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Twenty-five years after Dayton: Long-term impact of gender mainstreaming in the conflict transition on Bosnian women

Girardi, Silvia

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Twenty-five years after Dayton: Long-term impact of gender mainstreaming in the conflict transition on Bosnian women

Name: Silvia Girardi

Student number: s2043165

Date: 2/06/2020

Instructor: Prof. dr. M. Kinacioglu

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1 Introduction

At the end of the twentieth century, two major humanitarian crises occurred in Bosnia and in Rwanda, shaping the development of the field of International Law and Human Rights. The scholarly debate heightened, with discussions ranging from the role of the United Nations (UN) in maintaining “international peace and security” to the scope of humanitarian interventions, from the breadth of the definition of genocide to the role of the two international ad-hoc tribunals, the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). In the case of Bosnia, a highly debated question was that of the role of women in the conflict, both as victims and as perpetrators. The feminist scholarship was particularly active during the Balkan wars, focusing on Sexual and Gender Based Violence (SGBV), especially mass rape and the use of rape as a tool of war. Similarly, a number of feminist scholars have examined the role of women in post-conflict Bosnia and the rights women would obtain thereafter. Nevertheless, much still has to be studied in relation to the conflict in the former Yugoslavia. An issue that stands out and has not been covered adequately in the literature yet, is the fact that, twenty-five years after the official end of the war, women’s living conditions in Bosnia are still worrisome. Therefore, this research aims to shed light on the role that gender mainstreaming during the conflict transition phase played and how it has impacted the development of women’s living conditions in Bosnia and Herzegovina. This thesis will proceed as following: a literature review focusing on the main debates on the topic, a section that motivates the choices of the research design and a conceptual framework. After this, it will report the main results and it will end with a conclusion, where suggestions for further research and implications are discussed.

2 Literature review

2.1 Women in Bosnia

The conflict in Bosnia was the product of the dissolution of Yugoslavia. The ethnic tensions between the three ethnicities living together in the country (divided approximately between religious lines in Muslims Bosnians, Catholics Croats and Orthodox Serbs) were never fully erased. Nationalisms mounted after the death of the former President of Yugoslavia, Josip Broz Tito, and the economic crisis of the 1980s (Snyder, Gabbard, May, & Zulcic, 2006). It is estimated that between twenty thousand and fifty thousand women were systematically raped during the war, between 1992 and 1995, with the exact number still debated, due to the fact that many of the rapes were never reported (Stiglmyer, 1994). Although there were also rape cases of Croat and Serb women, it is the rape of Muslim Bosnian women that occurred systematically. The Serbs used rape as a tool of war to both humiliate the Bosnian counterparts and to force impregnations in order to surpass demographically the Bosnian ethnicity (Boeschoten, 2003). Women were used as instruments to pursue the nationalist projects that started and fuelled the conflict (Giles & Hyndman, 2004). It was in this context, therefore, that the systematic rape of women was recognized for the first time as a war crime in 1993, in the statute of the ICTY (Davis, 2000).

Although the role played by women in the Balkan wars has been extensively debated in the literature, consensus is far from being reached. In fact, the topic is controversial: the contentious are that either the tragedies suffered by women during the war are downplayed or their active roles are overlooked and they are reduced to passive victims. At the same time, the conflict in Bosnia, similarly to other conflicts, not only saw men and women having different roles during the war, it also caused different consequences on the two groups. Feminist scholars have cautiously addressed the issue. On the one hand, Charlesworth and Chinkin (2000) underlie that war can have brutal repercussions on both civilian and armed men too; on the other hand, they agree that women suffer in a distinct manner, due to both the social construction of gender roles and disadvantaged socioeconomic situations dating back to before the war. In the case of Bosnia, although reforms of the patriarchal structures had been attempted under Tito's rule, gender roles were never fully changed and swiftly resurfaced with the wave of nationalism that hit the country before and during the conflict (Snyder et al., 2006). Charlesworth and Chinkin (2000) carefully warn about the risk of essentializing women's experiences but nevertheless conclude that sex and gender have a considerable impact on women's "experience of conflict" (p. 253). This argument is not a prerogative of the feminist scholarship; for instance, the World Health Organization (WHO) argues that "there is a pattern of gender differentiation at all

stages of a disaster” (Ní Aoláin, Haynes & Cahn, 2011, p. 34) hence, one could argue, at all stages of a conflict. Particularly, women who suffered from rape and gang-rape during the war in Bosnia not only had to face the physical and psychological consequences of the violence but also further discrimination and removal from social life and workplaces because they were considered impure (Jansen, 2006).

Although men and women’s different experiences of conflict are generally acknowledged, many feminist scholars agree that peace agreements do not take them into account. One of the primary mechanisms with the aim of taking into account these different experiences, is that of gender mainstreaming, the focus of the next section.

