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Justice and security for women in peace reconciliation

Report¹

Committee on Equality and Non-Discrimination

Rapporteur: Ms Yevheniia Kravchuk, Ukraine, Alliance of Liberals and Democrats for Europe

Summary

René Cassin declared “*There will be no peace on this planet for as long as human rights are violated anywhere in the world*”. The co-author of the Universal Declaration of Human Rights insisted that there can be no peace without justice.

This report looks at justice and security for women during and after conflicts and makes recommendations on how they can be better protected, more involved in peace negotiations and better represented during transitional justice proceedings. It focuses in particular on the lasting negative consequences of war for women in the countries of former Yugoslavia, and on women’s increasing importance in political, legal and societal mechanisms for justice, peace and reconciliation, including in international criminal courts.

Women must be empowered to play a greater role within the highest decision-making bodies and in peace talks. Discrimination against women and girls in post-conflict societies must end, good practices in the field must be shared and implemented, and women and men must work together to end discrimination as a means of avoiding and averting conflict.

¹ Reference to committee: Doc. 15045, reference 4497 of 6 March 2020.

A. Draft resolution²

1. The vital role of women in building and safeguarding peaceful, democratic societies has never been as evident as it is now, in the wake of a series of crises affecting global stability and amplifying the strengths and weaknesses of our societies.
2. The Covid-19 pandemic showed the world that the majority of primary carers within the family unit and within the community are women, that women have the capacities to resist, adapt and innovate, heal and communicate – and that they must also be seen as leaders. Women heads of state, for instance, were among those who handled national public health measures during the pandemic the most successfully, through collaborative and consultative approaches.
3. The Me#Too movement spearheaded denunciation of the hegemony of patriarchal attitudes, which complicate the recognition of women's capabilities for leadership, where old inequalities have embedded prerogatives and sanctioned the misuse of power, and where acceptance through force of habit, and fear of retribution, had stopped all but a small number of women from daring to speak out.
4. The return of the Taliban to Afghanistan has shown the fragility of progress in women's rights and exposed the vulnerabilities of women and girls under fundamentalist regimes. The ongoing war in Ukraine is demonstrating once again that while women and girls are among the first casualties of war, notably as victims of conflict-related sexual violence, among the most systematic and cruel acts of warfare, women are also at the political, military and humanitarian forefront. It is therefore unrealistic, and even surreal to see that women are absent from the negotiating table during peace talks. This state of affairs is nothing new, as can be seen by looking at the peace negotiations in the countries of the former Yugoslavia. UN statistics show that between 1992 and 2019, women were on average 13 % of negotiators, 6 % of mediators, and 6 % of signatories in major peace processes worldwide. About 7 out of every 10 peace processes did not include any women mediators or women signatories. Change must come if the processes themselves are to have lasting positive effects.
5. In the light of the above, the Parliamentary Assembly considers that it is time to put justice and security for women at the top of the list of priorities for global action, and for women to be empowered to act in all stages of conflict resolution and peace building. The Ukrainian women parliamentarians have shown during the ongoing war that they are capable of capturing the world's attention to the unfolding drama and of acting tirelessly to put an end to the conflict, while reflecting on how legislation and policies will contribute to peace and reconciliation after the war.
6. The Assembly recalls its Resolution 2351 (2020) on the gender dimension of foreign policy and Resolution 1385 (2004) on conflict prevention and resolution: the role of women, reiterating with the latter text that "as the main civilian victims of conflicts, they are often powerless to prevent them, excluded from the negotiations when it comes to their resolution and confined to a marginal role in the post-conflict reconstruction and reconciliation efforts". The Assembly draws attention to the Council of Europe's Gender Equality Strategy (2018-2023), of which two main objectives are to ensure the equal access of women to justice and to achieve balanced participation of women and men in political and public decision-making. It also recalls Committee of Ministers Recommendation CM/Rec(2010)10 on the role of women and men in conflict prevention and resolution and in peace building, and calls for work to begin on a new recommendation focusing on women's role.
7. With respect to women's role in peace and security policy and action, the Assembly calls on all national parliaments to:
 - 7.1. employ all means, including by introducing feminist foreign policies, to implement the four pillars of the United Nations Women, Peace, and Security (WPS) agenda, namely participation, protection, prevention and relief and recovery. To this end, member States should promote and implement the provisions of the United Nations Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW);
 - 7.2. make further efforts to implement UN Security Council Resolution 1325, which provides a framework for WPS by acknowledging the disproportionate and unique impact of armed conflict on women and girls, calling for the adoption of a gender perspective to consider the special needs of women and girls during conflict, repatriation and resettlement, rehabilitation, reintegration, transitional justice,

² Draft resolution adopted unanimously by the committee on 26 April 2022.

policy-making and post-conflict reconstruction, and by calling on states to engage women in all stages of peace building and state governance in general;

7.3. design, implement, monitor and revise National Action Plans (NAPs) under Resolution 1325, modelled on those which have already shown positive results, and which ensure the participation of national authorities and civil society organisations in the development, implementation and monitoring (such as the Netherlands NAP Supervisory Board). In particular, the integration of gender mainstreaming in implementation processes in all areas must be a priority objective.

