

TECHNICAL REPORT

THE CONFLICT DID NOT BRING US FLOWERS

The Need for Comprehensive
Reparations for Survivors of Conflict-
Related Sexual Violence in Kosovo



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UN WOMEN

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ABBREVIATIONS AND ACRONYMS

CAVR	Timor-Leste Commission for Reception, Truth and Reconciliation (Acronym from Portuguese title: Comissão de Acolhimento, Verdade e Reconciliação)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRSV	Conflict-related sexual violence
CSO	Civil Society Organization
DMFWI	Department of Martyrs' Families and War Invalids
EULEX	The European Union Rule of Law Mission in Kosovo
Forum ZFD	Forum Civil Peace Service
IER	Morocco's Equity and Reconciliation Commission (Acronym from French title: Instance Équité et Réconciliation)
IMWG DwPR	Inter-Ministerial Working Group on Dealing with the Past and Reconciliation
KIESA	Kosovo Investment and Enterprise Support Agency
KLA	Kosovo Liberation Army
KRCT	Kosovo Rehabilitation Centre for Victims of Torture
KWN	Kosovo Women's Network
National Council	The National Council on the Survivors of Sexual Violence During the War in Kosovo
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
TİKA	Turkish International Cooperation and Coordination Agency
UNMIK	United Nations Mission in Kosovo
UNSCR	United Nations Security Council Resolution
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
USAID PRP	United States Agency for International Development Property Rights Program
WPS	Women, Peace and Security

EXECUTIVE SUMMARY

Conflict-related sexual violence in Kosovo is an open secret. In the first few years after the conflict, scant reports emerged in the public domain of sexual violence against Albanian women, perpetrated by Serbian police and paramilitary forces. In the mid to late 2000s, whispers of sexual violence against other groups, Kosovar ethnic Roma, Ashkali, Egyptian and Serbs, as well as Kosovar men and boys, were heard in the back rooms of organizations providing support to survivors of conflict-related sexual violence. Service providers, women's civil society groups and political actors have over time highlighted the occurrence of sexual violence during the conflict in Kosovo, bringing public awareness and political action to the needs of victims and survivors of conflict-related sexual violence during the conflict in Kosovo.

Today, the survivors of conflict-related sexual violence in Kosovo still face enormous challenges. Perceived or actual community attitudes towards victims of sexual violence have led to several deaths by suicide. An additional small number have died from domestic violence perpetrated against victims in the name of honour. Fear of violence and stigmatization have prevented many from seeking services. Access to health, employment, (re)education and (re)skilling services is difficult for most, particularly for those in areas not currently serviced by civil society organizations which provide health services and small scale income generation activities. The needs of those who have identified as survivors of conflict-related sexual violence are not uniform. Access to health care and financial means are top priorities for many; however, widows, single mothers, those married to people injured in the war, and people with disabilities face additional difficulties. Survivors with children focus primarily on their ability to feed

and educate their children, in the hope they can provide a better life for them.

In recent years, significant efforts have been undertaken by many actors in Kosovo to uphold the rights of survivors to reparation and address their needs. From the innovative structure of the *National Council on the Survivors of Sexual Violence During the War in Kosovo* (the National Council) aimed at addressing identified imminent needs of survivors, to the fervour of civil society and members of parliament seeking legislative recognition of survivors, to the willingness of the central authorities and respective ministries to be involved in processes to benefit survivors, through to the key local level leaders showing public support for survivors. Activities and initiatives to date have demonstrated the capacity and willingness of Kosovar authorities to respond to the needs of survivors of conflict-related sexual violence. However, survivors have had limited involvement in these activities, initiatives and processes, as their requests for confidentiality and anonymity have often been interpreted to indicate a wish not to be involved. Outside of the organizations that assist them, survivors do not have any avenues to share their views on these matters or to participate in relevant decision making processes.

A significant first step towards guaranteeing the rights of survivors to reparations has been taken with the passing of a legislative framework to provide reparations to survivors of conflict-related sexual violence. Steps are being taken to implement the legal framework and establish the *Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War* (the Commission). Secretariat members of the Commission have been selected, and processes to select and

train Commission members, secretariat members and authorized civil society and local Government officials is under way. However, critical steps such as publishing a call for Commission members to enable their recruitment, and a Government decision announcing the amount of compensation to be provided to verified survivors are eagerly awaited. It is important to implement the current legal framework quickly, and to undertake all processes required to make the Commission functional and able to dispense the benefits currently conferred by law in order to assure survivors that the fulfillment of their rights is a priority for the government.

In conjunction with undertaking the processes presently prescribed by law, a number of amendments to the legal framework are recommended to ensure that the Commission can function without discrimination, in accordance with international law, and can meet the needs of survivors. These amendments should not slow down or in any way hinder the establishment of the Commission. These include: rectifying the translation differences between the Albanian, Serbian and English versions of Law no. 04/L-054 (as amended by Law no. 04/L-172) to ensure that the definition of beneficiaries is in accordance with international law; ensuring all survivors of conflict-related sexual violence are exempt from invalidity testing (not just survivors of rape); and amending the timeframe in respect of acts of sexual violence so as to include acts that occurred leading up to the conflict, and after the formal cessation of hostilities immediately after the armed conflict.

It is further recommended that the present provisions pursuant to Law no. 04/L-054 are supplemented to ensure that the variety of survivor needs can be met to enable them to rebuild their lives. Survivors need access to health care inside of Kosovo, along with (re)education and employment opportunities. Furthermore, providing survivors of conflict-related sexual violence with the benefits to which other groups are entitled can reduce the risk of them being identified as survivors of sexual violence, pro-

vide for different needs, and avoid sending a message of differentiated value of suffering.

Meanwhile, survivor heads of household and those with children have specific additional needs. Benefits, such as access to education and health care, are currently unavailable to the children of survivors of conflict-related sexual violence even though they are desperately needed. In many cases survivors value the fate of their children more than their own. Some feel guilty for the suffering they were subjected to, as it has affected their ability to provide a better future for their children. Providing education and health services to the children of survivors is beneficial to the survivor, as well as to those children affected as indirect victims of the violations suffered by one or both of their parents. It is also a way to make sure that children born from rape are included in the reparations measures, but are not singled out as children born from rape. Providing access to services to children of survivors can also reduce the risk of transgenerational and inter-generational discrimination and stigmatization.

Reparations provide recognition to victims, not only as victims, but also as rights holders. Symbolic acknowledgement of the violation of their rights can serve as a reassertion of their equal rights as citizens and send a message of membership and dignity to both survivors and the community. (Former) President Jahjaga made significant efforts to acknowledge the violation of rights and suffering of victims of conflict-related sexual-violence, however, it is important for the rebuilding of civic trust between survivors and the government that survivors receive official recognition from Parliament and current Government officials. High-level public acknowledgements can serve as a display of a State's commitment to victims, contribute to societal healing and reconciliation, and reinforce the message of membership and dignity.

Presently, survivors of conflict-related sexual violence in Kosovo feel they have limited avenues to be heard or to contribute to the important

processes being undertaken on their behalf. Miscommunication and delayed communications have also resulted in survivors being unaware of the various stages of each process as they are occurring, causing further anxiety and discontent. Policy makers, programme designers and implementers can better address the needs of survivors if they engage directly with survivors, understand what survivors consider important with regard to justice and redress for themselves and their families, and listen to survivors about the challenges they face in accessing and maximizing access to services and benefits.

The processes associated with providing reparations themselves can be an opportunity for empowerment of survivors. Meaningful participation of survivors can enhance reparation programme design and the effect of transitional justice measures. It can also help improve the reach, completeness and comprehensiveness of the reparation programmes. Moreover, direct engagement with survivors can help manage expectations and increase the meaningfulness of symbolic and material reparations.

It is important to note that, despite a strong gender-equality legal framework in Kosovo, in practice, women's participation remains limited in decision-making processes, especially at the community level. Survivors themselves are also not accustomed to speaking openly and often defer to the established leader in the room. Appropriate measures need to be put in place to accommodate their concerns in engaging with processes that affect them. As such, a "do no harm" approach must be employed in all activities and processes.

The harm of conflict-related sexual violence is not limited to the act itself, but can also come from the treatment survivors receive in the home and community as a result of it. Many survivors fear violence, stigma and ostracism as a result of being a victim of sexual violence. As one survivor eloquently stated, it is important

that society understand that "*the conflict did not bring us flowers.*" Guarantees of non-recurrence for conflict-related sexual violence require dismantling the social structures and stereotypes that perpetuate discrimination and violence against women and girls. The creation of awareness-raising campaigns about the facts of sexual violence and the suffering of victims must be done in consultation with survivors to prevent further harm.

Survivors continue to face challenges in all aspects of everyday life. Pre-existing gender inequality, stigmatization in the home and community, and other lingering consequences of the violations survivors have faced limit their capacity to engage as full citizens in economic and social life. Access to structures and programs that may be able to assist their rehabilitation and reintegration remains difficult.

Targeted actions to improve access to justice for survivors of conflict-related sexual violence are being carried out by various actors under the coordination of the Ministry of Justice in accordance with the Action Plan for Access to Justice for Victims of Sexual Violence During the War. In addition to these initiatives, there are a number of programmes and initiatives in Kosovo that do not directly target survivors of conflict-related sexual violence, but could provide significant transformative benefits by assisting with their rehabilitation and reintegration. These include initiatives to encourage and facilitate property ownership by women, income generation activities, provision of small grants, and access to economic development programmes for vulnerable groups in Kosovo. Coordination of existing initiatives that could be adapted to benefit survivors, and facilitation of survivors' access to these initiatives, would be beneficial. Including survivors within programmes and initiatives aimed at wider audiences would avoid identification and further stigmatization.

To the extent possible, synergies should be sought between reparations and development

programmes. The Government has shown political willingness to uphold the right to reparation by establishing a legal framework to provide verification and reparations to survivors of conflict-related sexual violence. With that commitment in place, State and development actors can work together to implement this legal framework and enhance the effectiveness of reparations for survivors. Development policies can complement the reach of reparation policies to guarantee social and economic rights to marginalized groups.

The preliminary steps that Kosovo has taken can and should be followed up with further progress and realization of rights for survivors. In doing so, the Government of Kosovo can provide adequate restitution, compensation, rehabilitation, and guarantees of non-repetition to survivors of conflict-related sexual violence. By fully guaranteeing the right to reparation, the Government of Kosovo can help survivors rebuild their lives, assist in restoring civic trust between the survivors and the authorities, and make further progress towards building sustainable peace. If these further steps are taken, it is possible that Kosovo can serve as a positive example for other countries attempting to address the legacy of conflict-related sexual violence.

A series of specific recommendations to more fully guarantee the right to reparation for conflict-related sexual violence are contained in Section V. Broadly, these recommendations are:

1. Implement the current legal framework and ensure the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War can function effectively, efficiently and without discrimination.
2. Amend and supplement the current legal framework to guarantee the right to reparation for all survivors, and provide reparative measures that can assist survivors in rebuilding their lives.
3. Prioritize the acknowledgement of the violation of the rights survivors of conflict-related sexual violence and reinforce a message of membership and dignity.
4. Ensure survivors of conflict-related sexual violence are included in the consultation and decision-making stages of all processes that affect them. Participation should adjust to evolving capacity.
5. Continue to educate communities about sexual violence and highlight the link between past abuses and ongoing violations.
6. Facilitate the social and economic reintegration of survivors. Ensure survivors can access existing programs and initiatives and support and facilitate survivor participation in the design of future programmes that can better assist them to rebuild their lives.
7. Seek synergy between the reparation programme and development programmes to maximize resources and ensure long-term commitments to reparative goals and objectives.

I. INTRODUCTION AND METHODOLOGY

A. Introduction

The movement to establish an independent Kosovo escalated into an armed conflict between February 1998 and June 1999. Then a province of Serbia within the former Yugoslavia Republic (which at the time consisted of Serbia and Montenegro), the violence in Kosovo began when Belgrade cracked down on organized ethnic Albanian resistance. Among the variety of human rights abuses reported to have occurred during the conflict, the separation of men and women by Serb forces during attacks on ethnic Albanian areas was reportedly common.¹ Reports of sexual violence before, during and after the conflict also emerged over time. The conflict came to a close when the North Atlantic Treaty Organization (NATO) supported the Kosovo Liberation Army (KLA) with a protected bombing campaign directed against Serbian targets in the former Yugoslavia Republic. The 1999 intervention led to the withdrawal of Yugoslav forces from Kosovo and the establishment of UNMIK, the United Nations Mission in Kosovo, which administered the interim government in Kosovo. In the immediate aftermath of the conflict, as refugees who had been displaced by the violence began to return, a countervailing flight of Yugoslav forces and ethnic Serbs occurred en masse. Despite the formal cessation of hostilities, numerous reports detailed the proliferation of revenge attacks perpetrated by both sides.²

In the aftermath of hostilities, women's groups and civil society organizations provided emergency services to survivors³ of conflict-related

1 Andrew Testa, "Endgame in Kosovo", *New York Times*, 9 December 2007.

2 In the course of documenting survivor perspectives for this report, sexual violence within ethnic groups and against ethnic groups emerged as having occurred in the context of these revenge attacks.

3 The words "Victim" and "Survivor" are used inter-

sexual violence. Service providers adapted to the needs of survivors over the years, later providing psycho-social support and sexual and reproductive health care. Throughout this period, prominent women's rights activists led campaigns to bring awareness of the plight of survivors, attempting to break the silence surrounding conflict-related sexual violence. Between 2008 and 2012, a loose network of women's rights activists began to coordinate and collectively advocate for the needs and rights of survivors and to break the stigma attached to sexual violence during the conflict. In 2010, the Regional Women's Court (a regional civil society initiative), began providing a space for discussion about violence against women during and after the conflicts in the Western Balkans in the 1990s.⁴ In December 2010, the Women's Court held sessions in Kosovo focusing on conflict-related sexual violence. Further sessions have been held across the region and included Kosovo survivors of conflict-related sexual violence, with the last held in May 2015 in Sarajevo.

Since Kosovo declared independence in 2008, local authorities have undertaken many initiatives aimed at dealing with the past.⁵ Advocacy campaigns focused on conflict-related sexual violence, particularly since 2012, have served to break the previously deafening silence on sexu-

changeably in Kosovo in the context of sexual violence. It is acknowledged that how each affected individual chooses to identify is a matter of personal preference. For the purpose of this document, persons who suffered sexual violence are referred to as victims in the context of having been violated, and as survivors in post-violation contexts.

4 Regional Women's Court – A Feminist Approach to Justice. See: <http://www.zenskisud.org/en/index.html>.

5 A full description of the situation in Kosovo, including initiatives to date, can be found in Section IV. The Kosovo context and Annex I: A summary of reparative initiatives for survivors of conflict-related sexual violence in Kosovo.

al violence and strengthen government support for survivors. In a few short years, discussion of conflict-related sexual violence has increased exponentially at various levels of government. Efforts to provide both redress and support to the survivors of conflict-related sexual violence and to pursue accountability for their assailants have accelerated over time.

Lobbying efforts to amend the legislation recognizing and providing benefits to KLA martyrs, veterans and civilian victims (deceased, missing and injured),⁶ in order to also include victims of conflict-related sexual violence, began in 2012. In 2014, an amendment drafted by the Parliament to recognize and provide benefits to survivors of conflict-related sexual violence was passed.⁷

In 2012-2013, the Office of the United Nations High Commissioner for Human Rights (OHCHR) with the support of UN Women undertook research to outline the patterns and long-term consequences of sexual violence in Kosovo between February 1998 and June 1999, identify the availability of services and access to justice for survivors of conflict-related sexual violence, and identify gaps in the legislative framework for access to justice and measures for protection and reparation.⁸

The strong support of civil society, political and other groups was further harnessed by President Atifete Jahjaga in March 2014, when by a special Presidential decree, the **National Council on the Survivors of Sexual Violence During the War in Kosovo** (the National Council) was established. The National Council brought together

representatives of key Ministries that could support sexual violence survivors, civil society and international stakeholders towards an improved, better coordinated response. Among the many activities of the National Council were the drafting of a strategy on access to justice for survivors, the development of a Memorandum of Understanding with the Ministry of Health on access to health services, awareness-raising activities, and economic empowerment initiatives through multi-stakeholder projects.

The President and National Council members also worked closely with the Office of the Prime Minister Legal Department to draft a regulation to implement the legislative amendment to recognize and provide benefits to survivors. Passed in December 2015, the regulation provides for the establishment of a Commission to verify the status of victims and survivors of conflict-related sexual violence, and to ensure the distribution of the benefits provided by law. The Office of the Prime Minister is now taking steps to establish and functionalize the **Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War** (the Commission).⁹

While the legislative amendments to date have been large steps forward, the current legal framework does not address the full range of survivors' needs. To some extent, the legal framework has been supplemented by agreements between the Office of the President and individual Ministries to provide access to services and recourse to justice for survivors of sexual violence.¹⁰ With the end of President Jahjaga's term on 7 April 2016, and the closing of the National Council, an evaluation of reparative initiatives to date and guidance on future steps to address the pressing needs of survivors is timely.

Within this context, as a member of the National Council, UN Women in Kosovo initiated this

6 Kosovo, Law no. 04/L-054 On the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Civilian Victims of War and their Families, of 8 December 2011 [Hereafter "Law no. 04/L-054"].

7 Kosovo, Law no. 04/L-172 On Amending and Supplementing the Law no. 04/L-054 On the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Civilian Victims of War and their Families, of 20 March 2014 [Hereafter "Law no. 04/L-172"].

8 Victoria S Rames, *Healing the Spirit: Reparation for Survivors of Sexual Violence Related to the Armed-Conflict in Kosovo* (2013).

