Introduction

INTRODUCTION

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

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

Despite this litany of violence, the response of leaders within both the conflict-affected areas and the international community operating in Darfur (of which I was part) tended to concentrate on a singular typology of violence against women – the act of strategic rape by parties to the conflict. While prolific on a periodic basis in a
context such as Darfur, strategic rape was not, as evidenced, the only nor the most common form of gendered harm that I observed women and girls reporting to the services I managed. Yet, in that setting I witnessed male community leaders actively and collectively expressing outrage at the attacks perpetrated against women by parties to the conflict. There was no acknowledgment that the same kinds of harms were occurring in their own homes and in the camp community more broadly. It seemed politically adept to collectively condemn violence perpetrated by those in uniform, the “enemy,” while at the same time failing to acknowledge the violence against women they themselves may have been involved in.

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

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


² Note that the term for this role varies across different communities within Timor-Leste. Aisling Swaine, “Traditional Justice and Gender Based Violence in Timor-Leste” (Dili: The International Rescue Committee, 2003).
the arrival of the UN, the very visible warnings of the perils of this newly named violence in posters that now colonized the walls of their community buildings, and the obligation on them to engage with an associated lexicon that had arrived with the international presence. The numerous posters and campaigning strategies used by international organizations to highlight and prevent domestic violence were obviously at the root of the opinions formed by these community leaders. These campaigns had used a legalistic term that was alien to Timorese culture and which these men, as leaders of their communities, could not identify with and thus understood this violence as something new. Yet this was in a context where violence against women in the home was not only prevalent, but was chronicled in cultural framing and understanding through the analogy that violence between men and women was simply part of the everyday, just like the daily clash of the fork and spoon against a plate. This violence had a place and meaning in that context, and these actors were regularly dealing with it in local justice forums. Their observations, however, were a fascinating example of how international legal categories and definitions may not always fit with the lived experience of violence and may jar with a contextual understanding of what violence is and means, and indeed how and why it might be understood or labeled in a specific way.

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

3 These observations were made while conducting research for the following project: Swaine, “Traditional Justice and Gender Based Violence in Timor-Leste.”
4 Michael Dibley, Iwu Utomo, Bruce Caldwell, Terence H. Hull, Judy Gold, Abdul Wahab, Kingsley Agho, and Catherine D’Este., “Timor-Leste 2003 Demographic and Health Survey” (Dili: Ministry of Health, National Statistics Office, Democratic Republic of Timor-Leste; University of Newcastle, Australia; The Australian National University, Australia; ACIL Australia PTY Ltd., Australia, 2003); “Timor-Leste 2009–2010 Demographic and Health Survey” (Dili: National Statistics Directorate, Ministry of Finance, Democratic Republic of Timor-Leste; ICF Macro Calverton, Maryland, USA, 2010).
7 For an overview, see: Susan Harris Rimmer, Gender and Transitional Justice: The Women of East Timor (London and New York: Routledge, 2010).
between these two processes. To the keen observer, a broader chasm was evident in the distinctive and parallel means through which gendered violence as a whole was being addressed: one approach addressed endemic violence against women through long-term community- and national-level programming; the other, separately, attempted to secure redress for conflict-time incidents of violence through distinctive and temporary transitional justice mechanisms. The space in-between these concurrent approaches signifies, and is indicative of, the ways in which “extraordinary” conflict-related and the “ordinary” endemic forms of gendered violence are captured in international frameworks. Not only are these harms differentially positioned within global frameworks, their application works to essentially dichotomize women’s experiences of gendered harms within the one context and across contexts. While specific policy and programming tools, whether in justice or broader service provision should be tailored to the nature of differing harms, what are the implications of approaches that fail to comprehensively address the ways that women will experience fluctuations in the form, intensity, phases, and agents of violence across their life cycles?

