter-revolution”, but very soon thereafter, he abandoned any kind of Marxist rhetoric. The objective was no longer the “well-being of the working class”, but the “well-being of the Serbian nation”.

In Croatia, as much as in Serbia, the press was hammering on the subject of intractable enemies: in Belgrade, all Croatian nationalists, and soon all Croats without distinction, were called ustashas. In Zagreb, the very idea of Yugoslavia was being increasingly translated as a synonym for Serbian expansionism. Soon, they would talk only about “Serboslavia” and call all Serbs chetniks.

Ante Marković, the reformist Prime Minister, tried to oppose the growth of nationalist forces by launching a new reform program and insisting on the need for a fast-track integration into Europe; he also founded his own party – the “Party of Democratic Changes.” It was like a breath of hope, but it happened to be short-lived.

Ante Marković’s party never really managed to take off. The nationalists blocked it. The demolishers of the country had already seized control in both Belgrade and Zagreb, and thus elections at the federal level never took place.

Why did Europe turn its back to Marković so fast, hurrying to enter into dialogue with the new nationalist leaders (and “vožds”⁸ of the people)? I do not think that this was a strategic choice. It was rather a matter of absence of any kind of strategy. In its somewhat simplistic post-Cold War triumphalism, Europe and the West had in general fetishised the electoral event and therefore could and did not want to deny the victory at the elections in the federated units⁹. Once the war started, the cessation of hostilities became the priority objective so the “international community”, naturally, began negotiating with the warlords who, resorting to bombs, became unavoidable interlocutors.

The specificity of violence against women

Everyone knows about “the” specificity of sexual violence against women. It is less known that there is specificity of violence against women in *other areas* as well, e.g. in the area of economic violence. With certain categories of women, such as Roma women – who were or are victims (as well as fighters and survivors) in every respect, all these forms of violence accumulate. All other forms of violence, including those that do not concern women directly, are expressed *through sex and gender* hierarchy and *reinforced by it*. That is precisely the specificity of the violence against women: it appears to multiply, to take the lead and to validate the paradigm in *any other* form of violence.

In a situation of warfare and of the subsequent post-war havoc (even in places where there was no war (the “Erased” in Slovenia; women workers in Montenegro), women were far more rapidly and profoundly affected by hasty privatisation, plundering of public property and by widespread looting. This is best evidenced by Montenegrin women workers, though the processes were similar everywhere. Before completely losing their jobs, they were utterly

8 Vožd' is an archaic Serbian title, the word for “leader” (translator's note).

9 Nevertheless, in 2006 Europe would refuse to recognize the victory of Hamas in Palestine. G. F.

exploited for a long time, for months and even years: they were not paid their salaries, or were paid just a part and with intentional delays, the whole accompanied by a range of explanations or without any explanation. Diverse kinds of blackmailing and extortions made them unable to file complaints and then, there was often no one to complain to. At best, they were given the minimum wage, but even then their pension contributions and insurance were not paid, which they were not even aware of since they were not receiving any payslips. They could not go on maternity leave, or, alternatively, they would be forcibly sent on “leave”; or, again, they were forced to work unpaid overtime hours. They were exposed to “war-like” mobilisations for work. They were bought by successive employers from each other without even knowing it; companies, once public, became private and kept changing their names and legal status. The women who had been regular workers became unreported employees, now employed illegally, and as union workers, they were experiencing repression and were exposed to discrimination as political opposition and as fighters for their workers’ rights. Women who lost their jobs or those who received a forced work-assignment (forced mobilisation), would be sent to work in another place, sometimes one that, due to war circumstances, they could not reach without exposing themselves to life-threatening danger. Moreover, they were discriminated against and mistreated on “ethnic” or “religious” bases, and were despoiled of their apartments and property. Violence was common, women were beaten and sometimes killed, in some cases with their entire families. Expulsions from homes, forced labour (war mobilization) and similar traumatic situations were happening simultaneously and at the same place (in the same families or in their neighbourhood) with mass killings, executions, disappearances of sons and husbands, and forced mobilization of men. People were arrested, interrogated under duress, intimidated, threatened and attacked in the middle of the night. Thus, women were never exposed just to one single type of terror, but to a whole horror series. Regardless of that, they kept working and helping each other in solidary groups

and were additionally hiding deserters. With their children, they were expelled from their apartments by the police (often precisely on ethnic grounds or, as in Croatia, because a family member was employed by the Yugoslav People's Army /which had gradually become Serbian nationalist, but had been all-Yugoslav to start with/); this was called "dislodgement". Or else, someone would move into their apartments during their absence, for any reason or no reason except scrambling greed, not even necessarily an "ethnic" reason. One would grab whatever one could get hold of. There was no authority women workers could appeal to, be it concerning their workers' rights or the expulsions from their apartments. A number of cases are lingering as unresolved to this day. In a small number of cases, women succeeded to subsequently reclaim their apartments after filing legal complaints. But the rule of law has not yet taken root, or is slow in doing so. Violence at the workplace included sexual harassment and abuse, as well as "ordinary" physical violence, mobbing, control over their use of work breaks or going to toilets, control of their menstruations etc. The violence targeted women on the basis of their ethnic background or political allegiance, even in cases when the victims did not claim such background or allegiance, as the latter would simply be *attributed to them*. Soon, women started receiving salaries lower than those of men for the same work, and workers with work-related disability started losing their status and the possibility to claim compensation. Young people and older women could no longer get employment. Poverty grew, was imposed and consequently became the basis of further discrimination. Anarchy pervaded labour relations and the application of the labour law. In that framework too, economic violence against women was specific to their sex no less than sexual and other forms of violence.