9 Kosovo, Regulation no. 22/2015 On Defining the Procedures for Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War, of 2 February 2016 [Hereafter "Regulation no. 22/2015"], art. 3 (1.2).

10 Outlined in section IV.

study to complement prior initiatives with updated research, focusing on bringing survivor voices and perspectives to the forefront of future policy and programme design. It is intended to bring together best practices in reparations, including those outlined in the 2014 *United Nations Secretary General's Guidance Note on Reparations for Conflict-Related Sexual Violence*,¹¹ and the views, expectations and needs of survivors of conflict-related sexual violence in Kosovo to supplement efforts to date and ensure full reparation for survivors of conflict-related sexual violence that is victim-centric, gender-sensitive, and transformative.¹² It is aimed at complementing existing and planned measures to increase their effectiveness to address survivor needs, as guided by survivors' voices.

B. Methodology

The consultant conducted the research from 1 September 2015 to 31 January 2016 in Kosovo. Information was collected throughout the period from workshops and meetings with survivors of sexual violence, the National Council, its members individually, and representatives of Ministries and departments.¹³

Research began with review of all publications and informal documents available on the situation of sexual violence survivors in Kosovo and engagement with members of the National Council.¹⁴ A workshop was held with the National Council in early October 2015.

During this workshop, the National Council outlined its overarching objective: developing a comprehensive approach to reparation for sur-

vivors to enable their full participation in their family life, communities and national processes through improved quality of life and empowerment; removing barriers in access to justice, health care, and economic independence; and improving community recognition and support for survivors.

A number of sub-objectives complement the holistic approach taken by the National Council:

- To lift survivors out of poverty and provide economic independence through economic opportunities, tax exemptions and economic support.
- To ensure that survivors of sexual violence have access to the highest possible standard of health care.
- To enable access to justice for survivors of sexual violence through physical and logistical means.
- To address the societal shame and stigma associated with sexual violence. This includes redirecting the societal shame and stigma associated with sexual violence from survivors and to place it squarely on the perpetrators of sexual violence.
- To empower survivors to use their own voice on behalf of themselves and other survivors around the globe, and assist survivors to shed the self-doubt and shame that has attached to being a victim of sexual violence.

Survivors of sexual violence were placed at the centre of the research, and information and outreach were conducted in a two-way dialogue over the five months to overcome the physical and cultural distance that has separated survivors from decision-making to date. Approximately 70 survivors participated in activities with the consultant: 14 participated in a preliminary meeting in October 2015, 59 attended a two-day workshop comprising of six focus group meet-

11 Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014).

12 Reparations can be transformative when they seek to transform the structural inequalities which led to the violations of women's rights, respond to women's specific needs and prevent their re-occurrence, rather than seeking to re-establish the situation that existed before the violation.

13 A full list of key stakeholders consulted can be found in Annex III.

14 A full list of resources can be found in Annex IV.

ings in November 2015, and several attended both. The consultant also connected with survivors at National Council and community events.

Outreach to survivors was made possible through the four civil society organizations providing psycho-social support services to this population: Medica Kosova, Medica Gjakova, the Kosovo Rehabilitation Centre for Victims of Torture (KRCT) and the Centre for the Promotion of Women's Rights. Confidentiality of survivors who participated in the research was a paramount concern. Details of the workshop and meetings were not made public, names of participants were not utilized for logistical purposes, and photographs were not taken. Participants on all occasions were able to engage unidentified during the sessions if they wished and, at each session a sealed box was provided in order that survivors might leave messages anonymously. As the confidentiality of survivors remains a key concern, details that could identify individual survivors or areas in which self-identified survivors may reside have been omitted from this report. Necessarily, the report remains vague on specific areas, such as localities in which survivors reside that could benefit from communal services or resources. **Actors interested in undertaking activities that could provide such services are encouraged to contact the UN Women office in Kosovo for guidance on areas with specific needs.**

During the two-day workshop, wellness sessions such as art therapy, stress management, and body therapy sessions were conducted by trained facilitators as another means of two-way participation. In this way, survivors able to be a part of the reparations design process were provided with health improvement tools to take home with them, and sessions focused on documenting their needs and voices were interspersed with convivial and relaxation sessions.

Survivors were not asked questions in relation to their specific experiences of sexual violence. However, several survivors offered unprompted accounts of their experiences during the group sessions and several more sought out private

time with the consultant to disclose details of their experience and specific consequences which were documented. These details are not included in this report.

It was not possible to reach out to male victims of conflict-related sexual violence and include their perspectives. This is not to suggest men and boys were not victims of conflict-related sexual violence in Kosovo. Indeed, male survivors have come forward to service providers for treatment and to the media to tell their stories. To date, just one service provider in Kosovo has had the capacity to provide counselling and health services to male survivors. Other providers have not been able to provide such services for lack of capacity and safe, anonymous spaces for men and boys. Another service provider is attempting to build such capacities in order to provide services to male survivors in the near future. Nonetheless, at this time it appears that many male survivors of conflict-related sexual violence lack the access specific and tailored services. Outreach to male survivors is thus presently difficult.

The aim of the consultations was to hear and highlight voices of the participants and look at the heterogeneity of needs. Much of the work to date in Kosovo has been based upon the assumption that survivors have one collective voice. The reality is that, previously, the more self-assured and vocal members within both the communities of survivors and the service providers have been most heavily relied upon for the provision of information pertaining to survivors and their needs.

Meetings with each of the civil society organizations working with survivors were also conducted. Each organization detailed the services they provide to survivors of conflict-related sexual violence and background information relating to how and why these services were identified as needed. As the OHCHR report has documented these services, they are not included in this report.¹⁵ An important consideration of any reparation programme design is the capacity and willing-

¹⁵ See Annex II of Rames, *Healing the Spirit*.

ness of the respective government to provide reparations. To ascertain this, meetings were held with representatives of: the Office of the President; Office of the Prime Minister; Ministry of Health; Ministry of Labour and Social Welfare; Ministry of Agriculture, Forestry and Rural Development; Ministry of Justice; Ministry of Trade and Industry; Ministry of Education, Science and Technology; and the Agency for Gender Equality. **All government entities expressed genuine willingness to find solutions within their respective portfolios to the challenges survivors face.**

The research and recommendations were presented to 72 survivors in April 2016. Meeting in four groups, 68 of the 72 survivors who participated in the April 2016 validation meetings also participated in the focus group sessions in November 2015. These meetings served to confirm the findings from the previous workshops and provide further clarification of perspectives on a few points.

II. REPARATIONS FOR CONFLICT-RELATED SEXUAL VIOLENCE: DEFINITIONS, LEGAL FRAMEWORK, CHALLENGES AND BEST PRACTICES

A. Definitions

The *Secretary-General Guidance Note on Reparations for Conflict-Related Sexual Violence*¹⁶ utilizes the definition of conflict-related sexual violence developed in the UN Analytical and Conceptual Framing of Conflict-Related Sexual Violence.¹⁷ According to this definition, **conflict-related sexual violence** refers to incidents or patterns of sexual violence against women, men, girls or boys occurring in a conflict or post-conflict setting that have direct or indirect links with the conflict itself or that occur in other situations of concern in the context of political repression.¹⁸

Conflict-related sexual violence takes multiple forms including rape, forced pregnancy, forced abortion, forced sterilization, forced nudity, forced prostitution, sexual exploitation, trafficking, sexual enslavement, forced circumcision, castration, and other forms of sexual violence of comparable gravity.¹⁹

Victims²⁰ of conflict-related sexual violence include women, girls, men, and boys who individually or collectively suffered sexual violence and also family members, such as children or partners, and children born as a result of pregnancy from rape.²¹ Persons who depend on the immediate victim of sexual violence may also be victims as a consequence of the harm inflicted through the violation. Victims may include persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.²² The words “victim” and “survivor” are used interchangeably in Kosovo in the context of sexual violence. It is acknowledged that it is a matter of personal preference as to how each chooses to identify. For the purpose of this document, persons who suffered sexual violence are referred to as victims in the context of having been violated, and as survivors in post-violation contexts.

16 Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014).

17 A/66/657- S/2012/33, para. 3.

18 Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014), p. 3.

19 Ibid., p. 2.

20 See Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (A/RES/60/147, 21 March 2006) [Hereinafter “Basic Principles and Guidelines on the Right to Remedy and Reparation”], principles 8 and 9.

21 Ibid., principle 8; and Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014), p. 3.

22 Ibid.

Victims of conflict-related sexual violence in Kosovo are therefore all persons who experienced any form of sexual violence before, during and after the formal period of hostilities, that had direct or indirect links to the conflict, including acts of sexual violence against and within ethnic groups. Victims can be both female and male, and may belong to any ethnic group. Victims may also be family members of the immediate victim, and persons who depend on the immediate victim as a consequence of the harm of the violation. Harm can be immediate and long-term: physical and mental harm; loss of economic and education opportunities; related further violations of human rights including the right to family life; and moral damage including social humiliation, tarnished reputation and related fear or anxiety.

In international law, **reparations** refers to all measures that may be employed to redress the various types of harms that victims may have suffered as a consequence of certain crimes.²³ They can take various forms and traditionally include restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.²⁴

- **Restitution** is aimed at restoring the victims to the pre-violation position (as far as possible). It can include restoration of liberty, enjoyment of human rights, family life and citizenship, restoration of employment and return of property.²⁵
- **Compensation** should be provided for economically assessable damage, as appropriate and proportional to the gravity of the violation. Damage can include physical and mental harm; lost opportunities including employment, education and social benefits; moral damage and costs required for assistance.²⁶

- **Rehabilitation** includes medical and psychological care as well as legal and social services.²⁷
- **Satisfaction** refers to non-financial expressions of reparations which can include truth-seeking and disclosure; official declarations restoring the dignity, reputation and rights of the victim; public apologies, including acknowledgement of the facts; and inclusion of accurate accounts of the violations in educational materials.²⁸
- **Guarantees of non-repetition** include measures to contribute to the prevention of further or future violations such as institutional reforms; promotion of mechanisms for monitoring and preventing social conflicts; and promotion of human rights.²⁹

These forms of reparations were developed without specific regard for gendered violations and, consequently, can pose challenges to redressing the harm of conflict-related sexual violence and the specificity of women's experiences. Their application within the broader legal framework and through a gender-sensitive approach is discussed below.³⁰

23 Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence to the General Assembly (A/69/518, 14 October 2014), para. 19.
 24 Basic Principles and Guidelines on the Right to Remedy and Reparation, principle 18.
 25 Ibid., principle 19.
 26 Ibid., principle 20.

27 Ibid., principle 21.
 28 Ibid., principle 22.
 29 Ibid., principle 23.
 30 See section III. C and D.

B. Legal Framework

The right to an effective remedy is enshrined in international human rights law and humanitarian law,³¹ as well as regional instruments.³² The right to an effective remedy has been elaborated on in jurisprudence.³³ In December 2005, the United Nations General Assembly adopted the *Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of Human Rights Law and Serious Violations of International Humanitarian Law*. The *Basic Principles and Guidelines on the Right to Remedy and Reparation* is a compilation of the rights recognized by the international community through the Commission on Human Rights and the General Assembly.³⁴

31 Key provisions in international human rights law are: The Universal Declaration on Human Rights, art. 8; the International Covenant on Civil and Political Rights, art. 2; the International Convention on the Elimination of All Forms of Racial Discrimination, art. 6; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 14; the Convention on the Rights of the Child, art. 39; the International Convention for the Protection of All Persons from Enforced Disappearances, art. 24. Key provisions in international humanitarian law are found in: The Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV), art. 3; the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977, art. 91 (applicable to international armed conflict but the obligation is now considered as part of customary international law applicable to non-international armed conflict); the Rome Statute of the International Criminal Court, arts. 68 and 75.

32 Regional instruments include: The African Charter on Human and Peoples' Rights, art. 7; the American Convention on Human Rights, art. 25; and the Convention for the Protection of Human Rights and Fundamental Freedoms, art. 13. Currently, there are not any regional instruments enshrining the right to remedy to which Kosovo is a party.

33 See for example the Human Rights Committee General comment no. 31 adopted on 29 March 2004, and the Committee against Torture General comment no. 3. For an example of jurisprudence concerning State-to-State reparations for violations of international human rights law and international humanitarian law see for example, *Armed Activities on the Territory of the Congo* (Democratic Republic of the Congo v Uganda) (Merits) [2005] ICJ Rep 116.

34 General Assembly Resolution 60/147.

Under international law, remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim's right to:

- a. Equal and effective access to justice;
- b. Adequate, effective and prompt reparation for harm suffered;
- c. Access to relevant information concerning violations and reparation mechanisms.³⁵

Pursuant to domestic and international law, States must provide reparation to victims of gross violations of international human rights law and international humanitarian laws that can be attributed to the State. Persons and entities found liable for violations during conflict may also be liable to provide reparations. In the event a person or entity is found liable for reparation to a victim, and the State has provided reparation to the victim, the liable person or entity should compensate the State.³⁶ In the event that those liable for providing reparations are unwilling or unable to meet their obligations, States should endeavour to establish national programmes for reparations and other assistance to victims.³⁷

Jurisprudence confirms that the obligations to provide reparations go beyond monetary compensation. They include public investigation and prosecution; legal reform; restitution of liberty, employment or property; medical care; and expressions of public apology and official recognition of the State's responsibility for violations.³⁸

The United Nations Security Council Resolutions in the Women, Peace and Security agenda provide methods for adopting a gender-sensitive approach to the application of the legal framework.³⁹ In addition, the Convention on the Elim-

35 Basic Principles and Guidelines on the Right to Remedy and Reparation, principle 11.

36 Ibid., principle 15.

37 Ibid., principle 16.

38 A/69/518, para. 17.

39 In particular, UNSCR 1325 (2000), 1820 (2008),

ination of All Forms of Discrimination Against Women (“CEDAW”) Committee has also contributed to the understanding of the legal framework through its *General Recommendation 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations which recommends that States ensure reparations are gender-sensitive, promote women’s rights, and include women in the design.*⁴⁰

C. Challenges for the Design of Reparations for Conflict-Related Sexual Violence

The traditional forms of reparation – restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition – if narrowly interpreted, may prove problematic and ineffective in providing redress for victims of conflict-related sexual violence.

For crimes of sexual violence, the goal of seeking to restore the individual to the pre-violation state (**restitution**) is problematic as the status quo for women before, during and after conflict is often one of systemic disadvantage. Pre-existing structural gender inequalities can not only compound the consequences of conflict-related sexual violence, but also pose significant challenges to the design and implementation of measures aiming to address the harm of conflict-related sexual violence. Women experience inequality and vulnerability from a wide variety of daily realities: discrimination and stereotypes in the home, community and places of employment; cultural and legal restrictions on female ownership of and access to property; gender-based restrictions on movement and access to public spaces; cultural norms and beliefs regarding female chastity and honour; exposure to sexual and gender-based violence and harassment; and unequal access to health services and education.⁴¹

1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013), and 2242 (2015).

40 UN Committee on the Elimination of Discrimination Against Women, *General recommendation no. 30 on women in conflict prevention, conflict and post-conflict situations*, CEDAW/C/GC/30, 1 November 2013.

41 UN Women Report of the Expert Group Meeting on

Compensation for economically-assessable damage requires an understanding of the immediate, medium and long-term harm that can result from conflict-related sexual violence, and the gendered factors inherent in structural inequalities that may affect such calculations. Sexual violence can cause long-standing physical, mental and emotional trauma, including the inability to conceive, infertility, and reproductive health problems; loss of education, economic and marriage opportunities; loss of property; further violations of human rights such as the right to family life; and moral damage such as social humiliation and damaged reputation.

Rehabilitation for survivors of sexual violence requires an understanding of who may need access to *what* kind of services, and *how* accessible these services are. Too often, rehabilitation is limited to the provision of medical and physiological services for women victims of conflict-related sexual violence. As sexual violence against men and boys is often invisible and/or under-reported, male victims of conflict-related sexual violence often lack access to specific and tailored services. Rehabilitation for other types of victims can also be overlooked. Victims may also include family members and persons who may depend on the immediate victim, as well as persons that suffered harm intervening to assist victims in distress or to prevent victimization.⁴² Among the many negative consequences of sexual violence on the lives of survivors, the emotional impact on the rest of the family can be most devastating.⁴³ Access to appropriate rehabilitation services for other victims in addition to the immediate victim is critical, especially to address inter-generational harm resulting from conflict-related sexual

Prevention of Violence Against Women and Girls (2012), pp.8 – 10. Available from <http://www.unwomen.org/-/media/Headquarters/Attachments/Sections/Library/Publications/2012/11/Report-of-the-EGM-on-Prevention-of-Violence-against-Women-and-Girls.pdf>.

42 Basic Principles and Guidelines on the Right to Remedy and Reparation, principle 8; and Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014), p. 3.

43 Cristián Correa, *Integrating Development and Reparations for Victims of Massive Crimes* (University of Notre Dame, 2014), p. 9.

violence. If considered more broadly, rehabilitation also has the potential to include victim empowerment strategies, such as linking survivors with education and economic opportunities.⁴⁴ In cases where survivors of conflict-related sexual violence suffer from ostracism that can lead to destitution, access to housing could also be a form of rehabilitation.

The concept of **satisfaction** as a form of reparation involves efforts to acknowledge and disclose facts, and restore the dignity of the victim. What may be considered “satisfaction” is likely to vary between women, girls, men, and boys. Understanding the societal shame and stigma is critical to the design of measures intended to provide satisfaction. The devastating physical and physiological impacts of sexual violence are often compounded by the stigma attached to it. Victims can face fear of physical, emotional and mental abuse from those around them which may lead to death in extreme cases of physical abuse, or suicide. For men and boy survivors of conflict-related sexual violence, homophobia and the concept of emasculation or feminization of victims can lead to additional stigma and discrimination.⁴⁵ In addition to the self-censorship due to fear of stigma, survivors of sexual violence can face active silencing from those close to them as well as those in the wider community. Fear of societal shame and stigma can also prevent survivors from accessing effective remedies, including reparation.