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

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

Over the last three decades we have come to know more about the harms that men, women, boys, and girls face during periods of armed conflict. While these are wide-ranging, and map onto the spectrum of civil, political, social, and economic rights violations, there remains a need to generate a more in-depth and expanded understanding of the physical violence that women are subjected to. In my estimation, this need is as urgent now as ever before, due to the contemporary ways that women’s
conflict-time experiences are increasingly conflated to a singular and reductive typology of wartime rape. Since first formally identified as used in systematic ways during the Yugoslav conflicts,\textsuperscript{9} \textit{tactical} or \textit{strategic rape} has achieved growing legal and political significance. This term does not refer to random or privately motivated acts of rape or other forms of sexualized violence; rather, \textit{strategic} or \textit{tactical} refers to the deliberate systematic use of that violence as a means of attack, enacted on a directed and collective basis by state and non-state groups. As defined by the UN Security Council, it is sexualized violence “when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations.”\textsuperscript{10} In the last seventeen years, the UN Security Council has adopted four “women, peace and security” (WPS) resolutions focused specifically on sexualized violence in conflict,\textsuperscript{11} and since 2008 it dedicates one of its calendar days per year specifically to debating this issue;\textsuperscript{12} the United Kingdom hosted the first global conference on the issue in 2014,\textsuperscript{13} with an associated declaration on its prevention also adopted by the G8;\textsuperscript{14} multiple states include it as a mandatory training issue for their peacekeepers;\textsuperscript{15} and in 2015, the United Nations General Assembly adopted a resolution designating June 19 as annual “International Day for the Elimination of Sexual Violence in Conflict.”\textsuperscript{16} These are not only extraordinary, but also rapid developments on the part of an international system that, prior to the new millennium and the slowly developing engagement on the issue by the ad hoc criminal tribunals of the 1990s, gave it little attention.\textsuperscript{17} However, while the evolution of the “strategic” and “weapon of war” framework has done much to advance attention to violence against women during wartime, it has also become a “pre-established framework for describing wartime


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


\textsuperscript{14} UK Foreign and Commonwealth Office G8, “Declaration on Preventing Sexual Violence in Conflict” (2013).


\textsuperscript{17} I note that the Beijing Platform for Action and preceding world conferences on women did recognize issues of women and conflict, and the impacts of sexual violence.
rape in all settings.” This has advanced a mantra that conflates women’s experiences of conflict broadly with this singular and specific act, both occluding and negating women’s wider experiences of both conflict and violence. How we have come to this moment, and what it signifies in respect of current theorizing and empirical understanding of women’s experiences of conflict, is a fundamental concern underpinning this book.

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

21 Taken directly from ibid., p. 399. Buss, “Rethinking Rape as a Weapon of War,” p. 146.
Sierra Leone (SCSL) (and later the Extraordinary Chambers in the Courts in Cambodia). Through these tribunals, significant gains have been made in securing a degree of accountability for conflict-related violence against women. The documentation of organized and systematic sexualized assaults in the conflicts in the former Yugoslavia and in Rwanda during the 1990s prompted the beginnings of serious inquiry and consideration of gendered violence during armed conflict.\textsuperscript{24} Decisions of these courts have determined sexualized violence as a war crime, a crime against humanity, and a component of genocide, giving recognition to tactical rape as an element of (some) women’s experiences of armed conflict, and establishing it as a legitimate concern of the international community.\textsuperscript{25} The adoption of the Rome Statute (1998) and the creation of the International Criminal Court (2002) signaled significant change, where crimes such as rape, sexual slavery, and forced pregnancy were given formal legal codification, solidifying the potential for international legal redress for these crimes.\textsuperscript{26} The documentation of sexualized violence and its determination as elements of international crimes marked a turning point for how we understand this violence. It has also, however, inherently served to elevate attention to the importance of conflict-time tactical sexualized violence in ways that gendered violence outside of armed conflict has simply not received at global levels.

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

\textsuperscript{29} Breen Smyth, \textit{Truth Recovery and Justice After Conflict}, p. 10.
women visible in these discourses … in a politically divided, sectarian society in transition from armed conflict are complex and vital.”31 The “monolithic rape identity” of women that may result from certain transitional justice approaches “excludes women’s other pressing needs for equal opportunity and non-discrimination in their quest for livelihood, rehabilitation and reintegration into a post-conflict economy and society.”32 Where these mechanisms set the context for the onward post-conflict peacebuilding dispensation, there is pressing need to ensure they discern a fulsome picture of women’s experiences, rights violations, and arising interests. Whether the “new facts” and “the accurate record” produced by truth processes include women’s broad experiences of abuse or indeed situate those experiences within the constancy of violence in women’s lives is a concern of this book.33 As are the ways in which the “truth” or a wider discourse that is established in the aftermath of a conflict will influence the focus of politics and peacebuilding, and whether legal and normative developments post-conflict will reflect the reality of gendered violence.34