A woman from Kosovo now living and working in France told this author about the terror spread by Serbian nationalist troops and paramilitary or even civilians, although she confirmed having lived in good neighbourhood understanding with Serbs before the war. She was from an area with an Albanian majority. At night,

they would hear firing, were terrorised, and would bolt themselves inside houses. Albanian voices and imprecations would be heard from outside, people would knock on their doors asking for refuge, claiming that they were under menace and in flight. When women were tricked into opening the doors, many of them were killed with their infant children (the particular place was Djakovica). Serbian nationalist militias speaking Albanian did the executions. The nineties were remembered as traumatic. Again, many Montenegrin women remember the nineties with outrage, bitterness, and humiliation for all that had been done to them, for all that happened to their neighbours, for all the iniquity that they could not avert (apart from what they prevented or alleviated) and mostly with regret for the country lost (the loss of the common country is held by most as a common trauma). They remember how they were politically blackmailed in order not to lose a job, or made to join a certain party, or how, at elections, they were offered 50 Euros to vote for a specific party. Most of all, they complain because nobody was held accountable for the disaster even when they managed, with great effort and difficulty to file legal complaints or appeals. In doing so, they were most often obstructed, including physically. Impunity continued even after some of the relevant institutions were re-established. They lost years in waiting with no result.

It is the issue of sex violence against women - accompanied with either national or ethnic “justifications” - that serves to construct the nation and to build the national myth. But it needs to be stressed that in all cases, and in addition to other “reasons”, women are brutalised simply because they are women and for being an easy target for cowards. These themes are well known, unoriginal and do not need to be repeated to a female audience. In addition, it should not be forgotten that in both war and peace, women are raped by the members of *their own* nation, and not only or predominantly by the “others” as the nationalists would have us believe. The nation is seen and constructed as a vulnerable female and motherly body that needs to be protected when it comes to

one's own nation, and to be "impregnated", appropriated and destroyed when it comes to other nations. It is also represented in the form of territory and borders. The nation does not trust its women, and it therefore places them into custody and into a subordinate position as "sisters" in relation to "brothers" who are themselves under the undisputed dominance of the "father of the nation". In the symbolic *identification* with such a "father" of the nation, that is required from *both* brothers *and* sisters, but brothers would, of course, be more successful in the endeavour of identifying by the nature of things. They resemble more the ideal. Hence what is left for sisters is to just turn their predestined failure into an accepted position of subordination and to try identifying with the *other* sex (the sex of the father of the nation) *as much as possible*, knowing that they cannot do it perfectly. This means that women cultivate socialisation, solidarity, sharing and empathy - roles that are viewed as traditionally female, even when imposed. The whole thing can be compared with the concept of "racial whitening" in the sense of "racial improvement" that has emerged originally in colonies on the American continents (Brazil, for Portugal; Guatemala, for Spain, etc.) and that remains the permanent source of retrograde politics of manipulation of *gender and race* (likewise, constructed concepts). In order to pursue "racial whitening and improvement", the rulers needed, of course, not only to reign over natives, but in the first instance, to rule over the women, including their own. But if such a role of women's socialisation is traditional, and even internalised and imposed, it is nevertheless welcome under certain circumstances, since it transcends the sex barrier in a situation where the socialisation of men is only a socialisation (and understanding) of the same and with the same, one that keeps the boundaries closed. A woman's socialisation and empathy with the other, which is induced in her by a "higher-level" demand for identification with the *ideal of the father* of the nation, is added to women's *original identification with the same sex*, their own: women are in principle socially more capable since they are socially open to both sexes (and even beyond), which was,

after all, shown during and after the war. Such *women's socialisation on (at least) two fronts* has, eventually and long since, become a kind of *women's culture*.

Such a two- or multi-front ethos is, in principle, closer to a possible *culture of non-violence* – although there is no warranty or essentialised and naturalised casting into “eternity” or into the “by default”. Yet, it can be helpful in efforts to change cultural patterns. A culture of non-violence in our region is yet to be built; it is a task for the future, and the Women's Court is certainly a contribution to it. Thus, the women's movements and the Women's Court that are at the basis of the peace potential, can *forestall*, overturn and take advantage of the symbolic and natural asymmetry of sexes, which is called gender, and use it in a constructive sense.

Since women are the ones who give birth, it is they who come from the same sex, while men are born from the other sex. In a socio-political and historical compensation therefore, relying on physical strength and violence, *men get hold of birth* through the establishment of marriage, of control over women and through the imposing of the father's name in many cultures. Moreover, they even get women to “mend” their disconnected male lineage (“invisibly” - since women do not transmit their surname or domination). Male lineage is always interrupted since sons are not born from fathers but from mothers. Only female lineage, that is socially and politically unrecognized, has continuity since girls are born from mothers. However, the obvious lineage continuity is denied to them, as they do not carry forward their names, and have instead to accept the father's name. In the war and its aftermath - the newly-ruralised, newly-militarised, newly-primitivised, disoriented and societies gone savage, we have seen such mechanisms at work at appalling scales, especially attempts of pushing women back into “traditional” roles. In addition to being treated as objects and never as subjects, women are also conventionally used in nationalistic frenzy and war as a *medium*, i.e. as a *means for*

one group of men to send a message and a threat to another group of men: here is what we are doing to “your women.”

In societies that never cared much for the position of women and that became even more primitively patriarchal as a consequence of the war - and partly also under the influence of a certain type of modernity - it is very important to hear women’s voices of protest and resistance as well as the testimonies of the victims. It is vital to highlight the continuity of violence against women and to make it *visible*, but also to show what women have politically learned from their experience, and it is worth hearing women’s demands. It is essential to extract women’s *demands* from those testimonies.

Regarding the violence, it is important that the authorities, the state and its institutions, schools and other educational instances, publicly acknowledge the existence of such violence and especially of rape in war. Women witnesses demand the standardization of penal criteria and procedures regardless of the ethnic or other background of the perpetrators, and request courts to be more expeditious in dealing with such cases and in investigating suspects. Women, women’s and civic groups should be encouraged to file legal complaints. Although the law is not the same thing as justice, legal instruments should, as much as possible, include a restorative aspect, besides the retributive one, and should provide protection, as well as legal and moral satisfaction. Impunity with regard to violence against women cannot be tolerated any longer. Today (in 2014-15), we can see that there is in principle a *world consensus* about this in most countries throughout Asia, Africa and Latin America, even in those countries where the guilt concerning the violence is traditionally transferred to the victim, especially when the victim is a woman.