Efforts aimed at acknowledging facts and victims must not put survivors at further risk of harm. They should not identify, further stigmatize, or disempower victims. Too often, women and their experiences are missing from public acknowledgements related to conflict, and when present focus on the narratives of women being

44 Fionnula Ní Aoláin, Catherine O'Rourke, Aisling Swaine, “Transforming Reparations for Conflict-Related Sexual Violence: Principles and Practice”, *Harvard Human Rights Journal*, vol. 28 (July 2015), p. 121.

45 Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014), p. 5.

only victims of violence. Acknowledgements and efforts to restore the dignity and reputation of survivors must be gender-sensitive and focus on upholding their rights as equal citizens.

The concept of **guarantees of non-recurrence** is similarly problematic if interpreted too narrowly. The violence and inequality women are exposed to in everyday life has a symbiotic relationship with the violence women experience during conflict. Research suggests that structural economic and social inequalities for women create conditions conducive to violence in everyday life.⁴⁶ There is also evidence that violence against women and girls is intensified and exacerbated in situations of socio-economic stress, conflict and other crisis situations.⁴⁷ Conflict-related sexual violence has been a persistent feature in conflicts throughout the ages.⁴⁸ In order to provide adequate reparations – including guarantees of non-repetition – it is therefore critical to address the structural realities of everyday violence, discrimination and inequality in women’s lives, as well as the harm resulting from the violation.

D. Best Practices to Approaches to Reparations for Conflict-Related Sexual Violence

Guidance for the design of national administrative reparation programmes can be found in reparation programmes that have been administered in various States to date.⁴⁹

46 Fionnula Ní Aoláin, Catherine O'Rourke and Aisling Swaine, “Transforming Reparations for Conflict-Related Sexual violence”, p. 107.

47 UN Women Report of the Expert Group Meeting on Prevention of Violence Against Women and Girls (2012), pp. 8 – 10. Available from <http://www.unwomen.org/~media/Headquarters/Attachments/Sections/Library/Publications/2012/11/Report-of-the-EGM-on-Prevention-of-Violence-against-Women-and-Girls.pdf>, p. 8.

48 Elizabeth D Heinman (Ed.), *Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights* (2011).

49 Judicial reparation programmes that mention forms of sexual violence among the list of violations that qualify a victim for reparations have also been developed. However, as administrative reparation programmes are wider reaching, and

National administrative reparation programmes specifically for conflict-related sexual violence have been designed and implemented to various degrees in Peru (high implementation), Croatia (medium to high implementation), Guatemala (low to medium implementation), Sierra Leone (low to medium implementation), Bosnia and Herzegovina (medium implementation), and Timor-Leste (no implementation).⁵⁰ In other countries, sexual violence was not an explicit category for reparations, rather broader categories were adopted (such as victims of human rights violations). Today, several more countries are in the process of designing administrative reparation programmes for conflict-related sexual violence.⁵¹ Each country designing and implementing reparation programmes is different as the type of conflict, historical context, legal traditions, region and socio-economic development differ. Nevertheless, the lessons learnt from each process are valuable.

Principles and guidance for the design of reparations for conflict-related sexual violence are found in the Basic Principles on the Right to Remedy and Reparation; the Guidance Note of the Secretary General on Reparations for Conflict-Related Sexual Violence; and the 2014 Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence to the General Assembly.⁵² A summary of the key features of a reparation programme for conflict-related sexual violence based on these principles, practices, and guides is provided below.

Kosovo has already embarked on the process of an administrative reparation programme, these are not considered within the scope of this paper.

50 To date, the administrative reparation programme in Timor-Leste has not been implemented, however, within the mandate of the Truth and Reconciliation Commission, emergency reparative measures were provided to victims deemed to require urgent assistance.

51 Such as Tunisia, and Côte d'Ivoire.

52 A/69/518.

1. Reparation Program Design and Implementation Must Be Guided by the Principle of “Do No Harm”

The design and implementation of reparation programmes for conflict-related sexual violence should be guided by the principle of “do no harm”. The design must take into account the specific challenges of access and stigmatization. Limiting access to reparations to a process requiring registration of victims can run the risk of exposing victims, even if the registration process is confidential. Designing a reparation programme in which benefits are available to victims of conflict-related sexual violence as well as other categories of persons can assist to hide the identity of sexual violence victims in the bigger group, thereby avoiding stigma.

In Timor-Leste, the Commission for Reception, Truth and Reconciliation (CAVR) recommended single mothers, widows and survivors of conflict-related sexual violence receive benefits that could assist to rebuild their lives such as skills trainings and income generating activities. The recommendation not only served to prioritize those whose biggest challenge was securing financial security, but also aimed to reduce the risk of identification of sexual violence survivors by not singling them out.

For reparation programmes for conflict-related sexual violence that involve a registration process, care must be taken with the procedural rules to protect the interests of the victims, particularly their security and privacy. It is essential that reasonable and appropriate measures for burden of proof are adopted.

In Peru, a variety of mechanisms were used for registering victims, including declarations of community leaders and analysis of contextual information. In Chile, the payment of reparations for torture did not require victims to disclose or prove their experiences of torture. The fact that they had been detained in a centre known for its extensive use of torture meant that compensation was paid without needing to meet a burden of proof.

2. Reparation Programme Design, Implementation, Monitoring and Evaluation Must Be Victim-Centric and Inclusive

Reparations are the only transitional justice measure designed to benefit survivors directly. It is therefore critical to hear survivors' views on specific forms of reparations, and to prioritize resources to ensure reparations are effective.⁵³ All survivors of conflict-related sexual violence should be able to participate in reparation processes, and be treated with respect and care to avoid causing additional harm and trauma. Participation and consultation should be facilitated without discrimination on the basis of sex, gender, identity, ethnicity, race, political affiliation, class, marital status, sexual orientation, nationality, religion, and (dis)ability, or any other status.

Ensuring that victims can adequately participate and have their perspectives included in the design, implementation, monitoring and evaluation of reparation programmes requires: providing adequate information through accessible means to all potential victims; identifying legal, cultural, social, economic, and other barriers faced by victims; listening to and accommodating their concerns; and providing safe environments which facilitate participation in ways that are acceptable to the culture and religion of participants, and possible with the multitude of family, work and social obligations participants may have.

The reparation process itself should strive to increase the inclusion and autonomy of victims throughout all stages, and adjust to evolving capacities. Women only focus groups during community consultations can facilitate the development of women's autonomy. Ensuring decision-making processes are gender-balanced can serve to empower women to participate.

53 Basic Principles and Guidelines on the Right to Remedy and Reparation; Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014); Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence to the Human Rights Council, A/HRC/21/46 (9 August 2012); and A/69/518.

3. Reparations Must Be Gender-Sensitive

The design of a reparation programme that is just requires understanding the gendered nature and consequences of harm suffered by women and girls as well as men and boys. Gender inequalities also need to be considered to ensure that reparations do not marginalize, ostracize, penalize or exclude women, girls, men or boys.⁵⁴ The intersection of gender with other forms of identity (such as ethnicity or religion) and structural positions (such as age, education or marital status) must also be considered.⁵⁵

For example, a gender-sensitive approach to the calculation of compensation for conflict-related sexual violence against women must take into account the social importance of a woman's fertility, chastity, honour and role in society as a wife and mother; the consequences of sexual violence for a woman's marriage prospects; and factor in the lack of financial reward for women's work in the private sphere.

Similarly, a gender-sensitive approach to rehabilitation must take into account the additional difficulties male survivors may face in accessing services they require. Additional resources may also be required to enable the participation of men and boys in reparation processes.

4. Reparations Should Strive to Be Transformative

"Reparations must go beyond the immediate reasons and consequences of the crimes and violations; they must aim to address the political and structural inequalities that negatively shape women's and girl's lives". Nairobi Declaration on Women's and Girl's Right to Remedy and Reparation

Sexual violence often results from and perpetuates pre-existing discrimination and struc-

54 Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014), p. 5.

55 A/69/518, para. 70.

tural subordination.⁵⁶ Sexual violence against women is often rooted in beliefs about their subordination and male sexual entitlement, together with a disregard for their equal enjoyment of rights. Sexual violence against men can also be rooted in stereotypes about masculinity and constructions of gender and sexual identity around power and domination.⁵⁷ Just and effective reparation programmes must therefore seek to dismantle – as much as possible – these structures of discrimination and inequality. They should strive to address both the causes and consequences of conflict-related sexual violence.⁵⁸ They must not reinstate or reinforce structural conditions within a society that may contribute to the perpetuation of sexual violence, or the discrimination against sexual violence victims.⁵⁹

To date, the ability of reparation programmes to be transformative has been limited. However, much has been written by way of guidance as to how reparation programmes, especially for conflict-related sexual violence, can be transformative.⁶⁰ A first step in designing transformative reparations for conflict-related sexual violence is to identify the political, economic, and social and cultural foundations that may contribute to the underlying structural causes of inequality and discrimination. The design of reparation programmes also requires victim participation

56 Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014), p. 8.

57 Ibid.

58 CEDAW/C/GC/30 (2013), para. 77.

59 Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014), p.8; and A/69/518, para. 72.

60 See for example: Melanie Hyde, Emma Palmer and Sarah Williams, Transformative Reparations for Sexual and Gender-Based Violence at the Extraordinary Chambers of the Courts of Cambodia: Report of the Workshop (28 November 2014); Fionnula Ní Aoláin, Catherine O'Rourke and Aisling Swaine, "Transforming Reparations for Conflict-Related Sexual Violence"; Ruth Rubio-Marin, "Reparations for Conflict-Related Sexual and Reproductive Violence: A Decalogue" *William & Mary Journal of Women and the Law* (2012) 19(1), p. 69; A/69/518; Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014).

to ensure inequalities can be adequately addressed and not exacerbated. It requires redistribution of resources to empower and effect social change.

Morocco's Equity and Reconciliation Commission (IED) sought to contribute through its mandate to efforts to alter discriminatory practices. For example, the IER did not use the models of previous compensation schemes based upon traditional inheritance laws that prevent the wives of the disappeared or killed from obtaining compensation. Rather, applying non-discriminatory principles, the IED, awarded the wives reparations based upon their role as the victims' spouses. This decision has been subsequently used by the women's movement in its campaign to change the discriminatory family laws.

In addition, the consequences for the health and wellbeing of victims, long-term discrimination and stigmatization can prevent victims from progressing socially and economically.⁶¹ In terms of empowering survivors through distribution, providing periodic benefits and autonomy-enhancing projects such as micro-credit programmes in combination with specific training have been shown to be more beneficial and sustainable than lump-sum or one-off benefits.⁶² The provision of health care, housing, and other necessary benefits are also critical for survivors to be able to take advantage of such programmes. Access to health care, education opportunities and inheritance for children of victims can help to halt long-term, inter-generational and transgenerational consequences that may result from conflict-related sexual violence and prevent structural inequalities spanning across generations.

The goal of transformative reparations is to address both the cause and consequence of the violence and/or violation. Defining a standard to guide the development and implementa-

61 Cristián Correa, *Integrating Development and Reparations for Victims of Massive Crimes*, p.13.

62 A/69/518, para. 73.

tion of reparations can assist in addressing the causes and consequences of violence. Correa eloquently suggests that an appropriate standard for reparations is the delivery of a concrete message of membership and dignity.⁶³ As gross human rights violations such as conflict-related sexual violence can be seen as a message denying the victim's dignity and membership in the community, and inaction or further mistreatment can reinforce that message, the goal of reparations should therefore be to deliver the opposite message. All reparative measures therefore should seek to deliver and reinforce the message of membership and dignity.

5. Adequate Reparation for Conflict-Related Sexual Violence Requires a Combination of Different Forms of Reparations

Reparations can take various forms, and are generally categorized as material, symbolic, individual or collective. Material forms of reparations may include cash payments, or services and benefits such as health care, housing, or education. Symbolic forms of reparations may include official apologies, establishing memorials, and/or dedication of public spaces (such as museums, parks or changing names of streets), commemoration days, or rehabilitation measures such as restoring dignity and honour to victims. Individual reparations are for the benefit of specific individuals, and collective reparations for specific groups or communities. Individual and collective reparations should complement and reinforce each other. Reparation programmes, in addition to including material and symbolic elements to individuals and collectivities, can be increased in effectiveness when also combining immediate and ongoing benefits.

⁶³ Cristián Correa, *Integrating Development and Reparations for Victims of Massive Crimes*, p.12.

In Colombia, 25 May has been declared the “National Day for the Dignity of Women Victims of Sexual Violence caused by the Internal Armed Conflict”. The commemorative day is one of the collective reparation measures proposed by a survivor of conflict-related sexual violence to recognize the physical suffering experienced victims of conflict-related sexual violence and restore their dignity.

As an effective reparation programme distributes benefits in such a way as to turn every survivor into a beneficiary,⁶⁴ combining different forms of reparations can help to achieve maximum results. Combining forms can also serve to maximize resources, as programmes that benefit both individuals and collectivities may cover a larger number of survivors.⁶⁵ Since not all survivors of conflict-related survivors may wish to identify as such (even if identification processes are confidential), combining forms also helps to reach out to those that do not wish to apply for individual benefits. Including multiple reparative measures in a reparations package – for example payments, health care, scholarships, access to housing and symbolic forms of reparations – also provides for different needs without sending a message of differentiated value of suffering.⁶⁶

In June 2015 Croatia's Parliament adopted a law that provides all sexual violence victims of the war with a once-off payment, monthly compensation for the rest of their lives, and access to legal aid, compulsory and additional health insurance, regular annual medical check-ups and accommodation in institutions providing services and assistance to war veterans and war victims.

Though material forms of reparation are often the first that come to mind, symbolic reparations are an important means through which harm that cannot be repaired with money (such as stigma) can be addressed, communities can be assisted to make sense of the painful events

⁶⁴ A/69/518, para. 23.

⁶⁵ Ibid., para. 31.

⁶⁶ Cristián Correa, *Integrating Development and Reparations for Victims of Massive Crimes*, p. 12.

of the past, and the message of membership and dignity can be reinforced.⁶⁷ State acknowledgment is a key form of symbolic reparation that is crucial to addressing and combatting stigma and restoring the victim to a position of value.⁶⁸ Frequent affirmation of the message of membership and dignity can serve to reinforce it.⁶⁹ Symbolic forms of reparation are an integral part of reparations for conflict-related sexual violence; however, caution is required in the design of symbolic forms of reparation so as not to further enhance stigma and stereotypes attaching to survivors.⁷⁰ Survivor input into the form of symbolic reparations is critical to ensure it is both meaningful and does no harm.

6. Linking Reparations with Development

The right to reparation and the right to development are distinct rights. States have primary responsibility to provide reparations to victims of gross violations of international human rights law and serious violations of international humanitarian law.⁷¹ Development policies often have a broader focus, aimed at larger groups and communities who may suffer from marginalization and poverty. Development programmes should not be utilized as a substitute for reparation programmes, however, the grounding, functions and purpose of reparation and development programmes can be linked to mutual and long-lasting benefits, thus providing long-term positive impacts on the wellbeing of survivors and communities.

Reparation programme design must take into consideration the capacity of the State to provide reparations. There is little utility in designing a reparation programme where there is little

political will or capacity to implement. Doing so can defeat victims' expectations and undermine the purpose of reparations, causing distrust between victims and the State. Development actors can assist authorities to develop the capacity to provide reparations and strengthen reparation programmes through infrastructure that can deliver reparations, such as schools, hospitals and dissemination of information to potential beneficiaries.

Reparation programmes and development programmes can also increase the effectiveness for one another. For example, reparation programmes, particularly for conflict-related sexual violence, can assist development through empowering survivors who may in turn participate in development decision-making and benefit more directly from development programmes. Similarly, development programmes can assist to maximize resources available for reparations and continue to reinforce the goals and objectives of reparation programmes in the long-term. This is important for addressing long-term harm and discrimination in particular, as it is not something that can be resolved in a short period of time.

67 Ibid; A/69/518, para. 33.

68 Fionnula Ní Aoláin, Catherine O'Rourke and Aisling Swaine, "Transforming Reparations for Conflict-Related Sexual violence", p. 118.

69 Cristián Correa, *Integrating Development and Reparations for Victims of Massive Crimes*, p.17.

70 Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (June 2014), p.7.

71 Basic Principles and Guidelines on the Right to Remedy and Reparation.

III. REPARATIONS FOR CONFLICT-RELATED SEXUAL VIOLENCE IN KOSOVO

This report is focused on the rights and needs of survivors of conflict-related sexual violence in Kosovo today, 16 years after the conflict, and how these should be addressed through a comprehensive reparation programme.⁷² It necessarily focuses on the perspectives and voices of women survivors as only women survivors were able to participate in the consultations focused on the design of a reparation programme. This should not be taken to suggest all Kosovar women experienced sexual violence, or victims of sexual violence did not suffer other experiences as well during the conflict. Indeed, women's incredible activism during the conflict in Kosovo has been well documented.⁷³ Women were engaged in smuggling goods past checkpoints, delivering humanitarian assistance to the front lines and caring for the wounded in the early days of the conflict. As fighting intensified, women's organizations assisted those fleeing the violence by helping the displaced with food, shelter, support, medical care and other necessities, as well as by working with international NGOs to monitor and report on human rights abuses. During the chaos of the conflict, many women recognized the need to work on

healing the trauma and, developed methods for supporting people with trauma.⁷⁴ Activism came at a price, however: for many women, imprisonment, interrogation, police harassment as well as physical and psychological strain were not uncommon. In the aftermath of the conflict, many women (including survivors of sexual violence) became heads of households, having to deal with trauma and new economic responsibilities simultaneously.