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

33 See, for example: Harris Rimmer, Gender and Transitional Justice; Ní Aoláin and Turner, “Gender, Truth and Transition.”
While these resolutions feature throughout the book, they are not its sole focus. Rather, sites of accountability through court proceedings and reports of truth commissions are instead of interest given their role in broader knowledge production for conflict-related violence against women. These processes are driven by and through modalities of public international law, which themselves are of specific interest to this book (and my interest herein is in international humanitarian, criminal and human rights law in categorizing crimes considered to constitute violations of an international nature and law’s role in transition). Underpinned by resolute notions of what “conflict-related” violations might entail, international legal frameworks are found by feminist scholars to be largely devoid of a gendered understanding of conflict and of the ways that women’s experiences of “conflict-related” harms might differ from historic rigid and formalized regimes of regulating international crimes.\footnote{Fionnuala Ní Aoláin, “Exploring a Feminist Theory of Harm in the Context of Conflicted and Post-Conflict Societies,” \textit{Queen’s Law Journal} 35 (2009); Doris Buss, “The Curious Visibility of Wartime Rape: Gender and Ethnicity in International Criminal Law,” \textit{Windsor Yearbook of Access to Justice} 3 (2007); “Rethinking ‘Rape as a Weapon of War,’” \textit{Feminist Legal Studies} 17 (2009); Fionnuala Ní Aoláin and Eilish Rooney, “Underenforcement and Intersectionality: Gendered Aspects of Transition for Women,” \textit{The International Journal of Transitional Justice} vol. 1 (2007).} The categorization of violence in international law and policy has become a hot debate for feminist scholars as they grapple with what kinds of approaches to documentation and accountability best serve the interests of women. The function of public international law implies strategies that elevate particular offenses and particular actors responsible for crimes in prosecutorial approaches.\footnote{Harris Rimmer, \textit{Gender and Transitional Justice}, p. 16.} Feminist legal theorists have highlighted the gendered ways in which these laws have been developed; the resulting ways in which the public/private distinction between forms of harm has been sustained; and the precedence given to civil and political rights so that the harms that men articulate receive most attention.\footnote{Hilary Charlesworth and Christine Chinkin, “The Gender of Jus Cogens,” \textit{Human Rights Quarterly} 15 (1993).} It has been observed that these laws create a “hierarchy of violence,” which, in regards to gendered violence, has largely meant that systematic public rape has been given more attention and credence than the violence that appears in women’s everyday lives.\footnote{Carolyn Nordstrom, \textit{Shadows of War: Violence, Power, and International Profiteering in the Twenty-First Century} (Berkeley, Los Angeles, and London: University of California Press, 2004), p. 58.} International law frameworks focusing on conflict-time violence and the behaviors of armed actors are a necessity in ensuring that the harms and crimes specific to those contexts are subject to modes of accountability. Through this very necessity however, arises a conundrum – how to grapple with the distinction that is thereby made between differing forms of violence, public and private, conflict and non-conflict, that one woman might experience across a lifetime, or in one conflict-time moment? International approaches to gendered harms have arguably failed to comprehensively address the range and complexity of violence present in women’s lives, namely its rootedness in structural inequalities,
a dynamic of violence which feminists estimate cannot be “easily translated into the narrow, individualistic, language of rights.”\textsuperscript{40} Such an approach does little to ensure recognition of the structural causality and range of violence that women experience and the need for accountability for the same.\textsuperscript{41} The book directly engages with the nexus between the gaps in knowledge about conflict-related gendered violence beyond strategic rape, and the gaps evident in how current international law through transitional justice mechanisms address gendered violence.

KEY MOTIVATIONS AND FOCUS OF THE BOOK

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

\textsuperscript{40} Hilary Charlesworth and Christine Chinkin, \textit{The Boundaries of International Law: A Feminist Analysis} (Manchester: Manchester University Press, 2000).