Impunity is, however, what the witnesses complain about. Former victims still too often face their former torturers who enjoy freedom and whose looseness continues torturing them with painful memory, exposing them to ridicule and shame. During the war, and even after the war, many women complained about the con-

tinuity and similarity of the sexual violence they suffered during or after the war, sometimes from the same individuals. In some cases, when perpetrators are close to the authorities, the militia or the police, nothing could or can be done and they could not be stopped from continually brutally intruding into the lives of the sufferers. Sexual violence, regardless of whether committed with “ethnic” or any other classificatory “justification”, does not consist of mere male sexual gratification; as a rule, it comes with cruelty, terror, utter vulgarity, physical violence, beating, pulling of hair, tearing of clothes, exposing the body, breaking of limbs, extreme physical humiliation, the entire grim scenario being purposely designed to induce fear and to intimidate. The assault is often perpetrated by a group and the victim is then held imprisoned in hidden places or organised camps, or handed over and sold to other groups. During the war, there were cases whereby armed militias would hand over or resell victims to other militias, even those politically labelled as “enemies”. Commerce and women-trafficking is rife between various nationalists and criminals, with no impediment in ideologies. In relation to the ongoing and historical war against women, to *femicide*¹⁰, parallel to and embedded into any, and especially in the civil war, these groups happen to be on *the same side*. Besides the rape victims in notorious and well-known camps, there were many victims who were held captive in groups or alone in individual houses and in isolation over longer periods of time, sometimes for months, maybe years. This comes closer to the way of acting in femicide when the latter is a standing and politically constitutive feat in a society. There is

10 Also: “femicide”. Examples of massive attempts at the *extermination of womankind* are not lacking in the history of humankind. One of them is the European Witch hunt, which was no joke and which is largely uncontradicted, and that lasted until late Enlightenment. A term was coined here, witty but linguistically hybridous – “gynocide.” In Mexico today, torture, mass rape, mass assassinations of women and accompanying impunity have taken on frightening proportions. There is a practice in India, China, and other countries of selective abortions of female foetuses, killings of female newborns with the same effect, and starvation of girls. These have always been “normal” practices of humankind. The ageold and largely tolerated general hunt on women has been revived on a far larger scale over the past years, and has also spread into the current wars (mainly caused by the west) in some Muslim (especially Arab) countries.

generally a far greater political and societal acceptance for violence against women than there is forbearance of violence against men. This goes totally against the cliché appearing in several people's proverbs, which commands that priority in protection or rescue operations be given to women¹¹. This is often not how it happens in reality. Also, several cases have been described where such victims had later been denied the status of civilian victims of war and of rape since they were not imprisoned or "officially" listed in camps or with post-factum evidence seeking offices, or they could not "prove" that they were victims. Such cases are among the most scandalous ones and show the complicity of the institutional and social politics, since women in such situations could receive neither psychological nor legal aid after the trauma, or ask for and receive compensation. Most women witnesses from Bosnia and Herzegovina agree that the same treatment and the same law should apply to women from the entire territory, regardless of the Dayton agreements freezing of partitioning the territories. Accordingly, their sufferings should be publicly acknowledged and their brutalizers prosecuted while the state should be at the forefront and supporting those women. We could thus move away from the targeted but not yet quite accomplished model where *feminicide* would have been inscribed into the foundations of the system¹² as

11 "Women and children first", and the like. Both violence as well as the discourse about non-violence towards women come from one and the same source. The former discloses the real situation (brutality and hate speech), while the latter presents the desired but unachieved condition, an alternative, as well as a display of male "righteousness", in cases when truth can be blurred by narratives. The culture of "collective memory" functions on such a scramble of truth.

12 Jules Falquet, "Des assassinats de Ciudad Juárez au phénomène des féminicides : de nouvelles formes de violences contre les femmes?" www.contretemps.eu/auteurs/jules-falquet. The author explores mass killings of women in present-day Mexico, and connects them to the change in the production-process structures within the latest phase in neo-liberalism. The latter includes, in such a scenario, the necessity of killing as well as of non-compensation of the labour force itself (in this case: women). The mass assassinations (preceded by torture and accompanied by all sorts of sordid circumstances) are linked with the fact of partnerships among mafia organizations dealing drugs, corrupt police, and male oligarchies; the author comes to the conclusion that in neo-compradorial economic-political systems (whose poorer relatives are our systems) feminicide occurs as completely consensual and constitutive, and even as

its constitutive part – the neoliberal system in this case, that has been late in coming to the Balkans.

General modernity and violence against women

We shall here introduce the concept of a “general modernity” that encompasses both socialist modernity as well as capitalist modernity. While writing about this, Radomir Konstantinović showed that, with regard to the topic we are interested in, there is no substantial difference between the two¹³.

A brief and quick philosophical-historical overview could show (among other possible outlines) the distinctions between two types of modernity, both concerned with the position of women and with possible violence against them, each from a different viewpoint: the first would be the one that theoretically follows from philosopher John Locke and that theorises private property and, with it, the (non)representativeness in electoral bodies: only those that own property are represented, which excludes everyone but men from the higher classes. Are excluded from the representation, and therefore from the government, colonised people, women, children, the mentally ill, all those whose property is not based on possession – in the first place on the possession of their own selves: they do not have exclusive control over their own selves, whatever

an indispensable link within the chain in conditions of absolute impunity (nobody cares that women are systematically being massacred individually and as a group). Women, or other numerous victims, have absolutely no one to turn to for protection under such conditions; there is no higher authority, which was also the case here during the war. In Mexico, women will have no institutions to resort to until the *people on the whole* rebel and produce the revolution – the qualitative change, reversing the current hegemony. The people have just recently (2014) slowly started waking-up and protesting, with regard to the case of 43 killed students (men). Something may come from here, and nothing can come from states infiltrated by the mafia and by crime.