8. Women form part of every country's military forces. For instance in Ukraine they make up 17% of the army, and as such participate fully in the defence of the country. With respect to women's role in the armed forces, recalling Resolution 2120 (2016) on women in the armed forces: promoting equality, putting an end to gender-based violence, the Assembly urges member States to:

8.1. recognise that women, far from being solely the victims of war, are in the front line both of national defence and of humanitarian action, and as such must be given equal rights coupled with gender-specific means to uphold these rights;

8.2. ensure that women in the armed forces are given the same opportunities and incentives as their male counterparts to participate in strategic planning and decision making at the highest levels;

8.3. provide for military training that includes awareness of gender-sensitivity and gender specificity, including with respect to physical contact during combat, military accommodation conditions and the provision of medical and psychological support;

8.4. ensure that women are protected against violence within the armed forces, by measures of prevention, awareness-raising and sanctions for perpetrators;

8.5. address women's needs in post-conflict situations of disarmament, demobilisation and reintegration.

9. Transitional justice is a precondition for rebuilding peaceful societies and attaining justice and closure for victims. Therefore, the Assembly welcomes the decision by the Prosecutor of the International Criminal Court (ICC) to investigate the crimes committed by the Russian Federation in its war of aggression waged against Ukraine, as well as the establishment of a special investigation commission by the United Nations Human Rights Council, following the unprecedented collective call for action by States Parties.

10. With respect to the investigation and prosecution of crimes committed during armed conflict, the Assembly calls on member States to:

10.1. ratify the Rome Statute of the International Criminal Court if they have not already done so, in order to allow for international prosecution of crimes against humanity, war crimes and aggression;

10.2. empower witnesses, survivors and affected communities to actively contribute to investigations, leaving no bystanders in the efforts to establish the truth and pursue those who may be responsible for international crimes;

10.3. facilitate gender-specific collection of testimonies from persons having suffered sexual violence during conflict taking care to avoid re-traumatisation by providing expert support and guarantees of confidentiality. States must ensure that appropriate medical and psychological support is given before and during the collection of testimonies;

10.4. support the independence and action of Ombudspersons in Europe, especially those who are women, and sustain their ability to investigate human rights abuses;

10.5. provide training for women as mediators to be involved in peace missions, conflict resolution and peace support operations.

11. Women's civil society organisations are at the heart of national and international frameworks to accompany women who suffer the consequences of conflict – migrants, refugees and asylum-seekers as well as internally displaced persons, victims of gender-based violence, and to support women who are survivors of violence due to war in their own countries, for instance in the former Yugoslavia. The Assembly therefore calls on member States to:

Doc. ...

11.1. directly allocate funds to women's civil society organisations advocating for peace and reconciliation, and those dealing with the serious and lasting physical and psychological consequences of conflict for women;

11.2. promote inclusive dialogue and participation of minorities in decision-making and political processes, including in peace negotiations, transitional justice processes, and provide capacity building support.

12. Finally, the Assembly calls on all member States to ratify, if they have not already done so, the Convention on preventing and combating violence against women and domestic violence (ECTS No. 210, the Istanbul Convention), which provides for the protection against and prevention of violence against women, prohibits rape and applies to all women, including migrants, refugees and asylum-seekers, in peacetime as well as during conflict.

B. Explanatory memorandum, by Ms Yevheniia Kravchuk, Rapporteur

1. Introduction

1. The motion at the origin of the present report begins by stating that progress towards gender equality in Europe has been “slow and uneven” and that zones of enduring conflict are particular obstacles to this progress. Gender equality overall is indeed a long time coming, and recent developments in Europe have even demonstrated a trend towards backlash where women’s social, economic and political rights are challenged by authoritarian states – in Belarus and in the Russian Federation, for example, but not only there. In situations of tension and conflict, women’s rights are put under particular threat.

2. The motion also recalls the proven links between conflict, gender inequality and violence against women. It is a fact that war, conflict and tensions exacerbate gendered behaviours which are highly damaging to women, as well as broader hostile attitudes to minority groups. Already widespread in peacetime Europe, violence against women is an even more serious phenomenon in times of conflict, where intimidation, sexual violence and gender-based violence are used as tools for repression, and where women have for centuries been seen as an “easy target” for aggression during hostilities.

3. The Russian Federation’s new aggression against my country, Ukraine, began on February 24, just as I was returning from my fact-finding mission to The Hague on 21 and 22 February, and is providing brutal evidence of the atrocities war inflicts on all civilian populations, increasingly, systematically and indiscriminately. The war raises many issues about women’s vulnerabilities, but also about their empowerment and their ability to change the course of events when given the opportunities to act and to speak out. It has also made more visible the absence of women around the negotiating table, despite their status as victims, actors, advocates, and as national and international legislators.

4. After conflicts cease or recede, transitional justice aims to accompany regime change away from the environments that gave rise to violent repression. It depends on the ability to bring to account the perpetrators of crimes committed during conflict, ensuring that time, “voluntary amnesia” and the regime change itself do not exonerate from crimes committed, for which reparation must be found if lasting peace is to be achieved. These legal procedures are a necessary part of peace reconciliation, and women as the first victims must play a key role at all stages of the peace and reconciliation processes.

5. This report endeavours to give an overview of the situation in today’s Europe with respect to justice and security for women during and after conflicts, and to make recommendations on how women can be better protected during conflicts, more involved in peace negotiations, and better represented during transitional justice proceedings. Women must be empowered to play a greater role at all levels, including within the highest decision-making bodies, in creating the conditions for peaceful reconciliation and future co-existence. For this to happen, discrimination against women and girls in post-conflict societies must end, good practices in the field must be shared and implemented, and women and men must work together to end discrimination as a means of avoiding and averting conflict.