Focusing on women's perspectives also does not suggest that only women experienced sexual violence. Male survivors of conflict-related sexual violence have spoken about their experiences and some have sought the services of civil society organizations providing psycho-social support.⁷⁵ Unfortunately, infrastructure to support men and boys who have suffered sexual violence has been limited, and the experiences of men have not been the focus of documentation efforts. To date, only one service provider has been able to assist male survivors. Another provider has reportedly been approached by a number of male survivors for assistance, but has not had the capacity to respond. During

72 Given the lapse of time since the conflict, child victims of conflict-related sexual violence are today adults and hence referred to as women and men survivors.

73 See for example: Kosovar Gender Studies Centre, *History is Herstory too: The History of Women in Civil Society in Kosovo 1980 – 2004*, (Prishtinë/ Priština, 2008).

74 Ibid., p. 132.

75 A recent example of a man's account of the sexual violence he experienced during the war can be found at: Arton Konushevc, 'Rrëfimi i një burri, viktimë e dhunës seksuale gjatë luftës në Kosovë (Lit. The story of a man victim of sexual violence during the war in Kosovo)' (2016) (23 March) *Radio Free Europe*.

the focus group discussions, a woman survivor of conflict-related sexual violence noted that a young male relative also suffered from sexual violence during the conflict, but that it has not been possible to connect him with a service provider, primarily due to fear of the violation against him becoming known and the possible societal consequences that could flow from such identification.

Conflict-related sexual violence occurred throughout Kosovo before, during and after the conflict. To date, however, there has not been any systematic documentation or research of conflict-related sexual violence in Kosovo. Much of the documentation of conflict-related sexual violence has described sexual violence perpetrated by Serbian police or paramilitaries against ethnic Albanian women. Rape is believed to have been used to dehumanize Kosovar Albanians, and women in particular were potentially targeted in an effort to thwart their activism and support for the Kosova Liberation Army (KLA). However, sexual violence against ethnic Roma, Ashkali, Egyptian and Serbian women by other perpetrators has also been reported.⁷⁶ Sexual violence against men also occurred but has been even less reported and documented.

Within the accounts of conflict-related sexual violence that have been documented, various forms of sexual violence have been identified.⁷⁷ Nonetheless, several service providers and actors engaged in advocacy efforts for the recognition of survivors of conflict-related sexual violence have limited views of sexual violence as meaning only rape (acts of penetration). For example, one organization has reportedly refused

services to victims of forced nudity and has excluded them from other activities.

Similarly, recognition of acts perpetrated after the formal end of hostilities remains challenging. Sexual violence is widely known to have continued after the official cessation of hostilities and is considered to have been facilitated by the lack of infrastructure in the immediate aftermath of the war such as power outages and poor lighting.⁷⁸ Nevertheless, the current legislative framework for the recognition of survivors of conflict-related sexual violence for the provision of reparative measures is limited to persons who suffered sexual violence between 27 February 1998 and 20 June 1999.⁷⁹

Conflict-related sexual violence has had severe consequences in Kosovo. Victims suffered physical injuries and physiological trauma. Many women sought abortions under desperate situations and others bore children conceived in rape.⁸⁰ The social shame and stigma faced by survivors of sexual violence prevented many from accessing care and rehabilitation services. Perceived or actual community attitudes towards victims of sexual violence have led to several deaths by suicide. An additional small number have died from domestic violence perpetrated against victims in the name of honour. For some, it limited or wholly erased their eligibility to marry, further affecting their status in society. Others have been rejected by their husbands, or have otherwise become a financial burden and source of lingering shame to their families. After 16 years, many still have not come forward for fear of repercussions such as ostracism from their communities or even families. The survivors had, and in many cases continue to have, strong incentives to remain silent

76 Kosovar Gender Studies Centre, *History is Herstory too*, p. 275; Humanitarian Law Centre, "Kosovo Roma: Targets of Abuse and Violence 24 March – 1 September 1999". Available from <http://www.greekhelsinki.gr/english/reports/hlc-march-sept-1999.html>; and a service provider in Kosovo has reported providing services to Roma, Ashkali and Egyptian survivors of conflict-related sexual violence.

77 See for example: Human Rights Watch, "Kosovo: Rape as a Weapon of Ethnic Cleansing", (2000). Available from <http://www.hrw.org/legacy/reports/2000/fry/index.htm#TopOfPage>.

78 CIVPOL registered 362 cases of rape/ sexual assault from 2000- 2002 (annual reports); Kosovar Gender Studies Centre, *History is Herstory too*, p. 275.

79 Law no. 04/L-172 art. 4 (3.6).

80 According to the Guardian, humanitarian organizations such as the as the International Red Cross estimated that in January 2000 approximately one hundred babies conceived of rape were born in Kosovo: Helena, S., "Rape Victims' Babies Pay the Price of War", *The Guardian*, 16 April 2000.

about their experiences which in turn has worsened their psychological trauma.⁸¹ It should be noted that this is not the situation for all survivors. A small number enjoy the support of their family members and have benefited enormously from psycho-social and other services provided by civil society organizations.

Much of the support for survivors of sexual violence has come from women-led civil society organizations. During the conflict, these became spaces for women to gather and share their experiences. The services and advocacy initiatives of these organizations have evolved over time, from providing trauma care during and immediately after the conflict, to psycho-social services, and, more recently, small scale income generating opportunities. These organizations, particularly the four providing services today – Medica Kosova, Medica Gjakova, the Kosovo Rehabilitation Centre for Torture Victims (KRCT) and the Centre for the Promotion of Women’s Rights – as well as advocacy and support groups and networks, such as the Kosovo Women’s Network, have been remarkable in their adaptation to the evolving needs of survivors of conflict-related sexual violence.

A. Current Reparative Initiatives for Conflict-Related Sexual Violence in Kosovo

Various stakeholders have undertaken a variety of steps to achieve recognition and reparations for conflict-related sexual violence in Kosovo. A full list of these initiatives is included in Annex I. As the obligation to fulfill the right to reparation of victims of conflict-related sexual violence is a State obligation, the focus of this section is on the steps taken to date by the Kosovo authorities to fulfil that obligation.

In a few short years, the authorities of Kosovo have taken a number of monumental steps to address the rights and needs of survivors of conflict related sexual violence. These can be summarized as follows:

⁸¹ Kosovar Gender Studies Centre, *History is Herstory too*, p. 276.

- On 4 June 2012, an Inter-Ministerial Working Group on Dealing with the Past and Reconciliation (IMWG DwPR) was created in Kosovo, with the main purpose of drafting a “transitional justice strategy.”⁸² The IMWG DwPR has four sub-working groups structured on the four traditional pillars of transitional justice: the right to reparation sub-group; the right to justice sub-group; the right to know sub-group; and the guarantees of non-recurrence sub-group. These groups have held semi-regular meetings which have culminated in the outline of objectives for their work, mapped transitional justice initiatives and identified key issues for transitional justice in Kosovo. The IMWG DwPR is currently in the process of preparing for national consultations intended to begin in 2016.
- On 29 January 2014, the Government approved the Action Plan for Implementation of UNSCR 1325, which includes as one of its three outcomes the provision of redress to survivors of conflict-related sexual and gender-based violence.
- On 5 March 2014, the President of Kosovo, with a special Presidential decree, established the National Council on the Survivors of Sexual Violence during the war in Kosovo (the National Council). The National Council brought together representatives of key ministries, civil society and international stakeholders that can support

⁸² The Kosovo Inter-Ministerial Working Group on Dealing with the Past and Reconciliation (IMWG DwPR) was established by Government Decision no. 03/77 (04 June 2012). The IMWG DwPR is composed of 16 representatives from government institutions, and 8 representatives from civil society, including representatives in the capacity of experts and observers in its activities and meetings. The first meeting of the IMWG DwPR was conducted on 18 March 2013. On 15 October 2014, the Government approved IMWG DwPR Rules of Procedure (Decision no. 02/200 15 October 2014) which define the mandate of IMWG DwPR, obligations of members, secretariat and leadership; and the IMWG DwPR Work Plan 2015-2017 (Decision no. 03/200 15 October 2014) which defines the activities towards drafting the Transitional Justice Strategy and the time frame for the implementation of each activity. Regulation no. 18/2014 (7 November 2014) outlines the work of the IMWG DwPR.

violence survivors towards an improved, better coordinated response. Its members included Ministers, representatives of the judiciary and prosecutors, as well as prominent civil society organizations and international organizations.

- On 20 March 2014, the Kosovo Assembly approved Law no. 04/L-172 On Amending and Supplementing the Law no. 04/L-054 On the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and Their Families, which legally recognizes the status of civilian victims of the sexual violence during the last armed conflict in Kosovo.
- On 30 December 2015, the Government of Kosovo passed a regulation to implement the amendments to Law no. 04/L-054, specifically to recognize and provide the benefits provided by Law no. 04/L-172. Regulation no. 22/2015 On Defining the Procedures for Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War establishes the criteria and procedures for verification of conflict-related sexual violence victims. It also provides the authority for the establishment of the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War.
- The Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War is in the process of being established. The Legal Office of the Office of the Prime Minister is leading the processes required for establishment of the Commission.

1. The Current Domestic Legal Framework to Address Conflict-Related Sexual Violence

The process of achieving legislative reform to recognize survivors of conflict-related sexual violence in Kosovo, despite having a slow start, is a testament to the strength of civil society, willingness of political parties and authorities, and ability of both groups to work efficiently and effectively together towards a common goal.⁸³ The amendment to Law no. 04/L-054 to provide legal recognition of survivors of conflict-related sexual violence was put forward to Kosovo Assembly by the parliamentary group of Lëvizja Vetëvendosje in March 2013. Various relevant Parliament Committees made further changes to the amendment before it went on to become Law no. 04/L-172 On Amending and Supplementing the Law no. 04/L-054 On the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and Their Families and entered into force in March 2014.

Implementing legislation for the amendment to Law no. 04/L-054, namely Regulation no. 22/2015 On Defining the Procedures for Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War, was drafted in an inclusive process under the leadership of the Legal Office of the Office of the Prime Minister. A working group of the Nation Council comprised of representatives of various ministries and civil society actors collaborated on the draft and drew on the lessons learned from the similar process in neighbouring Bosnia and Herzegovina. Regulation no. 22/2015 entered into force in February 2016.

A summary of the benefits that conflict-related sexual violence survivors will be entitled to once verified by the Commission, together with the benefits for other categories of persons provided for under Law no. 04/L-054, can be found in Annex II. In summary, the provisions of the leg-

⁸³ The steps taken by the various actors are outlined in Annex I.

islative amendments for conflict-related sexual violence survivors are as follows:

Beneficiaries: A “sexual violence victim of the war” is defined as a person who survived sexual abuse and rape within the period 27 February 1998 until 20 June 1999.⁸⁴ Beneficiaries of the law are to be determined after the review of cases by the responsible Government Commission.⁸⁵

Benefits:

1. Pension.⁸⁶ (To be determined by decision of the Government)⁸⁷
2. Other benefits:⁸⁸
 - a. Health services abroad for treatment of deteriorated health conditions that are a consequence of the war and for which there is no treatment in Kosovo.⁸⁹
 - b. Priority in employment in the public and private sector, in accordance with the Law no. 03/L-19, for training, professional rehabilitation and employment.⁹⁰
 - c. Release of property tax for victims who are in difficult economic conditions.⁹¹
 - d. Residential care in collective social housing for persons in difficult economic conditions.⁹²
3. Regulation no. 22/2015 enables the Commission to consider urgent medical assistance.⁹³

84 Law no. 04/L-172 art. 4 (3.6).

85 Law no. 04/L-172 art. 7, amending Law no. 04/L-054 art. 14 (added as 2.8).

86 Law no. 04/L-054 art. 5 (1.2.3).

87 Law no. 04/L-172 art 7, amending Law no. 04/L-054 art. 14.

88 Applicable sections of article 6 of Law no. 04/L-054.

89 Law no. 04/L-054 art. 6 (1.5).

90 Law no. 04/L-054 art. 6 (1.8).

91 Law no. 04/L-054 art. 6 (4).

92 Law no. 04/L-054 art. 6 (6).

93 Regulation no. 22/2015, art. 28.

The legislative amendments are large, positive steps forward to recognizing and addressing the needs of conflict-related sexual violence survivors. However, the limited construction of beneficiaries and benefits poses some difficulties. The timeframe of eligible beneficiaries is too narrow. Sexual violence occurred leading up to the conflict, and after the formal cessation of hostilities immediately after the armed conflict. Restricting potential beneficiaries to persons who survived sexual abuse and rape within the period 27 February 1998 until 20 June 1999 excludes persons who experienced sexual violence as a result of the conflict outside of this timeframe. Notably, it excludes sexual violence during revenge attacks, which affected persons of all ethnic groups, but particularly Serbs. Under Law no. 04/L-172, missing civilians are those reported missing from 1 January 1998 to 31 December 2000. It is suggested that this is also a suitable timeframe for recognition of conflict-related sexual violence.

At the time of writing, the pension amount to be received by verified conflict-related sexual violence victims had not been established. It is therefore not known how effective this will be in addressing survivors’ needs.

The provision of access to free health care services outside of Kosovo on its surface appears to be beneficial. However, the lack of access to free health care within Kosovo poses a major challenge to survivors. Moreover, the eligibility for health care services outside the country is linked to the condition for which the care is being sought, meaning a deteriorating condition that resulted from the sexual violence. This is an almost impossible threshold to meet for many survivors suffering severe health conditions such as cancer, epilepsy, or heart conditions.

While positive discrimination for survivors is inventive and appealing, in practice providing priority to verified victims in areas of employment is actually difficult to do without disclosing a recipient’s identity as a survivor of conflict-related sexual violence. Similarly, the benefits of access

to tax breaks and social housing for survivors in difficult economic conditions will be difficult to implement without disclosing applicants to be survivors of conflict-related sexual violence. The release from residential taxes is of limited utility as most survivors are women, and traditionally women do not own property in their own names. Access to housing may be of great benefit for some survivors; however, it is unclear whether survivors will be included in the priority group of persons eligible,⁹⁴ and currently access to such housing is limited.

Regulation no. 22/2015 provides a framework for the administrative processes of the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War including the application form to be utilized. The Commission, once established, will determine the specificities of the application process and the criteria upon which applications will be decided. While the definition of beneficiaries in all versions of the law provides for victims of sexual abuse and rape,⁹⁵ the name of the Commission (as established in Law no. 04/L-172) in the official languages of Kosovo, Albanian and Serbian, gives rise to concern over how the Commission will define sexual violence for the purpose of verification.⁹⁶ The title of the Commission in both the Albanian and Serbian versions of the law translates to “The Government Commission on Recognition and Verification of the Status of Rape Victims During the Kosovo Liberation War” (emphasis added).⁹⁷ The title in the English version of the law is “The Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War” (emphasis added).

94 Law no. 04/L-054 provides prioritization in access to social housing to be provided to martyrs’ close families and those of missing persons, and invalids: art. 6 (6)(6.1).

95 Law no. 04/L-172 art. 4 (3.6).

96 The official languages of Kosovo are Albanian and Serbian: Law no. 02/L-37 On the Use of Languages, art. 2.1.

97 Albanian: Komisioni Qeveritar për Njohjen dhe Verifikimin e Statusit Gjatë Luftës Çlirimtare të Kosovës. Serbian: Vladina Komisija za Priznavanje I Verifikaciju Statusa Osoba Silovanih Tokom Oslobođilačkog Rata Kosova: Law no. 04/L-172 art. 8.

Another difficulty posed by the differing translations relates to the exemption of survivors of conflict-related sexual violence from testing the degree of invalidity applicable to victims of other types of violence. KLA and civilian victims with disabilities attributable to the conflict are categorized under the law according to their degree of invalidity, with benefits varying by category.⁹⁸ In the English version of Law no. 04/L-172, article 7 provides that “sexual violence victims of the war shall be excluded from the degree of invalidity” (emphasis added). This is believed to be the intention behind the provision; however, the same provision in the Albanian and Serbian versions translates to: “rape victims of the war shall be excluded from the degree of invalidity” (emphasis added).⁹⁹ This translation error or oversight could lead to the interpretation that only survivors of rape, not other forms of sexual violence, are exempt from being categorized according to a degree of invalidity. This gives rise to the question of how a degree of invalidity can be assessed for a survivor of sexual violence other than rape. It can be assumed that this will not only be a difficult task to assess, but will deter survivors of sexual violence from applying to the Commission for verification in order to receive the benefits provided under the law.

The application process for verification by the Commission was designed in consultation with civil society actors providing services to survivors, and drew on lessons learned from other reparation programmes, particularly that of Bosnia and Herzegovina. Applicants are able to submit a written application form (attached to Regulation no. 22/2015) to the Commission via three methods: via an authorized NGO, via a regional office off the Department of Martyrs’ Families and War Invalids (DMFWI); or to the Commission Secretariat directly by mail or hand delivery.¹⁰⁰ These methods were established to avoid further stigmatization of applicants. Utilizing locations that survivors already visit can

98 See Annex II.

99 Albanian: përjashtim nga shkalla e invaliditetit bëjnë personat e dhunuar gjatë luftës. Serbian: Za lica silovana tokom rata ne primenjuje se stepen invalidnosti. Law no. 04/L-172, art. 7 (2.6).