13 See Konstantinović's work in its entirety, and in particular his *Filosofija palanke* (*A Philosophy of the 'palanka'*), and also, among others, my interpretation *Patrijarhat - čitanje i komentari izabranih dijelova Filosofije palanke*, published by the Women in Black, Belgrade, and available on their website in Serbocroatian.

the reasons. And so women were not excluded as women, but as non-owners. In Anglo-Saxon law, which does not seal up those categories once and for all, and that it is constantly moving, widows or older unmarried daughters could, as exceptions, have access to inheritance. And, over time, the height of ownership, of property or the amount that allowed the access to political representation was lowered, so that women, and the working class were over time included among the voters, and that, after long struggles, the African Americans entered among those as well in 1965. in the USA, i.e. they were given civil rights and became citizens. It is important to understand that, under such conditions of a “first” modernity, the connection between the political representation (and therefore public visibility), ownership and violence is a very close one. The dispossessed have no access to a piece of the common pie, and are therefore negligible and susceptible of violence. Whoever (due to this or to any other reasons) is not represented, remains also imperceptible, and violence against him/her is also unnoticeable, it is allowed, tolerated or more easily accepted. Rights are unevenly distributed over these spheres, in a certain evolution and within differences dependent on the type of legal system. Women are “accidentally” and everywhere found in lower categories, and even when they sometimes manage to rise to upper categories (which is mainly the result of long and still ongoing struggles), the law is traditionally differentially somewhat more flexible when it applies to them, and with considerable mutual differences from one system to another when they are concerned. Such a law of “capitalist modernity” is based on the individual and on corresponding *private property*.

The second type of modernity could be the one that we used to know in one of its forms in Yugoslavia, and that implies *social ownership*¹⁴ of the means of production as well as the *same rights*

14 Whether *društveno vlasništvo* is to be translated as *social property* (which it literally means) or as *public property*, is a matter either of political choice or of philosophical ignorance. I (R.L., the author) choose of course the term of *social property*, which can otherwise also be translated as *common property* or even *common good(s)* :

for men and women, and hence for all citizens including, of course, different “nationalities”. In principle. It implied one kind of social and human solidarity that is not even possible in the first type of modernity we mentioned (but as an exception of some individual effort, which already restricts its generalisation), nor is it anticipated there.

Some feminist theorists today invoke *a third type of modernity* that would include women’s methods and be based on them, e.g. *care, concern, help or nurturing* that women have cultivated both historically and traditionally, as well as through learning processes over generations; women have displayed those towards the community, the family and individuals, as well as through associations and alliances regardless of the time, of the type of government or of property relations¹⁵.

It goes without saying that, due to the big leap backwards of entire societies and state structures, all this was called into question in post-Yugoslav countries. A fair level of development of *social* property relations, of equality as well as a comparatively high standard in women’s human rights and laws concerning them (all in principle), that all imply certain social solidarity, was brutally discontinued. With the degradation of these general relations, the *social relations of sexes* (gender) have plunged down even more, and

« common » (*zajednički*) and « public » (*javni*) are of course not the same. Whatever is « public » is in the custody of some administration, some mediation, usually delegated by the state or by centres of power. France, for example, has a strong « public sector » through a vast and centralised state administration. But *oubli* is not common, nor does it belong to the people or to society. Yugoslavia’s *društveno vlasništvo* was meant to be *common*, but it never evolved that far. It was centralised by the federal state but most of all by local administrations and power. And of course, the public sector can cannibalise the common goods too. I shall not go further into this debate here, although it deserves developing.

15 Fabienne Brugère, “Quelle politique de l’individu aujourd’hui?”, Conference “Diversité culturelle, subjectivation et communauté politique” on January 6, 2015, FMSH, Paris. For us, of course, it appears that there is no point in talking about modernity where neither government nor ownership as *social* relationships, but also as *production* relationships, (production in every sense) are no longer analysed.

thus violence against women has again become “unproblematic” and is considered as unimportant.

Reflections and remarks

All war and post-war women’s testimonies available to us demonstrate amazing *loyalty and the desire for justice* that women share, as well as their *readiness and ability for empathy* with others and with women from the supposedly “opposite” side who have also suffered, and whose sons may have been in war against their own sons. With the help of self-discipline also, even in cases when they did not receive psychological or legal aid on time, the women were mostly able to *self-train* themselves to talk about their trauma without hate or anger, to share it with others, realising the healing and therapeutical effect of the narration itself. We of course note that it was far easier for those women who were lucky enough after otherwise distressing events, to receive some psychological aid soon after the harrowing events. But the ability of those among them who did not get such a benefit but still managed to develop sympathy for others is astonishing. We therefore reckon that the effect of the Women’s Court will also have that *curative function* by *stopping, giving shape to and making public* their own ordeal through personal stories. It should produce the outcome of *closing once for all the symbolic process of grief, mourning and sorrow*. It will thus open the horizon for a future as much to themselves, as to their families and environment. It should be beneficial to the society.

In addition to that, the Women’s Court has the purpose of showing the truth much as when *the truth “dawns on us”*. This function of sudden truth is irreplaceable, and should represent one *decisive threshold of accomplished public, social and cultural responsiveness*, a historically achieved level: it undoubtedly means a move forwards for a wounded society. Its positive results are possible where, at a level that incorporates and transcends both the individual and the

public, a moment of citizenship (civility), *citoyenneté*, arises, which is *not a mere reproduction of the state*, but contains resistance too.

It happens in some cases that social sciences play out a certain “social” role of interpretation, even of “catharsis” and also of the *narrative processing* of historical material that recorded the trauma, and so they help concluding the long period of mourning. This happens when the public discourse has failed in doing so or, on the other hand, as a complement to it.

The research conducted by Indian women historians, writers and sociologists of *the second generation*¹⁶ after the partition of British India¹⁷, was also confirmed by the feminist research carried out on the Balkan wars in the nineties. In both cases, it was a context of bloody falling apart or splitting (*partition*) of country (Yugoslavia and British India). Indian authors, researching the fates of the missing or silenced, “disgraced” aunts or grandmothers who had found themselves on the “wrong” side of the border at the wrong time of partition, have opened up in the modern history of India the most important issue of the traumatic division of the country, the breakdown of British India into India and Pakistan (later to be continued all the way down to Bangladesh splitting from Pakistan). The process is, as in the case of any partitioning of a country, *in principle* still open, and so it is in our case too, while in the Indian example it was also brought to change *internal* state and linguistic borders of the union.