2. A brief (UN) history of the fight for women's role in peace and security

6. The United Nations, and specifically UN Women, with its Justice and Security section, has set out the conditions for women’s place in peace and reconciliation in its resolutions and guidelines, and worked on the ground in all the countries affected by conflict globally. This work, and its articulation around the UN’s Sustainable Development Goals, in particular Goal 5 to “achieve gender equality and empower all women and girls”,³ form a reliable benchmark and guide for the Parliamentary Assembly’s approach to the issue.

7. Article 27 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949, and the Additional Protocols of 1977, provide that women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.⁴

8. The UN’s Fourth World Conference on Women adopted the 1995 Beijing Platform for Action as a roadmap for achieving peaceful and inclusive societies, with gender equality as a central priority. Women and armed conflict is one of the Platform’s strategic objectives: the Beijing Declaration states that “an environment that maintains world peace and promotes and protects human rights, democracy and the peaceful settlement of disputes, in accordance with the principles of non-threat or use of force against territorial integrity or political independence [...] is an important factor for the advancement of women.”⁵

³ <https://sdgs.un.org/goals/goal5>.

⁴ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtectionOfCivilianPersons.aspx>

⁵ See the Beijing Platform for Action turns 30 at: <https://beijing20.unwomen.org/en/about>.

9. The 2030 Agenda for Sustainable Development⁶ endorsed the inherent ties between gender equality, sustainable development and peace. In 2015, UN Security Council Resolution 2250 on youth, peace and security⁷ stressed that young women and men should be actively engaged in shaping lasting peace and contributing to justice and reconciliation.

2.1. United Nations Security Council Resolution 1325 and its implementation in member States

10. The landmark UN Security Council Resolution 1325 on women, peace and security was adopted in 2000 as an instrument to promote the involvement of women in every stage of conflict resolution and ensure their equal participation in the promotion of peace and security. It also aims to provide women with better protection during armed conflicts. The implementation of this resolution was made possible by the creation of an Interagency Task Force on women, peace and security, responsible for setting out National Action Plans (NAPs). Each country has a different action plan focusing on different subjects according to the most urgent issues in the territory.⁸

11. NAPs outline governmental measures for implementing the Women, Peace and Security Agenda. They outline objectives and activities on domestic and international levels to secure the human rights of women and girls in conflict settings; prevent armed conflict and violence, including against women and girls; and ensure the meaningful participation of women in peace and security. Over 80 countries have developed NAPs, some have developed second, third, and even fourth-generation NAPs, building on the work and lessons learned from previous plans. Frequently, NAPs are aligned with national development agendas, gender equality policies, and other relevant policy frameworks.

12. NAPs vary a great deal in terms of focus, timeline, content, budget, and monitoring and evaluation frameworks. Some are also developed at regional and local levels. During my fact-finding visit to the Hague, I had a meeting with the members of the Oversight Board of the Netherlands National Action Plan for UNSCR 1325. This country's model for implementing and monitoring the progress with the action plan is exemplary, in particular with regard to cooperation between the authorities and civil society.

2.2. United Nations Security Council Resolution 1820 on sexual violence as a weapon of war⁹

13. In 2008, the UN Security Council adopted a second resolution, Resolution 1820 on sexual violence as a weapon of war. In relation to the subject of this report, while denouncing sexual violence as a tactic of war, the resolution also conveys concerns "about the persistent obstacles and challenges to women's participation and full involvement in the prevention and resolution of conflicts as a result of violence, intimidation and discrimination, which erode women's capacity and legitimacy to participate in post-conflict public life, and acknowledging the negative impact this has on durable peace, security and reconciliation, including post-conflict peacebuilding." This statement has particular resonance when looking at all recent conflicts, as it expresses in few words the inhibited potential of women in many conflict-related circumstances, perhaps most of all when considering the recent plight of women in Afghanistan after the return of the Taliban, following years of women's gradual and measurable, if limited, empowerment. The resolution also calls on the UN bodies themselves to "invite women to participate in discussions pertinent to the prevention and resolution of conflict, the maintenance of peace and security, and post-conflict peacebuilding, and encourages all parties to such talks to facilitate the equal and full participation of women at decision-making levels."

14. Just as rape – and other forms of sexual violence – were used in the Balkans, and since then in Syria, the patterns are repeated today in Ukraine, as the increasing number of reports have been testifying since the Kremlin's invasion of its neighbour on 24 February. As Russian troops have withdrawn from towns and suburbs around the capital, women and girls have come to the police, media and human rights organisations to tell the story of the horrors they have experienced at the hands of Russian soldiers. Rape and sexual assault are war crimes and a breach of international humanitarian law, and both Ukraine's Prosecutor General and the international Criminal Court have said they will open investigations into reported sexual violence. Truth and justice will be all the more important for these cases, as sexual violence leaves trauma that is very difficult to heal.

2.3. UN Women's contribution to the Women, Peace and Security (WPS) agenda

15. In 2020 a new Compact on Women, Peace and Security and Humanitarian Action was adopted, promoted in particular during UN Women's Generation Equality Forum hosted by France and Mexico. The

⁶ <https://sustainabledevelopment.un.org/post2015/transformingourworld>.

⁷ <https://www.un.org/press/en/2015/sc12149.doc.htm>.