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

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

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

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

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

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

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

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

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

That women should name their experiences of harm and allow this to give rise to legal and political definition and redress is the fifth and final motivation underpinning the book. The four aforementioned motivations driving this book, i.e. the relevance of the examination of the nature of violence itself, its relationship to gender and context-specific factors, and the dichotomies between “conflict” and “peacetime” violence, come succinctly together in the ways that CRVAW is treated by international legal frameworks and their use in many transitional justice mechanisms. International criminal trials and truth processes are shown to neglect acknowledging and accounting for the expanded forms and nature of CRVAW across pre-, during-, and post-conflict settings examined in the book. Tensions appear in approaches taken by post-conflict justice mechanisms that simultaneously open up space for addressing women’s experiences (e.g. inclusion of gendered harm in justice mechanisms) and also constrict that space and how the issue is addressed (e.g. narrow framing of CRSV used in these mechanisms). Transitional justice mechanisms are shown to miss the opportunity to deal with the past in ways that engage with the gendered basis of harms experienced by women, the variant forms of harm that women experience and the connections
and distinctions in violence across time and space. Transition to peace through the lens of transitional justice evidences a silencing of the ways that the structural gendered order not only informs conflict-time harms, but also those following conflict. By not attending to the need to promote substantive changes in gender inequalities, these mechanisms do little to prevent the resurfacing of inequalities and variant gendered harms post-conflict. Transformational approaches that are facilitative of the “radical social change”\textsuperscript{55} that is required for violence against women to be fully addressed after conflict are required. These are approaches that include but go beyond law, are people-centered and focused on inclusivity and social transformation. The book concludes that there is a critical need to address specific forms of CRVAW for accountability purposes, but doing so in ways that situates that violence within the broader universe of prevailing gendered harms and their pre-conflict normative basis.

THE APPROACH OF THE BOOK: FEMINIST PRAXIS AND COMPARATIVE ANALYSIS

Feminist and Reflexive Approaches

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


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

morally and socially just ways.”

It is with this in mind that the book seeks to simultaneously advance critical academic work as well as applied practice.

Prior to, and in the course of pursuing the research for this book, I advanced from the role of “aid worker” to that of “researcher,” and, later, to full-time academic. I spent the greater part of the new millennium’s first decade working with international humanitarian organizations in several of the most acute armed conflicts occurring during that time. Roles as humanitarian aid worker, social justice activist, action-researcher, practitioner, counselor, consultant, and policy advisor meant that I came to the research with a lived (outsider and witnessing) experience of the subject matter of the book. The “experiential research” I have undertaken previously has inevitably had a bearing on my evolving academic pursuits. While I am cognizant of the tensions that may appear when a professional/practitioner becomes a researcher, I can easily attest to how the experience of “doing” combines well with the experience of “critiquing” and that research can become “a form of professional conversation between our practice and our reflective powers – mind interacting with experience.”

There is increasing recognition of the relevance of the “context of the researcher” herself as “part of narrative interpretation.” I strongly concur with feminist approaches to social research that cast doubt upon the possibility of a researcher being completely objective, particularly in relation to her research object’s subjectivity within context. Indeed, the experience of the research that informs this book raised an array of personal, political, and emotional factors that, in the context of empirical work, challenged the notion or utility of objectivity for someone already so engaged in those contexts in prior roles. I thereby take a reflexive approach to this book, acknowledging the effects of the producer of knowledge on that knowledge, and have employed it throughout the research, analysis, and write-up. I do so in an attempt to acknowledge the inevitable presence that my prior roles and experiential knowledge occupy within the overall research process and to ensure analytical accountability with respect to the methodological process and lens of analysis taken. I am also motivated by the personal drive to evidence both the need for and the possibilities presented through taking an approach that embodies the scholarly-practical connect.

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60 Ibid.
Socio-Legal Approaches

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

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

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\(^67\) Ibid., p. 5. \(^68\) Ibid., p. 5.


\(^70\) Banakar and Travers, “Law, Sociology and Method,” p. 5.