The combination of nationalism or ethnicism and patriarchy, and possibly too of religion, is a particularly explosive mixture. The civil wars and the violence that assume religious “rationalisations” where needed, and they refer to authorities of a “higher” order when it is practical or useful for them to do so. They use patriar-

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¹⁶ They are *my* generation. I was born in 1945.

¹⁷ Ritu Menon & Kamla Bhasin, *Borders & Boundaries. Women in India's Partition*, Kali for Women, New Delhi 1998. Urvashi Butalia, *The other side of Silence : Voices from the Partition of India*, Duke UP, Durham 2000 (Indian edition 1998).

chal masculinist “arguments” whose sex-based connotations they ignore but know how to misuse. In these matters, the language of the nation, of the state, of religion, of “higher interests” appears most directly in the forms used for expressing *sex* and *gender*, in such turns of phrase that connect the origin of the “nation”, the faith etc. directly to “birth”, to the verb “to give birth” (“roditi”; while “narod” means “people”)¹⁸, and therefore to the *sexual difference at the foundation (and as the foundation!) of the community as well as of the state*. And, in a broader sense, of the society too. These connections are made to the extent to which a potential society *does not* succeed in transcending the community at its core, which is also its seed. In this light, the concept of gender gathers all the three usual (and minimal) analytical categories (*class*, *race* /or nation/, and *gender*) and *enables the hegemony of the violent element* that is both historical and male (historically male, but not inevitably, not metaphysically so). Indeed, similarly to *nation*, *gender* is inflected by *class*, while *class* too is inflected by - *both gender and nation*, inasmuch as the sedimentation of class, as a relation of political and economic power, facilitates hegemony.

The generations. The question of justice

The following needs emphasizing: paradoxically, the war and the non-war coincide in time and overlap in the mentioned decade of the nineties of the 20th century. Situations of war-and-peace are simultaneous in the same places, or in neighbouring territories. Sometimes violence in one area ensures relative peace in the surrounding regions. Peace is never absolute nor is it ever or anywhere ensured once and for all. It depends on complex situations, and most of all – on the *war acts* themselves and on *violence* or on *refraining from those*. The war is usually preceded (and provoked) by words, and hate speech accompanies it. It even survives into

18 Translator's note: the verb "roditi" means to give birth, while the word for *people* is "narod", "those who were born". The root in both is "rod", meaning, as a name, "gender" = "the born".

“peace”. Like many others, the wars in the Balkans in the nineties were neither absolute nor unavoidable. There is a whole range of conditions from war actions and aggression to truce or peace, down to the so-called *transition*. *The state of neither-war-nor-peace* is the most usual one or at least, is it very frequent. In Yugoslavia, the term “transition”, that often coexists with it especially in the beginning, usually means two things: the transition from war to peace, but also the transition from socialism to capitalism. Both of those modes (1. war-and-peace; 2. socialism-capitalism) are to the greatest extent and simultaneously *conditioned by the dimensions of nationality*¹⁹ *and of gender/sex*²⁰. In addition to that, *class* is not lagging behind, and, as an analytical dimension, it cannot yet be discarded, although it usually is.

The longterm preparations for the Women’s Court, for creating the conditions and for the construction of criteria for the court had this in mind.

Another thing that the preparations had in mind during the examination of women’s testimonies about the war and the post-war sexual, economic, “ethnic”, militarist and every possible violence is - that *25 years have already passed* since the beginning of that war, of the state, military and para-military violence and of any other: soon, a change of generations will take place. It is actually in course. This is especially important when thinking about the aims of the Court and a manner of healing. *The first generation* is the one that experienced the trauma directly²¹. When women had access to psychological aid for reconstructing their lives (not to mention material help for the repossession of property and for

19 The “nation” or “nationality” as a criterion in the Yugoslav wars as well as in the series of other “new wars” in other parts of the world, substitute for something that is elsewhere usually called “race” and is manifested thus; it is additionally also articulated as “religion.”

20 The “nation” and “sex” are thus two of the three important criteria for analysis (“class” being the third), and also of the dimension of the events themselves.

21 I must reclaim it again, since it is my generation that has waged the Balkan wars of the nineties.

their own and their families' economic stability – this was possible only to a small extent), it may be regarded that, in some cases, the period of mourning (*Trauerarbeit*) was successfully completed in all its symbolic and psychological dimensions. One might consider that further, one can or even must go on living, sometimes even in the vicinity of the perpetrators of crimes²². Then, the memory of trauma, once it is processed, becomes *narration* and is conveyed to the next generation as *collective memory*. The collective memory is further inscribed into a broader historical and political context. In local conditions, memory is conveyed as *competing*, i.e. as an issue of *competing nationalisms and memories*. We are far from the future time when it may be possible one day to write joint schoolbooks on the events (as the Germans and the French have attempted with regard to WW II – with many difficulties). It usually appears as a matter of interstate politics and international relations within Europe. By that, memory overcomes of the exclusive horizon of the individual's responsibility him- or herself. With an individual, it also appears to the extent to which he or she identifies, or not, with the nation and the state. From the side of the nation and of the state, it can contain misuse and instrumentalisation of the individual, through which violence is transferred to the post-war period, to the next generations, and becomes endemic and constitutive. Political responsibility is then never far.

The Women's Court is, ultimately, in a position of having to deal with all those *different levels* of violence against women and against the population, and with all those different levels of responsibility that no-one else has taken upon themselves.

The question of truth

While for the first generation the question of *justice* is raised that has no direct connection with that of *law* (or can be in opposition to it), for the second generation a comparable quandary appears

22 The Rwanda story (contemporary to the Yugoslav one) gives examples of this.

as a question regarding truth: *what* did really happen *and how*, and how to record it in memoirs, in collective memory and now too in fading individual memories. Although the question of truth usually occurs *after the war*, it should not be assumed that it does not bother contemporaries and the victims of the violence as well, in the shape of *the question of justice: to know the truth and to let it be known, and then to pursue its public and general acknowledgement is at least partly the realisation of justice* and in itself a satisfaction. Although for the second generation questions of justice and truth can sometimes be separated, they usually can't for the first generation. But the law does not automatically provide justice.