⁸ See statistics on NAPS compiled by the Women's International League for Peace and Freedom (WILPF) at: <https://1325naps.peacewomen.org/>

⁹ <https://www.unwomen.org/en/docs/2008/6/un-security-council-resolution-1820>

five-year compact is based on five pillars: financing the Women, Peace and Security agenda and gender equality in humanitarian programming; women's meaningful participation in peace processes; women's economic security, access to resources and other essential services; women's leadership and agency across peace, security and humanitarian sectors; and protection of women in conflict and crisis contexts, including women human rights defenders.¹⁰ True to the inclusive working methods of UN women, the compact currently counts 161 signatories, including governments, civil society organisations and networks, UN Entities, academic institutions, the private sector, youth organizations and networks and international or regional organisations. The global dimension of the UN means that much of the action in this framework is directed towards regions outside of Europe, notably Africa. Nevertheless, on the one hand European actors are both partners and beneficiaries of the compact and on the other, peace cannot be achieved anywhere in the world without this global approach.

16. UN Women was created in 2010 as an independent UN entity, and as such its action is almost totally reliant (98%) on voluntary contributions, and in the words of the organisation itself, "Generally speaking, political support has only been modestly and partly translated into financial support".¹¹ Member States must make more effort to ensure sustainable resources.

3. The Council of Europe's Istanbul Convention and the role of women in conflicts

17. The Convention on preventing and combating violence against women and domestic violence (ECTS No. 210, the Istanbul Convention) states in the preamble the need to pay particular attention to the violations of the human rights of women during conflicts, and the particular threats they face even after conflicts. The Council of Europe has always worked to establish peaceful dialogue between member States and to alleviate tensions, but its conventional *acquis* is realistic as it contains provisions for human rights protection in all situations, including conflict. The Istanbul Convention¹² therefore states clearly that it should apply in times of peace and in situations of armed conflict alike.

18. The Istanbul Convention should thus be upheld and implemented at all times. It also promotes the importance of education for men and women on stereotypical gender roles, as well as on non-violent conflict resolution. This type of education which should be provided in both formal and informal institutions and is crucial to ensuring that successive generations are aware of the history behind the positions women hold nowadays, as well as the need for their continued empowerment.

19. The new report in preparation in the Committee on Equality and Non-Discrimination on the Istanbul Convention¹³ will address the role of the Parliamentary Assembly and of national parliaments in the promotion and supervision of the implementation of the convention, and will certainly raise the issues of how and to what extent the treaty ensures protection against, and prevention of rape and sexual violence during conflict, as well as protection of women and girls who are refugees which are covered by the text.¹⁴

20. In 2010, the Council of Europe Committee of Ministers adopted Recommendation CM/Rec(2010)10 on the role of women and men in conflict prevention and resolution and in peace building",¹⁵ stating at the outset that "women, compared to men, have less access to resources, power and decision making before, during and after conflicts". This is an important text and should be recalled in the present context. Although the title applies to "women and men", its whole thrust concerns issues of (in)equality between women and men and the need to acknowledge, take into account and rectify inequalities as a precondition for conflict resolution, so empowering women is the main objective. I believe that the Committee of Ministers should review this subject, and that it is time for a new recommendation to be prepared and adopted on women, peace and security, in the light of recent events in the dozen years since its adoption.

4. Scope, working methods and aims of the report

21. The report covers three main issues - the particular dangers and violence confronted by women during conflict, the role of women in preventing and ending conflict and women's contribution to reconciliation and transitional justice. These areas may be seen as a chronological chain of events, which is useful in particular for the purposes of examining separately conflict prevention and post-conflict situations and needs. However, all the experts I exchanged with on this topic¹⁶ underlined that to have any chance of success, the "later" stages

¹⁰ <https://wpshacomcompact.org/>

¹¹ <https://www.unwomen.org/en/partnerships/donor-countries/frequently-asked-questions>

¹² <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>.

¹³ See Doc. 15386 "The Istanbul Convention: progress and challenges," <https://pace.coe.int/en/files/29529>

¹⁴ See Chapter VII of the Convention – Migration and asylum

¹⁵ https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805cea74.

¹⁶ Women for Afghan Women, the civil society organisations in the Balkans and in the Netherlands and the experts at the International Criminal Court in The Hague.

Doc. ...

of peace negotiation and plans for post-conflict peacebuilding must in fact be built into action and policies as soon as conflict breaks out.

22. I therefore believe that conflict prevention and peace negotiation should form a continuum, where the possibility of war is taken into account during prevention phases, and the foundations and nature of future efforts to avert conflict taken into account for peace talks during conflict. This would also ensure better involvement of women in negotiations, as they are the most active in prevention at individual, local, regional and national levels. My own experience is revealing, right here and now, that peace talks and reconciliation plans can also run parallel to necessary action of retaliation and defence, including armed intervention. When a country is the victim of armed aggression, peace building and peace talks cannot subsist alone but are a beacon for the future and an added incentive to end conflict as rapidly as possible.

23. The first objective of the report is to promote the role of women in preventing and resolving conflicts. From initial research, it was my conviction that most peace agreements lacked provisions on the priorities of women and girls and their security and did not reflect women's perspectives on their lives and communities. This premise has revealed itself to be largely true, so this is a recommendation I have made in the present report.

24. The UN Secretary General's 2018 six priorities for women in peace processes provide a guideline for further recommendations, and helped to orient the main areas for attention. They are the following:

- ensure women are decision-makers in economic recovery processes;
- protect women human rights defenders and civil society in conflict situations;
- boost financing for women, peace and security;
- put more women in uniform in UN police and peacekeeping operations;
- guarantee women's meaningful participation in peace processes;
- generate and make available more data, evidence and analysis on women, conflict and peace.