100 Regulation 22/ 2015, art. 25.

ensure greater levels of confidentiality, and providing information in writing is anticipated to prevent unnecessary identification of survivors. It will be critical that all persons that may come into contact with survivors through the application and verification process (NGO, DMFWI and Commission personnel) have appropriate training on human rights, gender-sensitive ways to deal with victims and confidentiality requirements.

2. The National Council on the Survivors of Sexual Violence During the War

The National Council on the Survivors of Sexual Violence During the War in Kosovo (“the National Council”) was established by President Jahjaga in March 2014. In 2013, concerned by the slow moving efforts until that point for reparative measures for victims of conflict-related sexual violence and some of the points of discussion in Parliament in the process of drafting and adopting Law no. 04/L-172, the President began looking at ways in which the Presidency could offer its power to support the survivors. In October 2013, the President convened a meeting with a group of survivors to obtain concrete information about their situations and needs. During that meeting, the President was overwhelmingly requested by survivors to assist them with four areas of reparation: legal recognition and access to justice; economic support and empowerment; health care; and awareness raising to tackle the stigma and discrimination they face. The beginnings of the National Council developed from this meeting, and it was formally opened on 5 March 2014.

The National Council had two unique and highly effective features. The first is that its membership was comprised of representatives of key government and civil society institutions, and it enjoyed strong support from both sectors. The second key feature was that it had four working groups centered around the needs articulated by survivors. The strong support of the President, Government and civil society actors, coupled with the topic-focused working groups, has

resulted in a number of significant initiatives and achievements.

a. Legal Recognition and Access to justice initiatives

Shortly after Law no. 04/L-172 was adopted in Parliament on 20 March 2014, a working group of the National Council was formed to work on the implementing legislation. The working group, led by the Director of the Legal Office of the Office of the Prime Minister, adopted an inclusive approach to the drafting of the regulation, consulting widely on its content. The Regulation was approved in December 2015 and entered into force in February 2016. Steps to functionalize the *Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War* are being undertaken.

The Access to Justice Working Group, chaired by the Ministry of Justice, included representatives of the Kosovo Judicial Council, Kosovo Prosecutorial Council, Kosovo Police, EU Rule of Law Mission in Kosovo (EULEX), Office of the President, Office of the Prime Minister, civil society organizations that work with conflict-related sexual violence survivors and UN Women. The group drafted an Action Plan for Access to Justice for Victims of Sexual Violence During the War which identifies survivors’ impediments to accessing justice and opportunities to strengthen the capacity of judicial institutions to deal with cases of conflict-related sexual violence. The Action Plan outlines 16 activities and 26 actions or steps to be taken towards the fulfillment of three objectives: legal and institutional reform; development of capacity of relevant actors; and support to empower victims and raise public awareness of victims’ right to justice. It also contains indicators and timeframes, and specifies institutions to be responsible for particular actions. A number of the actions included in the Action Plan have been undertaken, including a number of capacity-building trainings on investigating and prosecuting conflict-related sexual violence for members of the judiciary,

prosecution and Kosovo Police organized by UN Women and EULEX. The Action Plan was formally adopted in November 2015 by the Ministry of Justice, which will continue its implementation.

b. Economic empowerment activities

The civil society organizations providing psycho-social and other services to survivors have begun a variety of income-generating activities with small groups of survivors. Medica Kosova has been assisting women affected by the conflict, including survivors of conflict-related sexual violence, with small-scale income generation activities for several years. The majority of these activities are agricultural in nature, including honey-making, dairy-farming, cheese-making and crop farming. Medica Kosova has assisted the women to receive training and skill-building opportunities, and has facilitated the provision of required products and equipment such as pesticides, cows, bees, beehives, tractors, and other equipment from municipal agricultural offices and donors. Some of the larger equipment, such as tractors for carrying wood to sell, are utilized in accordance with a rotation plan, ensuring access and consequent income generation possibilities to a large number of women.

In more recent years, Medica Gjakova has also been assisting women survivors with agricultural income generation activities; KRCT and the Centre for the Promotion of Women's Rights have established a small textile workshop in which survivors have been producing small amounts ready-to-wear clothes, such as skirts and dresses. The workshop also has the capacity to make garments and other products to order.

These income generation activities have not been without difficulties. Access to quality inputs, quality control, markets to sell products, and land and property to undertake activities remain challenging. The service providers have sought to address these challenges in innovative ways. For example, Medica Kosova has an agronomist on staff to assist with agricultural planning and quality control, and Medica Gja-

kova has enlisted the assistance of a women's business association to advise on quality control and small business management techniques. USAID is piloting a project in Kosovo to understand the full range of difficulties women face in accessing land and property with a view to addressing these problems at the system level. Despite these initiatives, current small scale income-generation activities for survivors of conflict-related sexual violence do not offer regular sources of living-wage incomes for survivors.

Through the National Council, President Jahjaga assisted in improving income generation opportunities by attracting donor funding to increase the capacities of two existing projects, and piloting a new initiative. Through the President, funding was provided to support to a cooperative plan established by Medica Gjakova, and support to the textile project established by KRCT and the Centre for the Promotion of Women's Rights. Funding and Presidential support were also instrumental for the development of a new initiative, a project in cooperation with a private entity to train a small group of survivors with a view to finding work placements for them.

The project in cooperation with the private entity was innovative. It involved a three-month training programme for 20 survivors, four of whom have been subsequently employed by the entity. Representatives of the organizations and institutions involved in the planning and facilitation of the project have provided mixed reviews. As many of the survivors did not live near the training site, some were often late and at times unable to attend. Consequently, only approximately 13 of the 20 participants finished the training. Additionally, while there was no obligation of the private entity to recruit all participants who finished the training, just four were able to be employed following the course. The training was job specific, and it is unknown how many of the skills developed in the course of the training are transferable to other roles. Nonetheless, the project is reported to have had a positive impact on all the participants who described feelings of "normalization" from having somewhere to be and something to do during

work hours. The consistent employment of the four remaining at the entity is reported to be life-changing. Integration into an existing entity with large workforce has assisted survivor reintegration. It has resulted in significant improvements in their economic situation and consequently on their social status and well-being.

c. Access to health initiatives

The civil society organizations have for a number of years provided psychological and social support to survivors of conflict-related sexual violence that have sought their services. Both KRCT and Medica Gjakova have doctors on staff to provide general practice diagnostic and referral services. Additionally, Medica Gjakova is able to provide a limited range of health (largely gynecological) screening services to survivors of sexual violence. KRCT has a memorandum of understanding with the Ministry of Health to be able to provide medications that are on the essential list of prescriptions to survivors, though often these are unavailable.

The health needs of many survivors are vast, and access to medical treatment and medication remains difficult for most. President Jahjaga was eager to address the most pressing health needs of survivors and seek long-term solutions to the impediments survivors face in accessing quality health care. A few small scale initiatives aimed at helping specific survivors were facilitated by the National Council over 2014 and 2015. With the support of the National Council, Medica Gjakova has also been able to secure an agreement with the Turkish aid agency TÍKA to provide some medical supplies and women's hygiene products. Critically, TÍKA and the Turkish Embassy in Prishtinë/ Priština, through Turkish medical facilities in Kosovo, will also produce a fixed number of test results (such a pap tests and blood tests) which dramatically increases the number of women to whom Medica Gjakova can provide testing services.

Looking for a long-term solution to the problem of access to health care, creative solutions were investigated by the National Council. The

Presidency negotiated an agreement with the Ministry of Health to amend the regulation implementing the law on health insurance, so as to include survivors of conflict-related sexual violence, and release them from the requisite co-payments. The practicalities of this arrangement are currently being worked through by the Ministry of Health and Office of the President. It is important that the methods established to implement this arrangement do not lead to unnecessary identification of survivors.

d. Awareness raising activities

Several community leaders such as mayors, members of parliament in their individual capacities, ministers, celebrities and community activists have voiced their support for survivors of conflict-related sexual violence. Some prominent voices have strived to address the stigmatization of victims of sexual violence through funding and support for campaigns utilizing creative art forms such as the song "Silence of a Song",¹⁰¹ movie "Three Windows and a Hanging"¹⁰² as well as theatre and street performances.¹⁰³

101 By Eliza Hoxha, the song "Heshtja e Kangës" (lit: Silence of a song), its video and exhibition in Prishtinë/Priština were supported by the (then) Minister of EU Integration, Vlora Çitaku. The song is accessible at: <https://www.youtube.com/watch?v=Kv7Qhid8PhE>; and further information available at: [Kosovalive. Eliza Hoxha theu "Heshtjen e Kenges" \(lit: Eliza Hoxha broke "Silence of a Song"\)](http://www.kosovalive.com/eliza-hoxha-theu-heshtjen-e-kanges.html), 14 May 2014, Available from <http://www.kosovalive360.com/eliza-hoxha-theu-heshtjen-e-kanges.html>.

102 Directed by Isa Qosja (2015) *Three Windows and a Hanging* [Motion Picture] Kosovo. Information available from <http://www.arpafilmfestival.com/feature-film-three-windows-and-a-hanging-2015-arpa-film-festival-selection/>; Alissa Simon, Film Review: *Three Windows and a Hanging*, 9 October 2014. Available from <http://variety.com/2014/film/festivals/film-review-three-windows-and-a-hanging-1201315280/>.

103 Such as the theatre play "The Valley of Her Sufferings" by theatre group Artpolis, further information available from <http://kvinnatillkvinna.se/en/2011/07/04/theatre-tour-on-womens-experiences-of-war/> and the performance "Examination" by street performance group Haveit, further information available from <http://www.womensnetwork.org/?FaqlID=1&n=65>.

Since the establishment of the National Council, awareness-raising activities have increased and possibly reached wider audiences due to the collective reach of Council members and the prominence of the President of Kosovo. Awareness-raising activities undertaken under the auspices of the National Council include: community theatre, panel discussions, film screenings, public debates, and an art installation.

The art installation “Thinking of You”, took place in June 2015, under the patronage of President Jahjaga. The event gained local, regional and worldwide attention and was covered by all major world media.¹⁰⁴ Kosovo-born artist Alketa Xhafa-Mripa organized the donation and subsequent installation of thousands of dresses and skirts as a means to increase awareness and provide support to the survivors of conflict-related sexual violence. Thousands in Kosovo and abroad responded to the President’s call to donate dresses as a sign of solidarity with survivors. During the dress collection period, community members and community leaders such as a prominent member of the Jashari family,¹⁰⁵ mayors, members of parliament in their

104 See for example: Cristina Mari, “Thinking of You: A Collective Healing Among Skirts”, *Kosovo two point zero*, 11 June 2015. Available from <http://www.kosovotwopointzero.com/en/article/1689/thinking-of-you-a-collective-healing-among-skirts>; Kate Booth, “5000 dresses transform soccer stadium in Kosovo into a venue for addressing wartime rape”, *The New York Times*, 12 June 2015. Available from <http://nytlive.nytimes.com/womenintheworld/2015/06/12/5000-dresses-transform-soccer-stadium-in-kosovo-to-venue-for-addressing-wartime-rape/>; and Natalia Zaba, “How a Dress Display Broke Wartime Rape Taboos”, *Balkan Insight*, 6 June 2016. Available from: <http://www.balkaninsight.com/en/article/how-a-dress-display-broke-wartime-rape-taboos-06-06-2016>.

105 The producer and artist of the “Thinking of You” campaign met with Rifat Jashari, brother of Kosovo’s most prominent war hero (often referred to as father of the KLA). Mr. Jashari commented “*finally the time has come to support our sisters, mothers and daughters and to tell them that it was not their fault.*”: Adem Ferizaj, “Wartime rape is no longer kept under wraps in Kosovo”, *Open Democracy*, 1 July 2015. Available from <https://www.opendemocracy.net/5050/adem-ferizaj/wartime-rape-is-no-longer-kept-under-wraps-in-kosovo>; and Cristina Mari, “Thinking of You: A Collective Healing Among Skirts”, *Kosovo two point zero*, 11 June 2015. Available from <http://www.kosovotwopointzero.com/en/article/1689/thinking-of-you-a-collective-healing-among-skirts>.

individual capacities, ministers, ambassadors, prominent activists and celebrities expressed their support for survivors. The dresses were then hung on clotheslines in Prishtinë/Priština Football Stadium. The installation aimed at both “airing the dirty laundry” and bringing women’s dresses to a typically male-dominated arena as a means to bring attention to the plight of survivors and bring the issue out of the home and into the public arena.

Equally significant have been the visits of, and meetings with, the former President in her capacity of Head of State. President Jahjaga has strived to be available to survivors, holding meetings with groups semi-regularly and at times visiting survivors in their local communities. This appears to have had an impact on the status of many survivors within their families and local communities. Family members reportedly have proudly announced their loved one is meeting with the President and is therefore not home. The visits to localities outside Prishtinë/Priština have reportedly also served to raise awareness of the needs of conflict-related sexual violence survivors in the community, paving the way for dialogue in the community and an increased social status for survivors.

B. Survivor Perspectives on Reparations

Consultations with the survivors took place from October 2015 to January 2016. It was a period categorized by simultaneous optimism, uncertainty, and disgruntlement. For the most part, survivors appeared relieved at the acknowledgement of sexual violence having been perpetrated during the conflict, and increased awareness of their plights, however feelings of disappointment and anger were also expressed at the pace of efforts to provide material benefits to survivors and the perceived lack of political acknowledgment in Parliament. The survivors were engaged in discussion of a number of topics. Their perspectives and voices on these topics are outlined below.

1. Heterogeneity of Voices and Survivor Agency

Survivors of conflict-related sexual violence in Kosovo – as would be expected in many places – do not share a collective story, nor do they have a collective voice. Many of the initiatives to date have been based on the voices of the more self-assured and vocal survivors and service providers. Among service providers there is a vague form of abstract collectivity (largely formed through the National Council), however, therapists and other professionals engaged with survivors do not share a collective voice or equal access (geographical and political) to inform central decision-making. The voices in this section are those of the 70 that participated in consultations.¹⁰⁶ It is important to note that survivors associated with service providers are consequently those that have self-identified as victims/survivors of conflict-related sexual violence and have sought assistance.

During the consultations, survivors expressed feelings of gratitude for the support from several civil society actors, including but not limited to the civil society organizations providing services such as medical, psycho-social and economic opportunities. However, distrust between civil organizations appears to have flowed outside of the organizational borders with a few survivors repeating statements of discontent aimed at organizations to which they are not affiliated. Unfortunately, this has served to harness distrust amongst survivors rather than to assist them to collectivize. Nonetheless, at the time of writing this report, renewed organic efforts from survivors to connect with survivors associated with different organizations were being made. It is hoped that civil society organizations may be able to better facilitate interaction between survivors in the future.

Participants in the consultations expressed some frustration that their involvement to date in processes that directly affect them has been limited to the telling of their past expe-

106 See section II. B. Methodology.

riences. Barriers, such as a lack of access to decision-making arenas, and a lack of creative means through which participation could be achieved without leading to stigma, persist, as do ostracism and fear of violence.

- *“Women here are exhausted by their past and speaking about their past. They shouldn’t only deal with past, but the future also – so it is great, workshops [consultations] like this.”*
- *“Always, organizations spoke on our behalf. We could never take courage like the veterans of war and speak publicly and ask for our rights from other institutions. There were many testimonies. Many documentaries. But it was always that the survivors are ‘back-stage’. I could never appear as publicly as a veteran. We never had the courage.”*

A small number of survivors have become leaders in their own communities. These women described how being a leader has helped themselves and others.

- *“[T]he idea came to me to be a leader and help every woman in this category. First, we need to get courage and never look back. Not be hindered by the past, regardless of your circumstances. If you look forward, and want to help others from the bottom of your heart, you can overcome.”*

Survivors request inclusion in the processes that affect them. They need their security and privacy protected while doing so. Unfortunately, on a number of occasions, well-meaning advocates and media representatives have failed to protect survivors’ identities, leading to discovery and damage of individual survivors.

- *“If we don’t advocate for our rights, who will?”*
- *“The thing is, we have no trust in civil society/ local institutions ... We want to have a representative of ourselves in the Commission [to be established to verify survivors]. All other categories have this. Why not us?”*

- *"I want to appoint a woman who will be a leader of sexual violence survivors. Only a woman can do this."*

They would like support to develop their own networks, and to develop their own voices. Many have specifically requested facilitation of more meetings among themselves.

- *"It [an association of survivors of conflict-related sexual violence] is needed. We would be much stronger and much more secure. The more associations we have, the better we can be. The lack of continuation of progress is due to the lack of money and not due to the lack of will [of the survivors]."*
- *"There is always very good cooperation between women. We do not want to know about the disputes among organizations. We should think on our own."*

2. Official Acknowledgments

The acknowledgement, efforts and attention of the President Jahjaga have been well received and appreciated by survivors. Many survivors individually and collectively expressed positive views to the Consultant of the efforts and attention of President Jahjaga. Comments such as *"From the government, only the President has been interested"* were common. Some feel that the fact that the President was a woman made all the difference, that as a woman she was able to understand the extent of their suffering. Statements such as *"She is a woman, she understands"* and *"A woman understands a woman differently, men have made fun of us"* were common from survivors.