Yet the issue of truth is in itself a problematic one. As much as memory, the truth appears *immediately as at least potentially split*. In conflict, my truth is someone's untruth.

In the absence of a *higher authority* (the tribunal, the hegemon, a universally acknowledged father of nation, god etc.) that would impartially judge the ones and the others, one remains in the sphere of the non-universal: *the recognition of all the sides involved in a conflict about what is true is almost impossible to achieve*, especially in real time or immediately thereafter. Such situations are complex, and they often just lead to the continuation of the conflict through different means.

In the case of the Yugoslav countries, it was not possible to agree on the establishing of *one* common truth or even of *one* impartial "truth commission" or at least of a "shared court for all crimes committed in Yugoslavia". Already for some time prior to the series of wars and then during the wars themselves, the parties soon to be in conflict zealously, unanimously and firmly built a *joint culture of rejecting everything that belonged to "others" or came from them* and that could claim the primacy of the "other's truth"²³. Nothing "common" would be accepted by all. So, each

23 The "other's truth" is an oxymoron; in a system where "only my truth is right and universal" and within the horizon of a general acceptance of egocentrism, the "other's" truth is non-existent and unthinkable.

of the warring parties was brandishing its “own truth” as absolute, and many of them are still doing so. It was not possible to build supra-national and supra-state institutions (or extra-national, extra-state institutions), or to federate several of them for that common purpose, because the state institutions and even the states themselves were largely *compromised* through devious associations during the war, at least in the eyes of those “others”. Nationalisms tend to multiply and sustain each other. Local state institutions were seen as underhand also by the “international community”, and were to a large extent disempowered and drained of the representative and symbolic power they once had. Finally, even if any such agreements were possible at least in principle, the sides would never agree about the “other’s” stake in them and would never end coarse horsetrading.

At the end of the day, women and some non-nationalist feminist organisations were *the only ones capable of transcending the level of nationalist conflicts* and taking upon themselves impartial research. It is only once *gender and nation* have been separated (instead of being purposely interconnected and mutually supportive in the masculinist hegemony of physical force), that it is possible to open *the space of justice and of truth*. In the same way as it is possible, and even necessary to display that opening for truth and justice in feminist approaches, when nationalism is *denied* the support of gender and of sex in its imposition of hegemony. Retrieving gender from the nation (through feminist critique) threatens the established hegemony.

Thus, with its modest resources, the Women’s Court plays (and indeed has been playing now for some years) an extraordinary and inevitable role that no other institution or association in Yugoslavia was ready to assume. Rather than being a penalising tribunal, the Women’s Court acts as morally or ethically “unbiased” in a positive sense, and also as the only possible political horizon of an important *patching and repairing* of the wounded social yarn and of the *membra disjecta* of the former common country Yugoslavia.

At the same time, it plays the part of a “commission” for the establishment of the historical truth, much like the ones in Guatemala²⁴. Its low public impact in the (almost inexistent) all-Yugoslav public space during its preparation period is *inversely proportional* to its vast remedial, symbolical and political importance with the concerned. It will have the task of helping to create the final closure with a public and collective historical narration of events within conditions of linguistic and *political* plurilinguism where no hegemony certifying balance and peace is plausible any longer. It will also enable new political subjectivation for the people concerned, possible after the symbolic closure of the narrative(s).

Post-hegemonic societies are in a state of chaos and of political disorientation, in the impossibility of “enchaining” and connecting political affinities and issues. In such situations, the role of the Women’s Court, a modest but necessary and effective political form that is neither a state nor a social institution, that is not a real association either nor an entity that dictates, guarantees or protects “the only” truth or theory by any means, is most valuable. The Women’s Court *translates* apparently non-political situations into political language thereby politicising them and therefore giving them a meaning and new prospects. It is possible to invent an adequate *politics of translation* if there is sufficient openness for the voice of the other(s) and if there is at least some *political imagination*. Being that such a post-hegemonic (and only partially post-national) politics remains forever in transformation and is in principle “corrigible”, it does not much correspond to the “noble” name (and call) of *theory* or of *truth* by its very idea. Such seemingly insecure but in any case indispensable politics will be verified, tested and assessed again and again at every step by the

24 Guatemala. *Memoria del silencio. Informe de la Comisión para el Esclarecimiento Histórico*, 1-15, Guatemala de la Asunción 1999. *Guatemala. Nunca mas*, Oficina de Derechos Humanos del Arzobispado de Guatemala. Informe Proyecto Interdiocesano de Recuperación de la Memoria Histórica, Guatemala 1998.

practice of “translation”, bearing in mind new “enclosures” within the “unsurpassable” capitalist horizon.

*Thus, the Women’s Court should finally germinate as possibly the most interesting, irreplaceable and essential “institution” in this historical moment. It tests, verifies, realigns, maintains, represents and is a guidepost for the transition in Yugoslav countries. Meanwhile it is based on the freedom loving and the justice-eager interests of women. The interests of women include the interests of men, children and of the entire society. From the experience of archived testimonies, the women’s interests could also be the source of a possible new future citizenship (in the sense of *citoyenneté*) without any historical models. Its concept could be considerably broadened in comparison to the previously understood citizenship that had been taken in a narrower, mainly legal sense. After the main trial has been held, the Women’s Court will necessarily self-dissolve with regard to its original function, but its energy could be transformed into something else. Such addition onto the meaning of the Women’s Court rests upon its moral reputation and original objectives, of which we will mention only some that must remain the permanent characteristics all through its re-embodiment even after the “finalisation” of its original duty: the Women’s Court is*

“A space for women’s voices, for women’s testimonies about experiences of injustice suffered during the war and in peace – instead of being objects of injustice and violence, women are becoming subjects of justice – a subversive character of women’s courts – the relationship between the patriarchal power of domination and subordination, between an object/woman witness and subject/judicial authority is lost.”²⁵

The Women’s Court will “shed light on the continuity of violence against women in peace and in war time. (... It is needed) in order

25 “Ekonomsko nasilje nad ženama – proces organizovanja Ženskog suda” – as yet (April 2015) unpublished material to be edited by Women in Black, Belgrade, about economic violence against women in the process of organising of the Women’s Court (similarly to materials about ethnic, sexual and other forms of violence, this one too include individual testimonies about violence).

to make violence against women visible". In such circumstances, the right to truth is realised in the time that comes *afterwards*, in *post-war time*, and without any guarantees²⁶.