25. This report looks at particular "moments" in conflict and post-conflict processes. The most interesting region for an analysis of a post-conflict situation is the Balkans, in particular the countries of Serbia, Croatia and Bosnia and Herzegovina, as well as Kosovo. Here the conflict ended in the early 2000s, but society is still affected by its aftermath and trauma remains, despite much positive action. There are also worrying signs of resurgence of the nationalistic tendencies that caused war (celebration of "war heroes", etc.). The post-soviet region of eastern Europe was my other intended focus, and I meant to explore the ways in which women were part of peace building processes and conflict resolution, as well as being a force for political change in Ukraine. Unfortunately, the situation has changed dramatically since I began my research, and war has completely overshadowed this part of the world, very nearly obliterating all the efforts to build (and rebuild) peaceful societies, demonstrating the shortfalls and obstacles to lasting peace and reconciliation.

26. In the preparation of this report, I organised a hearing on 15 March 2021 with the participation of Mr Fabián Salvioli, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence with the Office of the UN High Commissioner for Human Rights (OHCHR), and Mr Kevin Schumacher, Deputy Executive Director of the Women for Afghan Women Organisation (WAW). I held an online round table on 21 May 2021 with civil society organisations working with women in the Balkans.

27. I also carried out a fact-finding visit to The Hague on 21-22 February on the eve of the outbreak of the war in my country, with the aim of finding out more about women's role in the three stages of conflict I have identified: peace-building as part of conflict prevention when tensions rise before conflict breaks out; women's specific risks and vulnerabilities during conflict, as well as their protection; and the need for women to have an equal place and voice in peace negotiations and post-conflict situations. This mission provided very substantial input to my report, in particular in relation to the need for recognition of victims and prosecution of criminals in order for post-conflict reconciliation to be meaningful, or even possible. I take this opportunity to thank the Netherlands delegation to PACE for their assistance, and to thank my colleague Petra Stienen for receiving me at the Senate and for organising a working dinner.

5. Case study: peace and reconciliation in the Balkans, over two decades after the conflict

28. The countries of former Yugoslavia went through one of the deadliest conflicts in Europe since World War II – until today. Women suffered the worst consequences; rape was used as a weapon of "ethnic cleansing" with indicative numbers of women victims of rape estimated at between 20 000 and 50 000. Yet in the reconstruction women's voices were only rarely heard, and the assistance given by governments and international agencies, focusing on soldier's social reintegration, often did not pay sufficient attention to the position of women. The following insight into this region was provided during the online round table held on 21

May 2021 hosted by the Belgrade Office of the Council of Europe. I would like to thank the Head of the Office, Mr Tobias Flessenkemper, for his excellent guidance in its organisation.

5.1. Women working for and with women

29. Ms Nina Popovic, from the Human Rights House in Zagreb (B.A.B.E), Ms Emina Bošnjak from Sarajevo Open Centre and Ms Sonja Stojanović Gajić from the Belgrade Centre for Security Policy, represented civil society organisations in Croatia, Bosnia and Herzegovina and Serbia. In a second part of the proceedings, taking a broader view of regional developments I spoke with Ms Denisa Kostovicova from the London School of Economics and Political Science (LSE) and to Mr Thomas Osorio, from the Faculty of Social Sciences of Leuven University.

30. The B.aB.e, NGO was founded in the midst of the Balkan conflict in 1994 to provide protection for women's human rights. Located in Zagreb with an antenna in Vukovar, B.aB.e. is publicly recognised for "the uncompromising struggle for the respect of human rights on an equal basis to all citizens, and for its commitment in advocating gender equality." Much of the work now consists in organising workshops, lobbying decision makers and working towards a more cohesive and peaceful society. The NGO also provides shelters for women and children and runs a helpline.

31. Most of the initiatives to re-build a peaceful society came from actors in the non-governmental sectors and in culture and arts. The people involved in these initiatives were predominantly female: either women's organisations working in the framework of UN Security Council Resolution 1325-related activities, or on addressing sexual and wartime violence, or high-profile artists such as Jasmila Žbanić.¹⁷ An emblematic and high-profile current case was the legal battle of Fata Orlović against the Republika Srpska institutions, because an orthodox church was built illegally on her property. The case had been going on for 20 years.

5.2. Cross-border relations, from weakened links to cooperation

32. With respect to social inclusion in Bosnia and Herzegovina, the 2020 National Human Development Report showed that social connections across ethnicities had weakened over the past decade. In 2019, 70% of Bosnian respondents reported having no Serb friends, whereas only 55 % of Bosnian respondents reported having none in 2009. Similarly, 49 % of Serb respondents reported having no Bosnian friends in 2009 whereas in 2019 this proportion had increased to 72 %. The ethnic-based political structures created by the Dayton Accord had become a mechanism for increasing isolation among the constituent peoples of Bosnia and Herzegovina and for separating them into administrative systems and social spaces. These negative trends pointed to the fact that as time passes it will become progressively harder to work on peace and reconciliation without serious institutional and political action.