The end of President Jahjaga's term caused some concern among survivors who worry that, without the strong support of the President, the reparative processes in motion will stall. In the words of one survivor: *"We are lucky to have the woman president who established the council. Learning that her mandate is only until April, our blood stopped flowing."*

Many survivors, particularly those who have been involved in advocacy initiatives for several years, feel disappointed with the lack of support and acknowledgement from elected officials, particularly in Parliament. During the consultations, several vocal survivors vehemently expressed their dissatisfaction with the comments of parliamentarians about conflict-related sexual violence survivors made during the debate on the amendment to Law no. 04/L-054.¹⁰⁷

- *"The worst one is political recognition. The second is the position of women. Gender equality. Even though they say we are equal, we do not feel it. Third, they look at us like animals. We are stronger than the others. The President alone supports us. Community attitudes are a big problem."*
- *"We do not have the support of the Parliament and its members. We would like to see parliamentary support for us."*
- *"We want acknowledgment from the Government as well [as Parliament], our State does not recognize us; the Government should apologize as well"*.
- *"I would feel relieved, almost as if the crime had not happened if our Government would recognize what had happened. This is what worries me the most, the fact that they do not recognize us even as human beings."*

¹⁰⁷ Some of the disgruntlement at Parliamentarians includes but is not limited to, the manner in which discussion about the inclusion in basic Law no. 04/L-54 took place. Some of the unfortunate comments during those discussions included expressions of doubt about the claims of survivors of conflict-related sexual violence, and suggestions that survivors be examined by a medical practitioner to verify whether they have suffered sexual abuse. See: Assembly of Republic of Kosovo, "Transkript i mbledhjes plenare të Kuvendit të Republikës së Kosovës, e mbajtur më 14, 15 dhe 19 mars 2013 (Lit. Transcript of the plenary meeting of the Assembly of the Republic of Kosovo, held on 14, 15 and 19 March 2013)", March 2013. Available from: http://www.assembly-kosova.org/common/docs/proc/trans_s_2013_03_14_10_4805_al.pdf

The most pressing request of survivors (after that for the provision of financial benefits through the establishment of the Commission) is an official acknowledgement and apology from Parliamentarians and the Government. It is the most desired form of symbolic reparation. The acknowledgement needs to be unequivocal, to acknowledge survivors of all groups, and to clearly reinforce the fact that they are victims of the conflict. Survivors were clear that not only Albanian women were sexually abused, and not only Serbians were perpetrators: “[we were] also raped by Albanians, not only Serbs! Roma too. None of us knew who was who.”¹⁰⁸ Survivors believe that such an acknowledgement would serve to bolster their right to adequate reparation, and assist to change social attitudes towards them.

3. The Commission and Compensation

During the course of focus group discussions, Regulation no. 22/2015 was in draft form and survivors were eager to see it formally adopted. Much of the discussion in the early stages of consultation was focused on political willingness to pass the regulation, establish the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War, and to provide benefits as required under the law. The regulation has since been passed into law, entering into force in February 2016. As verification by the Commission will provide access to a range of material benefits, survivors who participated in the consultations were also acutely concerned that only “real victims” be recognized. The lack of clarification as to the amount to be received (to be determined by a decision of the Government)¹⁰⁹ appears to exacerbate this concern as many fear the amount may be dependent on the number of survivors who apply for verification.

- *“They told us last February [2015] that we would get money. But it never happened.”*

108 Some survivors do know who sexually abused them, but this was not a topic of discussion during the consultations.

109 Law no. 04/L-172, Annex 1; Regulation no. 22/2015, art. 34.

- *“We are all frustrated because it is taking a very long time to establish the Commission.”*

At the time of finalizing this report, the Government had not yet specified the amount of the pension to be received by survivors in accordance with the law. This continues to cause discontent and anxiety amongst survivors and service providers who may see the perceived delays of the Government to finalize the benefits promised in the law as a means to derail the process. While survivors have not questioned the prioritization of material benefits for veterans and their families, some have noted that assistance to survivors has been much slower and that survivors are unable to employ the same tactics as veterans to garner attention for their needs.

- *“For veterans it was quicker.”*
- *“We cannot go on the streets and protest like they [veterans] did. People could recognize us and our voices.”*
- *“I want my compensation. My rights. I don’t want to be without electricity anymore. I have nothing against the veterans – they deserve what they get. But this category, is the most hurt in soul and in blood. And if the Minister ever thought about this category... Where do our hopes remain? Where can we find support? We need compensation as soon as possible.”*
- *“Nobody cares for civilian victims. [They care] only if you were in the KLA.”*

Participants in the focus group discussions also expressed concern about the processes of the Commission. They fear that applying to the Commission, or attempting to receive resulting entitlements, could lead to their public identification. The primary concern of survivors appears to be whether those associated in the work of the Commission will honour the obligation of confidentiality. Survivors noted that as Kosovo is a small country, the chances of a person knowing another are quite high and it

is common to share information that in other settings may be considered confidential. For the safety of applicants and the credibility of the Commission, it is important that persons associated with the Commission understand the requirements of confidentiality and are held accountable for any breaches of it (as provided for in the law).

- *"We know that the Commission cannot function without having the information and data, but this process is very open. Our families might end up knowing things."*
- *"I think people might know who the victims are. Even though I do not talk, and you do not talk, others might talk."*

Some participants in the focus group discussions also expressed concern about how they will be able to explain to their families where the money they will receive as compensation has come from, or how they can hide this from their families. Many fear that it may lead to their identification, further stigmatization, and potential violence. During monitoring of the implementation of Law no. 04/L-54, the Centre for Research, Documentation and Publication received testimonies of domestic violence occurring over pensions and benefits to war survivors and their families.¹¹⁰ It is critical that community awareness campaigns are utilized to breakdown the stigma associated with conflict-related sexual violence before, during and after the Commission is established and verifies survivors. It is essential that information regarding punishment for domestic violence is simultaneously disseminated, and any perpetrators are held accountable.

- *"We are concerned for many reasons. Veterans of the war have benefitted for years. Not us. Even if it is only €10 that the veterans get, it makes a difference. Even if a sexual violence survivor gets €500 she is embarrassed."*

110 Centre for Research, Documentation and Publication, *Report on Law: Monitoring of Law no. 04/L-054 On the Status and the Rights of the Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims of War and their Families* (March 2014), Albanian, p. 43; English p. 89; and Serbian p. 136.

Veterans are employed, [they are] taxi drivers, tourist agents. They are quite empowered. Also the benefits of the veterans are transmitted as inheritance. Not for us."

- *"We cannot change the attitudes of people. For 16 years if I called myself a veteran then I could be proud – whereas a sexual violence survivor is not empowered and lives in silence. Even money will not give us happiness. But it will ease the burden. The wounds cannot be healed."*

4. Access to Information

In general, survivors find it difficult to access information about the legal framework to provide official verification of being a survivor of conflict-related sexual violence and the processes being undertaken to establish the Commission and benefits. They are not included in the decision-making processes and are limited to receiving relevant information second, or third-hand. Misinformation in the media about the processes further compounds this challenge and heightens frustrations. For example, several media reports have cited the monthly pension to be provided to survivors as having been set when it has not.¹¹¹ In addition to misinformation, some survivors have at times misinterpreted information, for example, *"In 2015, there was news that there was 24 million Euros for victims of sexual violence"* and *"The President promised us in 2011 that the law was going to pass but it is almost 2017."* The misinformation and misinterpretation of information is a main source of discontent with the government.

111 See for example: Amra Zejnell, "How Long Can You Keep a Secret? For Kosovo's Wartime Rape Victims, the Answer is: Maybe Forever" *Radio Free Europe*, 29 May 2016, which reports that the law foresees a monthly payment of USD 400. Available from <http://www.rferl.org/content/kosovo-wartime-rape-victims-kept-secret/25403115.html>; and Adem Ferizaj, "Wartime rape is no longer kept under wraps in Kosovo" *50:50 Inclusive Democracy*, 1 July 2015, which reports there is a monthly payment of EUR 350. Available from <https://www.opendemocracy.net/5050/adem-ferizaj/wartime-rape-is-no-longer-kept-under-wraps-in-kosovo>.

- *“It is going to be a year now that we have XXX [organization] visiting us with the promise that what belongs to veterans, will also belong to us, even an ID card of a victim. In March [2015], when they came, they said they would bring it to parliament and to the world... But where are we now? The politicians do not meet promises.”*

Access to information requires providing clear channels of communication that survivors can access, and ideally engage in two-way communication to avoid misinterpretation. Providing information sporadically through informal channels, in one direction only, increases the likelihood of misinformation and misinterpretation of information.

Survivors would also like to see increased efforts to disseminate accurate information about sexual violence during the conflict. In the words of one survivor *“people should know what we have experienced and not laugh at us because we are people too, we are women.”* In addition to using accurate messaging that can shift the shame and stigma from survivors to perpetrators, most survivors would like to see accurate historical documentation of their experiences that gives equal recognition of the violation of their rights alongside the violation of the rights of victims of other types of violence. The right to remedy includes the right of access to relevant information concerning violations and reparation mechanisms. It is important that survivors are afforded direct access to information about the verification process and entitlements, and that information about the violations is accurately publicized.

5. Access to Health Care

A significant concern for most survivors is the practical access to medical and psychological care. All participants highly appreciate the counselling services they receive from civil society organizations: *“Local organizations have saved us.”* However, they appreciate that these service providers also have their limitations.

Access to medical care for serious conditions and prevention measures is problematic due to a lack of specialist facilities and the location of such facilities. Survivors with serious illnesses need access to bigger hospitals in the capital or abroad. Screening services for preventable diseases are also limited. For example, though in theory women have access to screenings for breast cancer, in reality, there are too few mammogram facilities. There is just one mobile mammogram unit in Kosovo that is often unable to meet the demands for screenings in each location. When operational, it is unable to service the numbers seeking screening in rural communities. Although almost all survivors can physically access a general hospital, their lack of financial resources effectively prevents them from obtaining medical treatment, or from financing the medications required for the treatment. A system for access to prescription medication that is on a list of “essential medication” is in operation in Kosovo. In theory, if a person is prescribed medication is on this list, it should be accessible free of charge; however, in practice the medication is often unavailable and many are forced to buy it through a private chemist. A reimbursement system for medications that are unavailable is also in place, though many do not know of its existence, or have the ability to meet its requirements (a doctor’s letter and form from the municipal office to be taken to the Ministry of Health).

- *“We want survivors to have access to the medicines on the essential list of medication. In the health care law, pensioners with chronic illnesses and gastrointestinal diseases are mentioned. We want to be included also.”*
- *“We want medical check-ups. We know the situation in health care provided by the State. Very poor conditions! Nothing is designed for us. But when no treatment is provided by State, we want to be able to attend the private hospitals with a discount in prices of treatments. Or maybe a certain number of private hospitals that provide this option.”*

- *"We want to provide survivors with same insurance/treatment as to the veterans. We want to be treated as a priority."*
- *"I have suffered great injuries – I have been four times per year in hospital. The only thing I enjoy is the retirement pension due to invalid status. In order to get hospital treatment, I need at least €150 – and pension is €70! I had to discontinue my treatment. And not to mention paying a visit to the psychologist! We want our status and entitlements to be defined."*
- *"I always wanted education. I have done primary education. Now, at this age, I don't think I can go and travel to work due to health reasons. If I could dream, I would be a doctor. Maybe it is not possible anymore. Maybe if I could work in a factory, I would do that. But my city is a bit far for this... I would like part-time work because of health reasons."*
- *"I'd love to learn to sew with a machine – tailoring."*
- *"I sew and have some small income but I'd love to sell abroad. I would love links to do that."*

6. Access to Education, Training and Employment Opportunities

Almost all survivors who participated in consultations have a desire to work. Most have the physical ability to do so. The work aspirations of survivors are varied, and are largely dependent on their place of residence (rural/urban). They include, farming, tailoring, hairdressing, beekeeping, handicrafts, elderly care, small business (shop), herb cultivation, and work in or manage a kindergarten. Inability to access education, training and employment opportunities has negative consequences for survivors and their families. It also has the potential to cross generations, limiting the opportunities and survival of future generations.

- *"I am not educated. Only 8 years primary school but I have strong passions."*
- *"I have my own cows – I sell dairy products, but maybe I could be a cleaning lady."*
- *"I would like to make sweets and have my own small business."*
- *"I have been to medical high school – I wanted to be a nurse. But I had to take care of my kids without a husband! I still would love to work as a nurse."*
- *"My dream was to work with kids in a kindergarten. But I couldn't educate myself. Now I would have a business or do anything if the government could support me! I would still love to have a kindergarten."*
- *"The biggest satisfaction for me would be to do more for women and do more projects – I want to do more for women. There is so much arable land that could be worked. We need support."*
- *"I could do anything – I would do anything! I graduated in xxx, but what I wanted is gone. I don't know if my husband would allow me to work."*

A significant number of the survivors reported having attended numerous trainings. A very small number indicated that the skills learned during the trainings led to employment, and the income generation from the employment has changed their lives. Many others noted that they have not been able to utilize the skills for income-generation since receiving training. One survivor reported having attended 14 trainings for cheese making, but there is no market for it. Survivors engaged in the production of handicrafts and sewing clothes consistently reiterated their hopes to be connected with markets for the sale of their goods.

- *"I am not on social assistance, even though I am a single mother of one daughter... My husband died.... I never received my husband's assets. I stayed at my father's house. Luckily I have xx for support. I was lucky – I could find myself in a better position with my sewing machine."*

Some survivors are engaged individually or collectively in small business activities such as honey-making, agricultural work and tailoring/sewing. Each of the organizations providing services to survivors have in some way worked with small groups of survivors to develop income-generating activities. These processes are at various stages of progress. Recognizing that economic empowerment strategies fall outside its main line of business, Medica Gjakova has engaged a local women's business association to assist a group of survivors to establish and manage a cooperative. Although the project has only just begun, the partnership with the women's business association, which has a long-standing reputation for supporting women entrepreneurs, will hopefully ensure sustainability of the cooperative.

Access to funds to establish small businesses or expand existing ones is very challenging for survivors. Without property that can be used as collateral for a loan, large sums are unavailable, and unsecured smaller sums reportedly require high interest payments. Women's property ownership in general is very low in Kosovo. Just 3.8% of women in Kosovo inherit immovable property from their parents; and just 2% of women have a collateral bank loan where the collateral is immovable property.¹¹² Access to small grants or micro-finance opportunities is also challenging, due in most part to a lack of information about available programs. Survivors seem skeptical that grant schemes and micro-finance opportunities could be obtainable. Several suggested that access to such financial opportunities is on a who-knows-whom basis, but these opinions may be more of an indicator of perceived corruption rather than actual corruption as a result of a lack of information and transparency about the application and selection processes for grants and micro-finance opportunities.

112 USAID PRP National Baseline Survey for Property Rights in Kosovo, June 2015. Both GIZ and USAID have focused efforts on increasing women's access to property in Kosovo. One of the four pillars of the current USAID Property Rights Program is to encourage and facilitate women's access to land and ownership of land and property.

- *"I would like to take loans with a lower rate of interest. I understand that for grants it works like that, but you only get grants in Kosovo when you know people."*
- *"I took a 500 Euro loan and had to pay 750 Euros."*

7. Access to Justice and Legal Services

Approximately 75% of the survivors who participated in the focus groups expressed hopes to see the prosecution of offenders of sexual violence. Community attitudes towards sexual violence survivors and a lack of family support could make the provision of testimony difficult for many. Some indicated that, should community and family attitudes change, they may consider giving evidence in court. The reality for many is that they do not know who the perpetrator was and therefore feel there is little utility in engaging with investigation and prosecution mechanisms. Some of the survivors who participated in the focus groups had provided statements to EULEX, but to their knowledge nothing further was done with their cases.

- *"We have had great cooperation with EULEX – we provided our testimonies – but not much has happened."*
- *"The best thing the government could do would be to have a criminal indictment."*

Access to justice for resolution of other matters is also a pressing concern of survivors. Accessing legal services that could provide support for disputes relating to property, child support and family grievances is difficult largely due to the lack of financial resources. In bigger cities, legal aid appears to be available, however, from rural areas it is difficult to physically access. Due to these needs, both Medica Gjakova and Medica Kosova have sought to connect survivors with these needs to legal practitioners who can assist them.

8. Survivor-Heads of Households

Survivors of conflict-related sexual violence who are also single mothers, widows or married to persons with disabilities face particular hardships, including a lack of financial means to support themselves and their families and lack of emotional support to deal with life's many challenges.

- *"My son suffers from [a significant illness]. five years ago they stopped his benefits. I receive nothing. Five years ago, my husband died. From the village, I receive charity sometimes. I would love to have a cow."*
- *"I am the breadwinner. My husband was killed. Other family members died. I am ill. I have [illness], I have anxiety. I have no money. And I don't have money to do check-ups."*
- *"Without husbands, what can we do further with just a small amount of [social welfare] money?"*
- *"The women whose husbands are veterans, receive some benefits. But us... nothing!"*
- *"My husband is disabled and he is ill. So he cannot help me. I help him. My son is xx years, my daughter xx years."*

Most of the focus group participants were of the view that survivors who are also heads of households should receiving additional support due to the additional hardship of their situation.

- *"[Receiving additional benefits] is fair. We are fighting to help them."*
- *"Once the husbands are a little bit ill we are lost without them. Imagine how those without husbands feel!"*
- *"We are not as badly affected as those women without husbands. They are really in a very bad position."*

- *"In our group, we have 2 women whose husbands were killed. We cannot tell them that I am happy to have a husband."*
- *"Most of us have husbands with problems and cannot work, but even still it is far worse to be without a husband."*
- *"I am head of a household; I have raised my children without my husband. The oldest has a job, now my burden is less so why not have someone else benefit more than me?"*
- *"I agree that those who are in more need than the rest receive more support."*

Approximately 86% of the deaths and disappearances in Kosovo during the conflict were men.¹¹³ This would suggest that women constitute the majority of family members left behind. Given the proximity of those left behind to the deaths and disappearances, and the reports of women and men being separated during attacks, it is possible there is a sizeable overlap between persons who suffered sexual violence during the conflict and those who were left behind. The social and economic discrimination that survivors of sexual violence may face could therefore be further aggravated by the loss of a family member.¹¹⁴

9. Survivors with Children

Survivors with children reported grave concern for the futures of their children. None have been able to access medical or psychological services for their children. One survivor indicated that a young male family member may have been sexually assaulted and needs some psychological care but there is nowhere to take him. Access

113 11,674 men and 1,874 women (civilians and armed forces) are reported dead or disappeared during the conflict: The Humanitarian Law Centre, *The Kosovo Memory Book 1998 -2000*, Available from http://www.kosovomemorybook.org/?page_id=48&lang=de.