A further problem will be the enlinking of new engagements and individual cases, if the Women's Court (probably renamed?) continues its activities in a new form and with new tasks.

The so-called "right to truth" had initially been institutionalised from the context of the political experiences of Latin American post-dictatorships. Informal movements of "The Mothers of the Plaza de Mayo" in Buenos Aires and elsewhere had surprised with their perseverance that had at first seemed non-political. Since the seventies of the 20th century, the United Nations and the "international community" had recognized such methods, together with the establishment of the International Criminal Court in The Hague. These were often cases where the society itself had carried out crimes against certain groups, or where the state had committed crimes against its own population. The technical idea of such an International Court is that it should be objective and non-political. But these are also its limits. We here know *a priori* that the Women's Court cannot be of that kind and that it will result in complex and plural truths and perspectives. The Women's Court is aware of the fact that the sides in conflict exploit the platform of the so-called "truth" by misappropriating and instrumentalising it. For this Court, it is clear that the reports and "truths" are purposely directed one against the other. It is also evident that the "right to truth" often appears as an invitation to continue the war of lower intensity. Nevertheless, the ambiguous "right to truth" made it possible in various parts of the world, and not only in the Balkans, to break the ice once more, to begin speaking about silenced sufferings, to stop concealing the particularly abominable crimes, and especially those against women: mass rape, plundering and kidnapping, killing of girls and intentional abortions of

26 Pierre Hazan, "Àpres la guerre, le 'droit à la vérité'", *Libération*, 24-25 décembre 2014, p. 28.

female foetuses; feminicide, the hunt on women and girls, various forms of enslavement etc. Today, we can see how the hunting season for women is open in many places, and that it should be brought to an end. The Women's Court, *not having any models* itself except for similar former women's courts worldwide, can become a moral-political blueprint for the beginning of refusing crimes against womankind, for the solving of such situations in the future, all this under the condition (unlikely for now, but recorded and imaginable for the future) that *transition*, besides the two mutually contradictory meanings (1. after the war, peace; 2. after socialism, capitalism) acquires its third important meaning: 3. *after patriarchy – its dissolution*. Concerning the intertwinement of those three elements (sex, class, and nation) this would predict the much-anticipated exit from the existent order. As we know, the latter is based on the subordinate inclusion of women into a system built on the condition of their exclusion (more exactly, the condition of their subordinate inclusion).

The question of priorities

The question of priority is widespread in the manifold literature on the condition of women. The question about the *priority of the sexual*²⁷ *difference* over the other two basic differences that produce inequality in given conditions²⁸ – the class and the race/national issue – arose from the Marxist and then from the numerous post-Marxist approaches on, often and time and again. Those

27 Some would say "gender" here. This is again a footnote about how the difference between *sex* and *gender* is *weak* and in principle a theoretically unsustainable difference that is, however, often used and politically useful in feminist activism. This difference relies on the feminism stemming from the English language. In the French language, in Yugoslav language and in many other languages, that difference is less evident, although, due to the hegemony of the English language, it has by now come into use everywhere and thus has somewhat diluted a more radical feminist thought.

28 Or, are *able* to produce it: here, in principle, we imply that the difference *does not* at the same time *necessarily mean* discrimination, but we cannot dwell on this complex issue as this would require different explanations for different situations.

three elements are, namely, inseparably intertwined at all times: the nation or race is always sexed or determined by gender, and vice versa. The nation and sex appear in *identical* language²⁹, i.e. the nation speaks the language of *obstetrics* and *midwifery*. The inseparable connection between the two is constructed as “fatal”. And, regarding *class* signs, the class itself is always characterised by sex and racialised: the weaker or subordinate element in every relation is always marked as female, as feminised and as the racially “lower” or “southern” element in the global sense³⁰, and therefore as “inferior” in the class order. However, not one of those three key elements, not to mention other possible distinctions, contains such seemingly “fatal” elements. But the “critical” or “fatal” element such as the *constitutive symbolic asymmetry of sexes* is represented as allpervading, managing all and incorrigible. It is best described by psychoanalysis, although the classical forms of this discipline do not suggest any way-out from that clinch and dead-end³¹. The *symbolic* asymmetric inequality of the sexes supposedly leads to a dead-end time and again, as a vicious circle from which there would be no way out. Many progressive male philosophers, and even female philosophers, that are not necessarily opposed to fem-

29 *Nacija* [Serbocroatian, translator's note], *nation*, from Latin *nascere*, “to be born.” If we say “a people was born” (“Narod se na-rodio”), in order for a people to emerge, a sexual and female element is needed. From genetics to politics. In Serbocroat the two words (“people” and “to be born”) come from the same root. In Latin too, as well as in many languages.

30 “Lower” races have always been represented as *distant* from the western northern model of hegemonically ruling peoples of Europe and (later) of North America, i.e. from the “white” people. Within the scope of globalisation, this distance is figured by the “global south”, and it also includes “coloured” people as well as, in the European transition, peoples from Eastern Europe.