33. Nevertheless, peer support and cooperation worked well, in particular across national borders (between Serbia and Bosnia and Herzegovina, for instance). The ratification of the Istanbul Convention by all three countries had allowed for indicators of its implementation to be established, and NGO networks were able to work together using the provisions of the convention. EU funding had also helped civil society to consolidate and further its positive action. On the other hand, instrumentalisation by nationalist parties was widespread and there was no regulation or sanctions imposed on genocide negating rhetoric. There was a great need for efforts to ensure that public language was based on truth about the past.

5.3. Lasting effects and resurgence of non-resolved trauma

34. In all three Balkan countries, violence against women increased after the war in the region. According to LSE's Denisa Kostovicova: "when war stops, violence does not stop". Despite some difficulty in compiling statistics, it was clear that gender-based violence in general, already higher in the region, had been exacerbated by the economic recession, the recent natural disasters (earthquakes) in Croatia and the Covid-19 pandemic, all against a backdrop of persisting problems of "unfinished peace" and brain-drain. In Kosovo, inter-ethnic cleansing during the war had given way to inter-family violence (including feminicide) in the post-conflict period. Women were also becoming victims of violence at an increasingly younger age.

35. Several phenomena could be observed over time: for instance, women who had been victims of violence during the war had spent the last two decades caring for their families, often in the absence of men killed during the war, and only now were coming forward to tell their stories and claim justice. There was also much transgenerational trauma, in families where children witnessed violence at a very young age.

¹⁷ Bosnian film director, screenwriter and producer. Writer and director of, in particular, the 2010 film "Na putu" ("On the Path") and in 2020 of *Quo Vadis, Aida?* (around the Srebrenica massacre, peace negotiations and trauma).

36. Director of the Sarajevo Open Centre Emina Bošnjak described the situation in Bosnia and Herzegovina 25 years after the end of the war: the country had not really begun the institutional process of dealing with the past. War criminals were celebrated publicly and openly, and divisions fostered. The institutional environment, further hampered by the COVID-19 pandemic, had reduced peace-building processes to a minimum, and the perpetuation of weak governments made progress difficult. The continued impunity of war criminals was also a serious obstacle to lasting peace.

37. Leuven University's Thomas Osorio also observed a downturn in governance across the region, which he currently estimated at the lowest level since the war. Backsliding, lack of true change and mounting nationalism were characteristics. There was also what he termed as a "hijacking of moralisation", translated into very divergent positions about heroes and victims, which made the commemoration of any single group's suffering very difficult. The denial of war crimes was a very serious matter.

38. In this context I drew the attention of the Committee on Equality and Non-Discrimination to the need to recognise and establish the facts about gender-based violence in conflict at a recent exchange on this report. In 2021 the Ukrainian NGO "Media initiative" conducted 12 interviews with women who had been captives in the Russian occupied parts of Donbas (the so-called Donetsk people's Republic and the Luhansk Republic).¹⁸ According to them, 301 people, out of them 31 women are kept in detentions or imprisoned as "spies", constantly tortured and intimidated by both the staff of the "penitentiaries" and by other imprisoned persons. Since 2017, all "court hearings" had been conducted in a closed area without any access for relatives or the media. Women are sentenced to long-term imprisonment for "espionage activities" and kept in dire conditions in the "Snezhnoye" women's prison, which was initially designed for criminals having committed serious crimes.

5.4. Women's dynamic participation as a deterrent

39. Ms Kostovicova reported on the studies she had carried out on the Croatian Parliament, where women were a minority and marginalised, but were more vocal than men, in particular on the subject of transitional justice. Parliaments have a reputation for being "masculine", adversarial forums, Croatian women parliamentarians had shown themselves to be just as adversarial as men, setting agendas and crossing party lines in the interest of progress. The same type of study was under way for Serbia. One of her conclusions was that it a positive dynamic during peacetime was essential in minimising the effects of conflict.

40. Women who survived wartime sexual violence and other forms of torture still faced numerous administrative and legal barriers in obtaining justice, and social support and benefits were disproportionately lower for the survivors entitled to them in Republika Srpska, for instance. Women who survived torture who sought compensations through civil lawsuits faced discrimination and social stigma. There were, however, some positive outcomes: in 2015, The Court of Bosnia and Herzegovina took an unprecedented series of decisions to compensate wartime survivors in several criminal cases under prosecution. To date, 15 final decisions had obliged perpetrators of wartime sexual violence to compensate the survivors.

41. To take the example of Bosnia and Herzegovina, I was informed that in order to bridge the gap between the women who are active and vocal in seeking justice and peace and reconciliation processes in the non-institutional or local sphere (municipal level, in arts, culture, non-governmental, at the individual activist level) and the institutional levels of parliament and government, progress was needed in women's political participation towards the levels prescribed by the Local Gender Equality Law. The culture of masculinity still pervasive in high-level politics needed to make way for a culture which gave new impetus to work on peace and reconciliation, at the same time de-politising peace and reconciliation processes. Otherwise, these processes would remain side-lined and marginalised in the places where it mattered greatly – institutional political life in Bosnia and Herzegovina.

5.5. Conditions for change in the region: youth, economic stability, equality and democracy

42. Mr Osorio put great emphasis on the need for "youth and truth", that is for young people to be able to see that justice is done, that states are engaged in reconciliation, and that hate and hate speech is not allowed: instead, there was a relative silence both in the region and on the part of international organisations. National prosecution of war crimes had been ineffective and the ICTY had largely failed in its mission. The Council of Europe's newly established enlarged partial agreement on an Observatory on History Teaching¹⁹ would

¹⁸ "The female face of Donbas Hostages" project, funded by the German Federal Foreign Office (see a presentation on Youtube at: <https://www.youtube.com/watch?v=4dozOBB--aY>).