114 The United Nations Working Group on Enforced Disappearance, General Comment on Women (A/HRC/WGEID/98/2, 14 February 2013) para. 12 highlights the particular challenges of women left behind as a result of enforced disappearances.

to education, especially upper secondary and tertiary education, is difficult if not impossible for most. Approximately half of the participants' children have been unable to finish education due to financial constraints. As a consequence, these children face discrimination and limited life opportunities. The consequence of these violations is having intergenerational effects. Many survivors expressed feelings of guilt about their inability to provide better lives for their children.

- *"If I cannot help my kids to go through school and university, what is the purpose of life? I am very careful when it comes to education. I cannot give the gift of a good education to my daughter. I only hope that she will have a better fate than me."*
- *"We all have children. We all needed government support. We are very glad that organizations assist us. All organizations that gather us – we are happy. But what we really need is government support. We need to provide food to our children daily! I have a daughter with top grades, but I can't afford to send her to better and further education. I can't invest in her. With no salary, nothing in my parlour – how can I survive?"*
- *"They [children] need access to health care."*

Participants explained that education for children is free, however access to high schools (grade ten onwards) is difficult. Schools offering grade ten and beyond are further afield requiring transport to access which incurs additional costs.

- *"I have xx children. If you have no salary, how can you go further? We have no potential to educate them beyond ninth grade."*
- *"Year 10 is at least three kilometres from my home. My children would need to go by bus. For some even below year nine is far away from the homes."*
- *"My daughter graduated from a xx secondary school but due to lack of means, she could not continue further."*

- *"My daughter has studied xx for four years but I couldn't send her to Prishtinë/Priština to continue."*

Sending their children to school also involves other costs that survivors are unable to meet. Providing clothing and resources for their children can be challenging and a lack of resources can lead to discrimination against their children.

- *"[My children] see others at school with more [clothing etc]. They are laughed at, discriminated against."*
- *"[I have] problems at home. Nothing to wear, no money for eating food – can't give them one Euro to get food at lunch. So they don't want to go anymore!"*
- *"In xx [location], they asked for money from us to buy school curtains and to paint the walls."*

Survivors also lamented the lack of employment opportunities for their children. Kosovars in general have strong family bonds, and the family unit is the primary source of security. Without employment opportunities for their children, the future security of their families is uncertain. Several participants noted that their children wanted to go abroad to be free from their situations.

- *"It has been really difficult for older children to get a job."*
- *"My eldest daughter is looking for a job – we have no money for her to continue studies."*
- *"My son wants to go abroad because of bad life conditions."*

Participants also expressed concern for the children of survivors who have since died. They would like to see these children have access to health services, education and employment opportunities.

- *"We also have those who have passed away since their violent experiences. We would like for their successors to have the benefits."*

For their children. The underage kids do not know. We do not dare to tell them! Just the mature children."

10. Fear of Violence and/or Ostracism

Fear of violence and ostracism in the home and/or the community is very real for many survivors. Several fear removal from their homes. It is not common for women to be property owners, and they have little recourse to justice if forced out of their homes. Many reported being teased by community members, and in one case by a police officer. The taunting of children of survivors has led to several dropping out of school and being unable to engage with children of a similar age-group. Survivors were also emphatic in their reports of victims of conflict-related sexual violence that have lost their lives through violence in the home and suicide.

Survivors in one region are fearful of their husbands discovering they were sexually abused. Their husbands think that their poor health is attributed to the stress of the conflict. The women fear that, if found out, they would lose their families and homes.

One participant described being fearful of members of her community who know that she has suffered sexual abuse during the conflict. Her community told her that if she gives her testimony, they will kill her. *"I want to be sent abroad. I want to leave."*

Another participant described a family member who was sexually abused during the conflict telling another family member of her ordeal. The listening family member has not spoken to the survivor since.

It is important to highlight that some survivors have the strong support of their husbands and do not fear violence in their homes. A small number attribute their strength to engage in lobbying and advocacy activities to the support of their husbands.

- *"For me it was easier as my husband is educated. But in some areas, it is more difficult to raise these subjects. They don't want to hear about other peoples' stories, let alone their own wives! If they would know they would not allow them to work. They might have such a mentality that only because of this issue, they would lock them in the house without any support. But you must understand this category of women."*

- *"In my village we have xx houses. All women are married. Only X [number] of us are able to come here. No one else would be allowed or would dare! We were always laughed at, but I have family support so I feel ok."*

Stigmatization, ostracism, and fear of violence are both causes and effects of the inequality and discrimination survivors face. It is critical that awareness raising campaigns target these forms of inequality and discrimination. Training of professionals and officials working with survivors is also important to avoid further stigmatization.

11. Awareness Campaigns

The topic of awareness-raising campaigns produced mixed responses from the focus group participants. Some participants think that general awareness-raising campaigns would be helpful. Many expressed concern that campaigns could exacerbate the discrimination they face and therefore be dangerous if they led to the identification of survivors.

- *"We don't want awareness based on individual stories, but if it is in general then it is okay. For example, media broadcasting to make the citizens aware that this happened to us without our own will."*

- *"We need to educate them that for women the conflict did not bring us flowers, but suffering. And that the same fate could have befallen their wives or mothers. It is very dif-*

ficult because if you touch the honour of an Albanian woman and if a criminal sexually abuses a woman, he directly affects the family's honour. And so a man should not openly accept these things."

- *"[Campaigns] are a bit of a problem because all our children are adults now... our children might have problems with their friends because they might say he/she is child of a woman who..."*

There were mixed responses as to how general awareness-raising activities could assist (if at all) survivors in sharing their experience with their husbands or other family members. Some were of the view that before they tell their husbands, it is important that awareness is raised more generally on the topic. Others felt that obtaining their family's support first could assist with awareness raising of the community, but several noted that they feel unprepared to engage their husbands or other family members on this topic.

- *"There are some areas in Kosovo that the husbands don't want to know and some women don't dare to mention it."*
- *"If we have a public awareness campaign – and the husbands don't yet know but are aware and supportive of victims in general, once they realize it's about their wives – then! Then they will disapprove. So campaigns could be dangerous. If they tell husbands and they respond badly."*

Survivors who enjoy the support of their husbands and family members in general noted that if family members were involved with awareness-raising campaigns it could help community members come to terms with what has happened. While some indicated that their husbands would likely be willing to assist, others supposed that their husbands and other family members would not.

- *"Even those who have supported us are now tired of us. No matter who you are in the end, you are a mother and you have family obligations. My husband can get tired of these things!"*

The general consensus among survivors on awareness-raising campaigns is that they should be involved in their design to avoid further stigmatization. Enabling survivors to participate in design processes requires consideration of their needs and concerns. It is essential that appropriate measures to protect their security and privacy are taken, such as enabling anonymous participation, freedom from obligations to be photographed, and freedom from other requirements often associated with reporting obligations of institutions and organizations.

12. Memorialization

Memorialization for victims and survivors of conflict-related sexual violence is a topic that has produced mixed results which are subject to change. In early discussions with survivors, almost all survivors consulted (if not all) made it very clear that they do not want any memorialization initiatives during their lifetime. Such reactions to the concept of a physical memorial of sexual violence during the conflict is possibly linked to the fact that in Kosovo memorials are largely for deceased persons.

Presently there is one physical memorial reportedly dedicated to survivors of conflict-related sexual violence in Kosovo, the Heroinat statue in Pejton, Prishtinë/ Priština.¹¹⁵ However, as the memorial does not have a fixed plaque explaining its purposes, explanations of the statue vary, ranging from representing the contribution of women during the war, the suffering of women during the war, survivors of conflict-related sexual violence, and any combination of the above. It is also unclear if it is intended to memorialize women from all ethnic groups or only Albanian women.¹¹⁶

115 Heroinat is the plural form of "heroine" in Albanian.

116 At the inauguration of the of the memorial in June

The Heroinat memorial is 3D image of the side profile of a woman's face, made from 20,000 medals. According to the artist who conceptualized the memorial, the number of medals represents an early estimate of conflict-related sexual violence victims in Kosovo.¹¹⁷ Subsequent research has shown this estimate to be baseless as methodology utilized to formulate the estimate was incorrectly applied. The number of conflict-related sexual violence victims in Kosovo remains unknown.¹¹⁸

Despite being well-intentioned, many survivors are unhappy with the Heroinat statue. Many reported confusion over what the memorial is for: *"Heroinat is too broad, you cannot know what they mean."* Some survivors have found the rhetoric around the memorial offensive, specifically when it implies sexual violence being a sacrifice or contribution for the cause. Concerns were also voiced about Heroinat representing only Albanian women, thereby excluding victims of other ethnic groups, and men and boys who also suffered conflict-related sexual violence. Others consider the establishment of such a memorial to be premature, preferring material forms of reparations ahead of symbolic forms.

2015, Prime Minister Isa Mustafa referred to Heroinat memorializing women's contribution during the war and *"all the tragic experiences of Albanian women during terrors of this war, but also throughout our national history"*.: Prime Minister Isa Mustafa, "Speech of the Prime Minister Isa Mustafa in the Inauguration of the Memorial" Pejton, Pristinë/ Priština, 12 June 2015. Available from <http://kryeministri-ks.net/?page=2,9,5030>.

117 A photograph of the memorial and description by the artist can be found at: <https://competition.adesignaward.com/design.php?ID=33265>.

118 UN Women Kosovo has provided a memo to the National Council which outlines the research methodologies utilized to reach the various estimates of sexual violence victims in Kosovo (variously ranging from 20,000 to 45,600). The research describes how each of the methodologies were applied incorrectly, and that there is no way of knowing a more accurate estimate at present. The only known number is that of self-identified survivors of sexual violence which have sought services from civil society organizations contemporaneously or since the conflict, that being a total 767. Undoubtedly this figure alone provides an incomplete picture as many survivors are unwilling to identify as such: UN Women Kosovo, unpublished document to the National Council, 16 March 2016.

During the April 2016 validation workshop with survivors, a small number of survivors indicated that they welcomed memorialization in the form of Heroinat or a similar physical memorial. One survivor in favour of the concept of memorialization lamented that "Heroinat" is not in a prominent position: *"it is left in the dark, like survivors"*. Another stated *"I would be proud if there was a monument because what has happened is a crime and no one's fault. I would like to have joint memorial with men as well because it has happened to men too. We cannot be separated like this."*

The change in attitudes of some survivors towards memorialization and Heroinat is noteworthy. Survivors appear not to have been consulted prior to the establishment of the Heroinat statue. Since being consulted about the concept of memorialization in general, it is clear that many have begun to consider what would be appropriate forms of memorialization for survivors of conflict-related sexual violence. Survivors are eager and able to participate in discussions of this topic. They request to be consulted on the construction of plaque to explain Heroinat, and any future memorials or other forms of symbolic reparation.

IV. RECOMMENDATIONS FOR A COMPREHENSIVE REPARATION PROGRAMME FOR VICTIMS OF CONFLICT-RELATED SEXUAL VIOLENCE IN KOSOVO

A. To the Government of Kosovo

1. Implement the current legal framework and ensure the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War can function effectively, efficiently and without discrimination

Specific recommendations:

- a. Commit to a realistic timeframe by which the Commission will be established and able to implement its mandate, and communicate the timeframe directly to survivors.
- b. Set aside a budgetary amount for the pension scheme envisaged by Law no. 04/L-054 (as amended by Law no. 04/L-172) for victims of conflict-related sexual violence.
- c. Establish set amounts for survivors of sexual violence pursuant to the harm suffered and their needs. Consider an additional amount for survivors who are the head of households and those with children. For example, provide a set amount each year for school supplies per child (for books, pens, pencils, uniforms).
- d. Ensure that all persons associated with the work of the Commission and the Commission members receive appropriate training on human rights, gender-sensitive methods of dealing with victims, and confidentiality requirements. Ensure accountability for breaches of confidentiality, however small they may be.
- e. Prioritize the provision of information about the benefits and eligibility for recognition and verification by the Commission. Utilize the awareness raising campaign to simultaneously address stigmatization of survivors and prevent violence against them.

2. Amend and supplement the current legal framework to guarantee the right to reparation for all survivors of conflict-related sexual violence, and provide reparative measures that can assist survivors to rebuild their lives

Specific recommendations:

- a. Amend the date range for recognition of survivors of sexual violence to encompass the periods immediately preceding and proceeding the conflict. The date range for missing civilians (1 January 1998 to 31 December 2000) is suggested.
- b. Adopt a definition of sexual violence that goes beyond rape, and that is in accordance with international law and the Guidance Note of the Secretary General.
- c. Amend the title of the Commission in the Albanian and Serbian versions of the Law no. 04/L-172 (now in Law no. 04/L-054) to "The Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the War."
- d. Amend Law no. 04/L-054 art 14 (2.6) (as inserted by Law no. 04/L-172, art. 7) so that the Albanian and Serbian versions provide that all victims of sexual violence during the war are excluded from the degree of invalidity.
- e. Include survivors and their children in the category of "vulnerable groups" in the Law on Health Insurance, releasing them from co-payments required under the law.
- f. Amend art. 6 (1.3) of Law no. 04/L-054 to include survivors of sexual violence and their children among the persons eligible for free health care in Kosovo.
- g. Extend access to tariff free reduced consumption of electricity units free for survivors facing economic hardship (art. 6 (3) Law no. 04/L-054).

- h. Provide access to education and training programmes for survivors and their children. Release the children of survivors from university administrative payments (art. 6 (8) Law no. 04/L-054).
- i. Extend the provision of priority in employment for children of survivors (art. 8 (1.2) Law no. 04/L-054).

3. Prioritize the acknowledgement of the violation and suffering of survivors, and reinforce messages of membership and dignity

Specific recommendations:

- a. Continue public acknowledgements. Consider an acknowledgement of conflict-related sexual violence in parliament and government. The acknowledgement needs to be unequivocal and inclusive; acknowledge wrong-doing on all sides and survivors of all groups as victims of the conflict. Encourage community leaders to publically acknowledge their support for survivors of conflict-related sexual violence.
- b. Address survivor concerns regarding the Heroinat Statue. Engage survivors on an appropriate explanation of the purpose of the memorial. Place a sign on the statue to avoid misinterpretation of the purpose and recognition of the statue.

4. Ensure survivors of conflict-related sexual violence are included in the consultation and decision-making stages of all processes that affect them

Specific recommendations:

- a. Ensure the inclusion of survivors in design, implementation, monitoring, and evaluation of all programmes and policies that affect them. Processes themselves should seek to empower survivors through prioritizing their autonomy and participation in decision-making processes, and adapt to their evolving capacities.

- b. Ensure gender is mainstreamed, ensuring women's access to and participation in these processes – from their design to the implementation of recommendations. Specific measures are often required to ensure women's full participation such as: outreach and information programmes, quota provisions to ensure that women are represented in these processes at the leadership levels, procedures for protecting the security and dignity of victims and witnesses, measures to compensate for constraints and mobility including travel and child care costs, assurance that processes take place in local languages, and, if necessary, the provision of identity documents to facilitate women's participation.
- c. Keep victims and survivors at the center of advocacy and awareness-raising efforts. Survivors are best positioned to comment on possible negative impacts of awareness campaigns and facilitate effective message delivery.
- d. Facilitate access to information about violations and the reparation processes. Insofar as possible, prioritize the direct channels of communication that enable survivors to ask questions and be heard in order to avoid misinformation and misinterpretation.
- e. Avoid excluding or marginalizing groups. Efforts should be made to include ethnic Roma, Ashkali, Egyptian, and Serb survivors, as well as other ethnic minorities, and men and boys.
- f. Ensure the national consultation process (led by the Inter-Ministerial Working Group for Dealing with the Past and Reconciliation- IMWG DwPR) for the design and implementation of a national transitional justice strategy is inclusive, and that survivors of conflict-related sexual violence have adequate avenues of engagement, including:
 - i. Prioritize women and girls only focus groups.
 - ii. Create methods of anonymous access to the consultation process via means such as sound and written submissions.
- g. Ensure IMWG DwPR decision-making processes are gender-balanced.

5. Continue to educate communities about sexual violence

Specific recommendations:

- a. Include survivors of conflict-related sexual violence in the design process of education campaigns aimed at raising awareness about the facts of conflict-related sexual violence.
- b. Continue to educate communities about sexual violence and highlight the link between past abuses and ongoing violations.
- c. Encourage community leaders to publicly condemn violence against women and girls, show support for survivors of conflict-related sexual violence and reinforce messages of their membership and dignity.