31 Unlike individual feminist *philosophical* psychoanalysts such as Luce Irigaray, Monique Wittig etc. On the other side, American psychoanalysis, that is only practical and adaptive but not philosophical, does also not anticipate any way-out. Where psychoanalysis has permeated philosophy (French-speaking areas, from Lacan onwards), suggestions for models of a way-out from the “given” symbolic system and therefore from the systemically given inequality between men and women, are emerging among female philosophers, and increasingly among male philosophers (mostly in conjunction with ecology, feminist economy etc.).

inism, are of the same opinion: the society and even the state are built on the *constitutive subordinated* inclusion of women, of the lower classes, of minorities, of the colonised³², an inclusion that is usually erroneously called exclusion. Apart from the supposed insolvability of this asymmetry, we know from Marxism about another option: when, in the course of time (how much time?) all other injustices and inequalities are righted, women's issues will automatically be resolved too. So says the blueprint that we have now for long known not to be true. Feminists cannot be satisfied any longer with such an answer and they therefore explore *the ways in which women's issues* are so deeply rooted *at the basis of all other inequalities* determining them in such a manner that they also cannot be resolved *without* the levelling of the social relations of sexes. Solutions that are politically progressive and have prospects at least in theory, assume that the relation between the sexes (gender is that relation) *is at the very heart of every inequality as such*, and that attempting to solve various visible injustices without questioning sex/gender at the same time is vain or would simply represent a cosmetic attempt.

Of course, it is then necessary to undertake the critique of the entire symbolic system, of the worldview, of the political system, of the whole epistemology, as well as of one's own place in it – all of which is not such a soft nut to crack. And it is necessary to accept working *with and within* uncertainty, on an uneasy terrain and without known models or guidance. This also means, no more no less than to *step into the epistemological revolution* that we otherwise have to carry out in any case also with regard to the Third World, to the Global South (the post-colonial issue) as well as regarding the post-1989 period of the dissolution of the “socialist” regimes in Eastern Europe, and all the rest.

32 Or, in some cases, of “primal peoples”, although one should be careful using this term because it lends itself to misuse, in cases where everyone wants to be “primal” and reap all the advantages.

If, therefore, the issue of sex is at the heart of every other form of inequality, then the sequence in the analysis of events needs to be reversed: it is not the national liberation struggle, aiming at creating a new national state, that is primary and has prospects and would therefore liberate women as well as nations/peoples and nationalities. It is on the contrary women/feminists who could and should do something about the “national” and “race” matter. It is thus “formerly” (in time and structurally) that the *women’s and the feminist struggle* must act, with options from building to deconstructing nations and states. The gender struggle must do so previously *because it is at the basis* of the national-liberation and of the racial disposition, because the struggle regarding sex and gender is also *trans*-national and *trans*-ethnic, because it is secular, and because it is the one that has the possibility to lead and redirect the national liberation and state building, regardless of what one thinks or wants to do with these. The feminist struggle is the one that has the prospect to *create a broader space of equality for all*³³. In the words of a contemporary Kurdish woman theorist who, based on the experience of the leading Kurdish women’s guerrilla group in national resistance, also advocates a feminist epistemological revolution – women should create a space of social sciences “that

33 We have been receiving these days news about such a struggle, from an otherwise difficult situation in the trans-statal Kurdistan in the area of Rojava, in the middle of the resistance to ISIS (the self-proclaimed group “Islamic State in Iraq and Syria”) as well as to the Syrian and Iraqi regimes, in circumstances where the Turkey does not want to help the Kurds in statebuilding but do groom Turkish Kurds for non-violence through arrangements with their imprisoned leader, while the USA has other calculations in the name of “help”, and the whole region is on fire due to decades long and also recent western irresponsibility. This Kurdish liberation fight in which women and feminist politics are prominent has prospects to parallelly be a revolution too. Of course, if it maintains itself against ISIS. For the map of that area, see: <https://twitter.com/occupiedtaksim/status/512266381358669824>; for an overview of fights in Rojava, see: <http://www.theguardian.com/commentisfree/2014/oct/08/why-world-ignoring-revolutionary-kurds-syria-isis>; for women’s approach to that civil war, see Dilar Dilik, “What kind of Kurdistan for women?”, <http://links.org.au/node/4109>; Necla Acik, “Kobane: the struggle of Kurdish women against Islamic State”, <https://www.opendemocracy.net/arab-awakening/necla-acik/kobane-struggle-of-kurdish-women-against-islamic-state>; Gönül Kaya, “Why jineology...?”, <http://kurdishquestion.com/kurdistan/north-kurdistan/why-jineology/533-why-jineology.html>.

puts women and society in the centre.”³⁴ Everything else can only come afterwards. No nation is built without the decisive contribution of gender, and no nation or state is dismantled without this being done, again, through manipulating gender.

Such an “upside-down” sequence allows us to situate the tasks of the Women’s Court, as well as to delineate expectations from it: we do not expect from the court to achieve justice only for women (although this too), but we expect it to *aim at justice for all* and also at building a different society and politics, striking right into the heart of everything – and that is the sex/gender order. As one provocative and somewhat optimistic (anarchist) advocate of Kurdish feminist revolution says: “We cannot get rid of capitalism if we do not get rid of the state, and we cannot get rid of the state if we do not get rid of patriarchy.”³⁵ That same person also believes that this will be resolved in... 50 years from now. Even if we do not achieve it at such speed but if we find ourselves on such a prospective road, it will be something!

Other examples of large-scale and mass violence worldwide result, differently and less promisingly, on the plane of social relations between the sexes, such as disproportionate feminicide in Mexico or mass womenhunt launched by the retrograde Islamist group Boko Haram³⁶, starting in Nigeria and spreading throughout several African countries south of the Sahara. This should be a warning sign when we find ourselves drawing unfounded optimistic conclusions prematurely.

34 Gönül Kaya, “Why jineology ?”, *op. cit.*, p. 5.

35 David Graeber, « No. This is a Genuine Revolution », <http://kurdishquestion.com/kurdistan/west-kurdistan/david-graeber-no-this-is-a-genuine-revolution.html>

36 Whose name, according to Wikipedia, supposedly means “Western education is forbidden.” The kidnapping of around 300 schoolgirls in April 2014 (but such kidnappings are by no means new) and, in addition to it, the kidnapping of another couple of hundreds of women and girls in their other hunts, remains with little and lesser echo in world media, probably because there is no alternative western rescue scenario involved here, as the USA scenario of rescuing Afghan women from Afghan men, the Talibans, once was.

Bringing sex/gender into focus where it belongs in the process of untying the knot, in post-hegemonic societies such as those in the Yugoslav Balkans and beyond, would represent in itself a considerable progress in thinking and in analysis.