¹⁹ [Observatory on History Teaching in Europe: a new flagship project of the Education Department](#), Newsroom, Council of Europe, 13 November 2020. A "project for the future of young people that can help consolidate peace and European unity that is taking shape today...The Observatory's main purpose will be to collect and make available, through a series of

certainly help in establishing guidelines and standards for teaching the more difficult parts of Europe's history like this one. The Council of Europe's Youth Foundation could also be asked to put priority on young women in conflict and transgenerational transmission of the memory of conflict.

43. The economic cost of conflict had to be taken into account. Women had borne the brunt of the cost of supporting families and communities during the war, now they needed to be given a return on their investment, with job opportunities and encouragement to embark in enterprise. Corruption was a severe problem in the region, criminals had returned and were demonstrating their regained wealth publicly.

44. All panellists agreed that economic factors and overcoming poverty were key, that gender equality was essential, and that there could be no reconciliation without real democracy. "State capture" of public discourse resulted in media capture on the same lines, and unfortunately, this lack of democratic functioning was perpetuating tensions and the risk of new conflict. Women's interests needed better representation, but there was also a need for women to be representatives of all women, not just a highly educated elite. All the countries of the Balkans should also return to reconciliation discussions.

45. On 9 September 2019, the first Sarajevo Pride March was described by Ms Bošnjak as an interesting indirect approach to in peacebuilding, intentionally crossing ethnic and entity lines and created as a "Bosnian-Herzegovinian Pride" with an organising committee composed of members from Sarajevo, Banja Luka, Mostar, and Tuzla.

46. There was also one recent good example of war crimes being faced with integrity and honesty - the new mayor of Sarajevo, Benjamina Karić, had decided to mark the Kazani as a place where Serb citizens had been killed in the war. In Serbia, legislation had made substantial progress, except with respect to war crimes. There was a helpline for victims of violence, and the government had set up a new structure to support women, which however was hampered by a lack of confidentiality in procedures. One of the conclusions of my research was that stronger governments were needed in order for transitional justice to be done.

6. Case study: The Hague – seat of the international criminal courts and a hub for peace-building initiatives and action

47. The choice of The Hague for a fact-finding visit on this subject was an excellent one, as the Netherlands' capital is the seat of many organisations and NGOs involved in peace building and post-conflict situations, some specifically working with women, as well as providing examples of good practices at government level. It was also a good transition between the overview of civil society peace building and reconciliation activities in post-conflict countries, and a closer look at legal aspects of the prosecution of war crimes, the identification and recognition of victims and punishment of perpetrators. At the same time, I was able to compare the work of NGOs in the Netherlands, where outreach and assistance extends globally rather than regionally.

48. I was able to meet with representatives of the International Criminal Court (ICC) and to learn how they implement gender-specific measures in prosecution, recording of testimonials, witness protection and victim compensation. I also met with the President and several officials at the Residual Mechanism for the International Criminal Tribunal for the former Yugoslavia. I held meetings with the members of the Oversight Board of United Nations Security Council Resolution 1325 on women and peace and security, composed of ministry representatives and NGOs, an excellent example of cooperation between the authorities and civil society in monitoring implementation of the Resolution, and which could and should be applied to other treaties.

49. I also met with Vanessa Newby, Director of the Women in International Security programme for the Netherlands (WIIS-NL) at the Leiden University Campus The Hague, and with Meka Abdulgebbar from the Advisory Council. Finally, I participated in a physical and remote round table organised at the headquarters of leading NGO WO=MAN with a dozen NGOs working with and for women in assistance, protection and peace building, followed by a working lunch organised by the Cordaid NGO with four Afghan women activists, who recounted their experiences in Afghanistan and since their evacuation in August 2021.

6.1. Upholding justice and security for women in the international tribunals

50. My visits to the ICC and to the International Residual Mechanism for Criminal Tribunals (for the Former Yugoslavia IRMICTY) in The Hague provided insight into the challenges of prosecuting war crimes, especially with respect to gender-based violence, and of the need to hand down judgments which provide sufficient reparation to victims and serve as a deterrent to future potential perpetrators.

regular and thematic reports, factual information on the state of history teaching in all participating countries. The main aim will be to facilitate exchange of good practice and mutual learning. It will also serve as a platform for professional development and networking for European professional associations and institutes active in the field of history teaching."

51. I was impressed first of all by the recent action on gender issues at the ICC: case law on gender-based crimes, which is fairly recent, is being built up considerably, and action such as the acceleration of processes for victims of sexual and gender-based crimes and crimes against children are part of the strategic goals. In December 2021 the Prosecutor designated a new Special Advisor on gender, and a new policy on investigating gender-based crimes amounting is under preparation, which will include an intersectional dimension. I was reminded that gender-based violence is also committed against men, for instance during internal conflict where those opposing the belligerent majority are oppressed. During my visit one of my meetings was with Sanyu Ndagire, Focal Point for Gender with the Office of the Prosecutor.

52. Another development has been the growing attention given to the role of female investigators: witnesses and victims very often reacted differently when facing men or women, which in the case of GBV can lead to “under-reporting”. In the ICC 41% of investigators are women. Overall, 56% staff are women. Among prosecutors, 64% are women.