6. Facilitate the social and economic reintegration of survivors

Specific recommendations:

- a. Create a coordination and facilitation mechanism for survivor access to initiatives that do not directly target them but from which they may benefit (e.g., economic development activities, grant schemes, education and employment opportunities). This mechanism should:
 - i. Map (and maintain a current list of) existing initiatives and programs

- which survivors may benefit from (government and non-government), and identify gaps.
- ii. Encourage institutions and actors with relevant programs and initiatives to tailor their programs to enable access for survivors.
 - iii. Provide advice to these institutions and actors on appropriate methods for engaging with survivors.
 - iv. Facilitate survivor access to existing programs and initiatives through the provision of information and linkage with appropriate actors.
 - v. Support and facilitate survivor participation in the design of future programs and initiatives.
 - vi. Ensure that decisions in relation to the delivery of government programs and initiatives strive to transform gender inequalities and gender discrimination, not reinforce them.
- b. Prioritize the inclusion of survivors in job creation strategies and economic development activities.
 - c. Prioritize survivor access to available health care:
 - i. Ensure free access to medications on the essential list to survivors and their children. Adopt an easier strategy for reimbursement or provision of these medications when unavailable at local public providers.
 - ii. Ensure survivor access to mobile health units, such as the mobile breast screening unit, through targeted information delivery and coordination with service providers assisting survivors.
 - d. Ensure a method via which sexual violence victims can anonymously obtain information and referrals to services. Possibilities include providing such information via the hotline to be established by the Commission, or establishing a separate toll-free hotline providing information to a wider group, including victims of sexual and domestic violence as well as conflict-related sexual violence.
 - e. Prioritize the registration of women's land and property ownership.
 - f. Continue the implementation of the Action Plan for Access to Justice for Victims of Sexual Violence During the War to dismantle the culture of impunity. Establish a monitoring mechanism for its implementation.
 - g. Place a high priority on ensuring the full implementation of the existing laws and commitments that advance women's protection and empowerment. UN Security Council Resolution 1325 – which acknowledged the disparate impact of conflict on women and girls, and affirmed the participation and representation of women in conflict resolution and post-conflict recovery – has not been fully implemented.

B. To the Government of Kosovo and Non-Government Institutions and Actors

1. Seek synergy between reparations and development programmes

Specific recommendations:

- a. Collaborate to facilitate the establishment of the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War. Development actors could assist with tasks such as:

- i. The training of Commission and Secretariat members, as well as Government staff and civil society organizations, that will serve as reception points for the application forms to the Commission on international standards of documenting and identifying conflict-related sexual violence.
 - ii. The design and creation of a secure database for the Commission.
 - iii. Awareness-raising activities to identify possible conflict-related sexual violence survivors and encourage them to register with the Commission.
- b. Collaborate to identify and address gaps in the Government of Kosovo's capacity to deliver reparations, such as:
- i. Addressing the issue of access to specialized health services in Kosovo for survivors of conflict-related sexual violence survivors. In partnership with the Government of Kosovo, development actors could construct specialized public health facilities, facilitate the provision of mobile health facilities (such as mobile mammogram units), facilitate the supply of medicines, equipment or diagnostic capacities (particularly sexual and reproductive health related tests), and train professionals at those facilities on international standards in response to conflict-related sexual violence.
 - ii. Identify and support methods of outreach and service provision to men and boy survivors of conflict-related sexual violence.
 - iii. Develop a scholarship system for children of survivors of conflict-related sexual violence.
- c. Partner to promote domestic structures available to assist vulnerable and marginalized persons, and help link survivors with these assistance programmes. For example, various assistance schemes are available within the Ministry of Agriculture, Forestry and Rural Development, Ministry of Health, Ministry of Education, Science and Technology and Ministry of Labour and Social Welfare that survivors may benefit from. Consider the establishment of micro-finance arrangements for self-employment initiatives of survivors.
 - d. Implement development policies that can complement reparative aims and reinforce the message of membership and dignity. For example, development policies that focus on sexual and gender based violence, gender-based discrimination and gender inequality can help to address long-term discrimination and stigmatization of survivors of conflict-related sexual violence, as well as other marginalized groups.

C. To the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War

- a. Ensure that the operationalization of the reparations through provision of benefits after verification from the Commission does not exclude, marginalize, or penalize women or men.
- b. Adopt a broad definition of sexual violence that goes beyond rape; one that is in accordance with international law and the Guidance Note of the Secretary General.
- c. Ensure strict confidentiality of the Commission's processes and work. Pursue accountability for breaches of confidentiality.

- d. Prioritize the safety and security of applicants to the Commission. Establish rules of procedure that specify working methods, training requirements, confidentiality protocols and outreach methods.

D. To Non-Government Institutions and Actors

1. To Local Civil Society Organizations and Actors

- a. Prioritize increasing the agency of survivors. Access to rehabilitation and support services should not come at the expense of a loss of agency. Connecting women survivors of conflict-related sexual violence to women's groups may assist in this regard.
- b. Facilitate survivors' participation in transitional justice consultations and decision-making on projects and programmes that affect them. Participation should adjust to evolving capacity.
- c. Facilitate better linkages and cross fertilization of ideas between civil society and victim groups.

2. To the International Community

- a. Assist Kosovo authorities and institutions with fulfilling the obligation to provide reparations to all survivors of conflict-related sexual violence.
 - i. Help fill any identified resource gaps in the State reparation programme. Support the development of funding structures as required.
 - ii. Support infrastructure projects in areas in which survivors do not have easy access to health, education and water and sanitation facilities.

- iii. Support micro-credit projects and economic activities for survivors within development programmes.

- iv. Support other forms of implementation and enhancement of the State reparation programme as required (see potential areas of collaboration in section V.B. above). Strive to ensure that all processes are victim-centric, gender sensitive and transformative in nature.

- b. Prioritize, encourage and facilitate the involvement of survivors of conflict-related sexual violence in development programme decision-making. Participation should adjust to evolving capacity.
- c. Continue engagement on rule of law processes as a means of strengthening guarantees of non-recurrence.
- d. Prioritize the strengthening of transparency in Kosovo in order to assist with the clear flow of information, rebuilding of civic trust and guarantees of non-recurrence.

3. To UN Women:

- a. Develop indicators inline with UN Security Council Resolution 1325 to monitor the implementation of reparation programmes.

ANNEXES

Annex I: Summary of Reparative Initiatives for Survivors of Conflict-Related Sexual Violence in Kosovo

Date	Action
November 2003	Medica Kosova held a three-day legal conference on sexual crimes during the war. This was the first public initiative in Kosovo to acknowledge the situation of conflict-related sexual violence survivors and it sought to identify obstacles in the documentation of this violence.
Early 2005	The (then) international Ombudsperson in Kosovo Marek Antoni Nowicki sent a letter to the (then) Prime Minister of Kosovo Ramush Haradinaj, requesting Kosovo authorities to take measures to ensure that services are available to survivors of conflict-related sexual violence.
2006-2007	Medica Kosova and UN Women (then UNIFEM) advocated for an amendment in the draft Law recognizing civilian victims of the war to include survivors of conflict-related sexual violence (predominantly women) as a special category of civilian victims.
December 2011	Law no. 04/L-054 On the Status and the Rights of the Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims of War and Their Families was passed. Victims of conflict-related sexual violence were not included as a special category of civilian victims.
22 February 2012	A working group, under the auspice of the Prime Minister's Office and led by the Agency of Gender Equality, was established to develop an Action Plan for the Implementation of UNSCR 1325.
8 March 2012	The Kosovo Women's Network – an umbrella body of over 90 women's NGOs in the country – highlighted the issue of conflict-related sexual violence during its commemoration of the International Women's Day.
9 March 2012	The Women Caucus in the Kosovo Assembly initiated a parliamentary resolution calling for support for survivors of conflict-related sexual violence and upon local and international prosecutors to punish the perpetrators of these crimes. As a response to the 8 March commemoration and submission of the parliamentary resolution, Vlora Çitaku, the (then) Minister of European Integration, established a Task Force on Sexual Violence and Torture. Çitaku also supported a public campaign to raise awareness about survivors of conflict-related sexual violence.
June 2012	Vlora Çitaku, (then) Minister for European Integration, Suzan Novobërdaliu, (then) Member of Parliament, Medica Kosova, KRCT, the Ombudsperson Institution in Kosovo and survivors of conflict-related sexual violence held a discussion on conflict related sexual violence which led to commitment by the parties involved to further advocacy efforts.
4 June 2012	The Inter-Ministerial Working Group on Dealing with the Past and Reconciliation was established under the auspices of the Office of the Prime Minister.
12 September 2012	A forum for civil society to voice its concerns to the UN leadership in Kosovo, the Global Open Day, was held. Organized by UN Women, and including women Members of Parliament and survivors, the forum focused on the pressing need to provide redress for survivors of conflict-related sexual violence.

4-6 December 2012	UN Women held one debate and two roundtables on the topic of conflict-related sexual violence with key stakeholders from Kosovo, including Kosovo institutions and EULEX representatives. The roundtables served also as a forum for stakeholders from Bosnia and Herzegovina to share their best practices and lessons learned in regard to survivors of conflict-related sexual violence realizing their right to reparation. These were held in Prishtinë/Priština and in Gjakovë/Đakovica.
8 March 2013	The Agency for Gender Equality organized a roundtable where the Minister of Justice, Hajredin Kuçi, committed to ensuring that the Law no. 04/L-054 On the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosova Liberation Army, Civilian Victims of war and Their Families would be amended to legally recognize the status of survivors of conflict-related sexual violence.
14 March 2013	The Kosovo Assembly passed on first reading the draft law on amending and supplementing Law no. 04/L-054, which would provide legal recognition of the status of survivors of conflict-related sexual violence. The amendment was put forward by the parliamentary group of Lëvizja Vetëvendosje. Various relevant Parliament Committees made further changes to the amendment before it went to its second reading in 2014.
23 April 2013	The Security and Gender Group (a multi-stakeholder group of representatives from civil society, government and international organizations chaired by UN Women) organized a public consultation between Members of Parliament and women's advocates and civil society after the first reading of the amendment. Following this discussion, the Group sent comments for improvement of the amendment to the all Parliamentarians.
Summer 2013	OHCHR published "Healing the Spirit: Reparation for Survivors of Sexual Violence Related to the Armed Conflict in Kosovo" authored by Victoria S. Rames. The study aims to highlight the most prevalent consequences of sexual violence committed during the armed conflict in Kosovo; to analyze the current state of affairs with respect to reparations for these crimes; and to highlight the most desirable forms and methods to provide redress for these crimes from the perspective of its survivors.
29 January 2014	The Government approved the Action Plan on Implementation of UNSCR 1325, with a commitment to cover 51 percent of the budget for its implementation. The action plan has three outcomes, including an outcome that focuses on provision of redress to survivors of conflict-related sexual violence: "Survivors of sexual violence, torture and other forms of violence associated with conflict/war have improved access to protection, access to justice, rehabilitation and re-integration."
5 March 2014	President of Kosovo, Atifete Jahjaga, with a special Presidential decree, established the National Council on the Survivors of Sexual Violence during the War. The Council brought together representatives of key ministries, civil society and international stakeholders to work towards an improved, better coordinated response in psycho-social and health treatment, access to justice, legal recognition, and economic empowerment for survivors of conflict-related sexual violence and awareness raising about the topic.
20 March 2014	The Assembly approved Law no. 04/L-172 On Amending and Supplementing the Law no. 04/L-054 On the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and Their Families. The amendment legally recognizes the status of survivors of sexual violence within the period 27 February 1998 and 20 June 1999 in Kosovo.

June 2014	Under the patronage of the National Council, events parallel to the Global Summit to End Sexual Violence in Conflict were organized in Prishtinë/Priština with the aim to raise public awareness on the issue of conflict-related sexual violence.
14-17 January 2015	A meeting was organized to exchange experiences between Council members and relevant stakeholders from Bosnia and Herzegovina with a view of contributing to the drafting of secondary legislation establishing the Commission and procedures to recognize and verify the status of conflict-related sexual violence survivors.
16 March 2015	A working group chaired by representatives of the Legal Office within the Office of the Prime Minister, and including representatives from institutions, civil society, and UN Women, was formed to draft a regulation to implement the recognition of conflict-related sexual violence survivors under the amended law.
March – June 2015	A series of workshops were organized with members of the above-mentioned working group to work on the regulation that would establish the procedures for recognition of status of survivors of conflict-related sexual violence, establish the relevant Commission, and to work on the application form that the Commission will use in the future.
May – June 2015	The Council organized the art installation “Thinking of You” where thousands of skirts/women’s dresses were collected throughout Kosovo and hung on clotheslines in the Prishtinë/Priština sports stadium on June 12. The installation conceptualized and implemented by artist Alketa Xhafa Mripa, produced by Anna di Lellio, received a lot of local and international media attention. A documentary of the collection process and the installation itself was produced and screened on several occasions both in Kosovo and abroad.
November 2015	The Action Plan for Access to Justice for Victims of Sexual Violence During the War was endorsed by the Ministry of Justice, Kosovo Prosecutorial and Judicial Councils, and Office of the President. The Action Plan was developed by the Council’s working group on access to justice, chaired by the Ministry of Justice, and with members from institutions, rule of law sector, civil society and UN Women.
30 December 2015	The Government approved Regulation no. 22/2015 On Defining the Procedures for Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War. It was signed by Prime Minister Isa Mustafa on 2 February 2016.
February 2016	Prime Minister Isa Mustafa appointed civil servants from the Prime Minister’s Office as members of the Secretariat of the Commission, as per provisions in Regulation no. 22/2015.
March 2016	The Office of the President and Ministry of Health signed a Memorandum of Understanding. Through this, the Ministry has committed to harmonizing the existing legislation, intensify its cooperation with NGOs, and ensuring that NGOs providing services to conflict-related sexual violence survivors have the medications from the essential list.
30 March 2016	The National Council on the Survivors of Sexual Violence during the War held its closing meeting. Relevant line Ministries and civil society organizations committed to continue working on providing redress to conflict-related sexual violence survivors.

Annex II: Summary of Benefits under Law no. 04/L-054 and Law no. 04/L-172

	Receivable by family members of				Receivable by the individual													
	KLA members		Civilians		KLA Inva- lids		KLA invalids											
Benefits	Martyrs (dec'd)		Missing		After death of invalid		Group I 81 - 100%											
	Deceased & missing martyrs 1997-1999	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Pensions																		
Family pension [1]	Y		Y	Y														
Personal disability pension [2]																		
Family disability pension [1]					Y													
Health																		
Care taking assistance allowance																		
Medical & physical rehabilitation in Kosovo [3]																		
Health services in public health facilities																		
Hospital services abroad if not curable in Kosovo																		
Hospital services abroad for deteriorating condition due to war that is not curable in Kosovo																		
Prosthetics & orthopaedic tools																		
Education, Training & Employment																		
Professional training (adult education)																		
Priority in enrolling in public educational institutions																		

Annex III: List of Stakeholders Consulted

Survivors of conflict-related sexual violence

A series of meetings were held with approximately 70 survivors of conflict-related sexual violence.

Kosovo Institutions

Organization or Institution	Position in Organization or Institution	Name
Agency for Gender Equality	Head of Legal Department	Leonora Selmani
Inter-Ministerial Working Group on Dealing with the Past and Reconciliation (IMWG DwPR)	Sub-group on Right to Reparation	Representatives of the sub-group
Kosovo Judicial institute	Acting Director, Program Coordinator	Besim Morina
Kosovo Police	Chief of War Crimes Investigation Section	Captain Ramadan Ahmeti
Ministry for Agriculture, Forestry and Rural Development	Director of Policy Development Department, Head of Managing Authority	Shqipe Dema
Ministry of Health	Political Advisor to the Minister	Dr. Valbon Krasniqi
Ministry of Justice	Legal Adviser to the Minister	Dafina Buçaj
Ministry of Labor and Social Welfare	CDF Advisor to the Minister	Merita Gashi
Ministry of Trade and Industry, Kosovo Investment and Enterprise Support Agency (KIESA)	Head of Export Promotion Sector, Private Sector Promotion Directorate Export, Export Promotion Sector	Remzi Ahmeti
National Agency for Personal Data Protection	Head of Legal Office	Valon Kryeziu

Office of Prime Minister, Legal Office	Director of Legal Office	Besim Kajtazi
President's Office	Political Adviser to former President Atifete Jahjaga	Jeta Krasniqi
State Prosecution	Deputy Chief State Prosecutor	Sevdije Morina
Kosovo War Crimes Research Institute	Professional Associate	Baki Svirca

Civil Society Organizations

Organization or Institution	Position in Organization or Institution	Name
Center for Promotion of Women's Rights	Executive Director	Kadire Tahiraj
Forum Civil Peace Service – Forum ZFD	Programme Manager	Nehari Sharri
Humanitarian Law Center Kosovo	Executive Director	Bekim Blakaj
INTEGRA	Executive Director	Kushtrim Koliqi
Kosova Rehabilitation Center for Torture Victims (KRCT)	Executive Director	Feride Rushiti
Kosovo Women's Network (KWN)	Executive Director	Igballe Rogova
Medica Gjakova	Executive Director	Mirlinda Sada
Medica Kosova	Executive Director	Vepore Shehu
Youth Initiative for Human Rights – Kosovo	Executive Director	Edona Tolaj

International Organizations

Organization or Institution	Position in Organization or Institution	Name
European Union Rule of Law Mission in Kosovo, EULEX	Head of Kosovo Special Prosecution Office	Jonathan Ratel
European Union Rule of Law Mission in Kosovo, EULEX	International Gender Advisor	Lina Andeer
European Union Rule of Law Mission in Kosovo, EULEX	Prosecutor, Kosovo Special Prosecution Office	Damaré Theriot
International Center for Transitional Justice	Senior Associate, Reparative Justice Program	Cristián Correa
International Organization for Migration	Land, Property and Reparations Officer	Igor Cvetkovski
International Organization for Migration	Project Development Officer	Patrik Shirak
Office of the United Nations High Commissioner for Human Rights	National Programme Officer	Ljubiša Baščarevič
UN Development Coordinator's Office	Development Coordinator, UNDP Resident Representative	Andrew Russell
United States Agency for International Development	Project Manager of Property Rights Program implemented by Tetra Tech	Don Cuizon

Annex IV: List of Key Documents Consulted

General Literature

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