\(^72\) Ibid., p. 362. \(^73\) Ibid., p. 363. \(^74\) Ibid., p. 382.
employs a socio-legal and feminist theoretical approach in order to “ask the woman question”\(^\text{75}\) of both the appearance of violence related to armed conflict and of how law, through transitional justice, deals with this. “Feminist methods are means to feminist ends,” which I employ within a socio-legal framework to develop a “critical yet constructive” assessment of violence, law, and the knowledge required to promote engagement that could be transformative for practice.\(^\text{76}\)

**Comparative Analysis of Conflict Case Studies**

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


\(^{76}\) Ibid., p. 888.


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

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

**Empirical Ethnographic Comparative Analysis of Violence**

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

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80 Ibid., p. 174.

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

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

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


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

In broader empirical terms, I was an outsider to all of the contexts I was researching. I felt this most acutely in Northern Ireland and Liberia as I was learning for the first time about specific local issues. I lived in Northern Ireland for the duration of the PhD that informs this book. This site presented particular challenges where for some, my accent, which is readily identifiable with “the South” or the Republic of Ireland, was assumed to signify particular political sympathies and affiliations relative to the Northern Ireland context. I struggled with it, having always been the (non-neutral) outsider in the many contexts in which I had worked. I use the term “non-neutral” because, as an aid worker, I was compelled to be neutral, but in the face of mass atrocity against a minority to whom you are providing aid, genuine, non-emotive neutrality is impossible. However, in all of the contexts I had worked in, I was considered an outsider. This was my first experience of being perceived to hold a political affiliation, and I imagine it is something that many researchers must navigate when engaging in political contexts with which they are in some way affiliated. Liberia was new, and challenges arose in navigating the space as a clear outsider, particularly in navigating assumptions about violence in that context, which I discuss more in Chapter 3. In Timor-Leste, it was almost as if I was an “insider-outsider” – former Timorese colleagues sometimes responded to my research questions with incredulity: “but Mana (sister) Aisling, you already know this stuff even better than I do!” Those who may have a partial-insider status must learn to carefully navigate this dynamic, however, so that the findings represent those views expressed by subjects, rather than reflecting the researcher’s “taken for granted assumptions.”

In this kind of reality, and as more professionals turn to researching fields with which they are already familiar, there needs to be discussion of a “space between,” which acknowledges that researchers may move not only between differing research contexts and respondent identities, but also between differing identities based on the personal characteristics of the researcher and her background.


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

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

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

Taking this challenge up, Chapter 4 explores forms of harm that were identified in the empirical research. Through identifying specific contextual factors that
contribute to forms of harm, it finds that examining violence across the dichotomy of “political public violence” and “endemic private violence” exposes the forms of violence that may sit somewhere “in-between.” The chapter discusses how dual-purpose violence exists in conflict contexts that are enacted for motivational factors beyond strategic collective rape. It identifies the hierarchies that emerge in international law because of the legal privileging of some harms above others.

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

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

Chapter 7 begins the book’s substantive engagement with transitional justice. This book provides empirical evidence of the ranges of harms that women experience and maps these against truth commissions and notable criminal trials, effectively evidencing the argument that justice and accountability through law still have some way to go if they are to be transformational in women’s lives. Specifically, the early judgments of the international ad hoc tribunals for the former Yugoslavia and Rwanda, as well as processes of truth and reconciliation in the three case study sites, are examined in respect of how they grapple with the complexity and characteristics of violence that the book reveals. The analysis shows that there is a selectivity on the part of transitional justice mechanisms in engaging with gender and with gendered violence, resulting in a partial and patchy representation and generation of “knowledge” on women’s experiences of conflict.
In its concluding chapter, the book finds that in the aftermath of conflict, a *transformation*, as espoused by feminist activists and scholars, rather than a *transition* is required, if the enduring gendered harms women experience are to be appropriately addressed. It makes this argument on the basis of the evidence across the book – that of the connections and distinctions between harms across phases of conflict and peace, and the variant multi-purpose violence that may be found within and across conflict contexts. The conclusion argues that to promote an approach that is transformative for women, transitional justice processes have a role to play in taking account of structural forces that simultaneously push open and close down spaces for addressing women’s disaggregated and aggregated experiences of gendered violence across peace to conflict.