53. In all the international organisations I exchanged with there is a growing recognition of the need for internal gender equality within structure and at all levels. This is recognised not only as a guarantee of equity in staff policies – equal recruitment and career opportunities, equal pay scales, etc., but also, and essentially, as a means of enabling differentiated and balanced corporate approaches and work values, as a precondition for the democratic values and policies of the institution itself to be successfully designed and implemented.

54. IRMCT President Judge Carmel Agius explained that a report on gender equality is presented every year to the UN General Assembly. The President, the Prosecutor and the Registrar are designated gender champions, and whereas in overall staff levels parity is close, there is still a long way to go amongst judges. Judge Agius had contributed to the shaping of the definition of rape as a crime against humanity, a weapon of ethnic cleansing (Muslim girls in Bosnia and Herzegovina) but also in the context of genocide (Rwanda).

55. This definition was one of the legacies of the residual mechanisms, on which the International Court of Justice had based its work, and from which the Rome statute had also drawn its inspiration. The mechanism has served to highlight the gravity of cases of gender-based violence, and to shed light on the lasting consequences of conflict in society. As I saw for the Balkans, these consequences for women include bereavement (the Mothers of Srebrenica), moral harm (destruction of homes and significant places such as burial places) blame (women who were raped were suspected of collaboration, or of bringing the act upon themselves) and other stigma, which in turn translate into social and economic marginalisation. For both courts it was clear that restitution and rehabilitation of victims was difficult, and that compensation could only be symbolic, described as being only “enough to dry their tears”.

56. Speaking to officials about the need for women to be equality represented in courts echoed with recent developments in Ukraine, among others the nomination of the first woman Prosecutor General, Iryna Venediktova. Speaking to the American media on 11 April she explained that her office was investigating 5 800 cases of Russian war crimes, with more and more proceedings every day. Her approach is to examine “who wanted this war, who started this war and who continued this war,” through four approaches: criminal investigations, coordination and support of investigations for the ICC (war crimes and crimes against humanity), joint cross-border investigation teams (with Poland, for instance) and support to other national investigations, including through universal jurisdiction.

57. The work of the Ukrainian Parliament Commissioner for Human Rights (Ombudsperson) Liudmyla Denysova is also important to underline. And among the most prominent and active women leaders since the war began is Deputy Prime Minister Iryna Vereshchuk, responsible for negotiating safe corridors for evacuation of civilians and prisoner of war exchanges.²⁰

6.2. Feminist foreign policy – a developing concept?

58. According to the Centre for Feminist Foreign Policy, this constitutes “an alternative to traditional foreign policy thinking focused on military force and domination, offering an intersectional rethinking of security from the point of view of the most vulnerable – women and other marginalised groups”. Netherlands’ Senator Petra Stienen prepared a report on the subject in 2020.²¹ At the Ministry for Foreign Affairs in The Hague, I met with the task force on gender equality and exchanged on feminist foreign policy, where Ms Pascale Grothuis

²⁰ See Reuters, “Army experience drives Ukraine’s Vereshchuk to secure prisoner release” at: <https://www.reuters.com/world/europe/army-experience-drives-ukraines-vereshchuk-secure-prisoner-release-2022-04-11/>

²¹ See [Doc. 15122](#) and [Resolution 2351 \(2020\)](#) on the gender dimension of foreign policy.

explained the role of diplomacy in peace building. Active diplomacy and gender mainstreaming were at the heart of activities, as was setting the example and championing women's empowerment.

7. Conclusions

59. Finding solutions which guarantee justice and security for women in peace reconciliation is a complex and many-faceted question, which begins by ensuring equality in all areas. Not only must women be empowered to become leaders, politicians, but at the same time the roles they already assume at home and in the community must be given more value.

60. The recommendations I have made in the draft resolution which I trust will be adopted by the Assembly endeavour to encompass the different conditions for assuring women's place in peace and reconciliation in times of peace as well as during conflict. These include the need to join and use international conventions and tools for women's protection, participation and empowerment, including the Council of Europe's own Istanbul Convention, the UN Convention for the Elimination of All Forms of Discrimination Against Women and the UN Women, Peace, and Security (WPS) agenda, as well as Security Council Resolution 1325. There must be a gender perspective in all policies, taking into consideration the needs of women and girls during conflict, repatriation and resettlement, rehabilitation, reintegration, and post-conflict reconstruction. Women must be present and active at all stages of peace building, recognised not only as victims of war but as actors at the forefront of peacekeeping, defence and of humanitarian action among others.

61. My research showed that transitional justice is a precondition for rebuilding peaceful societies and attaining closure for victims. Therefore, with respect to prosecution of crimes committed during conflict, I call on all member States, including my own, to ratify the Rome Statute of the International Criminal Court if they have not already done so, so that crimes against humanity, war crimes and aggression may be submitted to international investigation and prosecution. The collection of testimonies from persons having suffered sexual violence during conflict must be facilitated by providing expert support and guarantees of confidentiality.

62. Finally, the work of independent institutions such as Ombudspersons must be encouraged, and the women's civil society organisations allowed to carry out their work of accompanying women who suffer the consequences of conflict – migrants, refugees and asylum-seekers as well as internally displaced persons, victims of gender-based violence, and supporting women who are survivors of violence due to war.

63. The visit to The Hague especially brought home even more strongly the absolute necessity, on the one hand for women to be present and active in all peace and reconciliation processes, and on the other to continue developing gender-sensitive practices which must be ringfenced by legislation. Women are already decision makers, policy makers, communicators, legislators and judges, but there must be more of them.