2.2 Gender mainstreaming in the conflict transition phase: the debate

The debates over the roles and experiences of women that originated during the years of the war, did not cease once the peace process began and the Dayton Peace Agreement (DPA), which marked the end of the war, was signed in 1995. For instance, they were discussed during the UN Fourth World Conference on Women in Beijing, which took place in the same year as the DPA, where it was asserted that:

in addressing armed or other conflicts, an active and visible policy of mainstreaming a gender perspective into all policies and programmes should be promoted so that before decisions are taken an analysis is made of the effects on women and men, respectively. (Report of the Fourth World Conference on Women, 1995, p. 58)

In the following years, the concept has become a one-size-fit-all solution to address gender inequality and a debate about its efficacy started. Among the proponents of gender mainstreaming, Ackerly (2001) holds that it is seen as a policy that can be revolutionary for the lives of women (and men) because it helps introducing “gender-related issues onto the mainstream agenda” (p. 317). Among the opponents, Charlesworth (2005) emphasizes that gender mainstreaming has been having difficulties in its implementation, particularly at the UN level, due to lack of funding and active resistance. Further, she criticizes that the concept itself is not radical enough to change unequal gender relations.

For the scope of this research project, it will be particularly relevant to look at analyses of gender mainstreaming during conflict transition phases. In the literature, it is argued that mainstreaming a gender perspective during the transition phase is a first step in the acknowledgment of the several roles that women have during conflicts and the complexity of each story (Ní Aoláin,

Cahn, Haynes, Vali, & Heathcote, 2018). Other scholars, instead, have contended that the transition and the post-conflict phase are equally or perhaps more dangerous than the actual conflict as other forms of violence can emerge (e.g. trafficking of women and the increase in prostitution for economic reasons) or can be reinforced (e.g. physical violence) (Handrahan, 2004). Some scholars have stressed the fact that the accountability of post-conflict structures is threatened by the same violent forms of masculinity that were present during the actual conflict and have argued that, unless gender issues are made central to the policymaking in the aftermath of a conflict, the structural gender inequalities and the gendered dynamics of conflict will not be addressed (Ní Aoláin et al., 2011). Others have argued that during the peace process phase “women’s issues of gender-based violence, equality, political participation and economic and social status are treated as of a lesser importance that can wait until the country recovers” (Aroussi, 2015, p. 73).

According to Aroussi (2015), peace agreements in particular, are instrumental for challenging power structures, including patriarchal structures that impede the affirmation of women’s rights. At the same time, they are seen as opportunities to strengthen new positions that women may have obtained during the conflict, from combatants to peacemaker roles (Aroussi, 2015). However, as argued by Ní Aoláin (2013), there is still a considerable knowledge gap regarding the question of how to make gender a central element of peace processes. In the case of Bosnia, Dolgopol (1997) highlights how the DPA did not include provisions to support victims of sexual violence and leaves the responsibilities of judging and providing assistance for the victims of systematic rape to the international community. Furthermore, according to Björkdahl (2012), the international community’s role in the peace process in Bosnia allowed to have a peace that was “far from gender just” (p. 289). A further insight is provided by Ní Aoláin (2009), who argues that the inclusion or exclusion of women from the peace process and the way in which gender issues were addressed in the conflict transition stages are fundamental to understand how post-conflict Bosnia deals with women’s rights. In addition, Dolgopol (1997) uses the example of the Bosnian war to point out how commitment to women’s rights must never be taken for granted in post-war talks, since not even in a case with striking evidence of violation of women’s rights, they were included in the peace agreement.

Although scholars tend to agree on the importance of gender mainstreaming in peace agreements, the very concept of a “peace agreement” lacks clarity. Bell (2006) suggests that the term “peace agreement” can include different documents produced at three stages of a conflict, the “pre-negotiation” agreements, the “substantive/framework” agreements and the “implementation” agreement. According to Ní Aoláin (2013), dividing the peace process in three stages allows to go beyond the official peace agreement (i.e. the “substantive” agreements) and to look at the content of a broader set of documents in which gender mainstreaming could occur or could be lacking. However,

most of the literature discussing the peace process in Bosnia tends to overlook these different stages, e.g. the researches mentioned above by Aroussi (2015) and Dolgopol (1997) consider only the “substantive” peace agreement, namely, the DPA.

To conclude, in the years following the DPA, the need to include a gender perspective in peace processes was inserted into the Women, Peace and Security agenda and was maintained in Resolution 1325 of the United Nations Security Council, in 2000. Thus, the international community officially recognized the need for both gender mainstreaming with Resolution 1325, much later than the immediate conflict transition phase in Bosnia. This literature review elaborated on the debates around violations of women’s rights and how to address them in the aftermath of a conflict. At the same time, it showed that, during conflict transition phases, maintaining a gender perspective in the peace making is essential. In regard to the conflict in Bosnia, a literature gap can be identified in the study of the impact that gender mainstreaming in the conflict transition has had on Bosnian women in the long run. Although there have been studies on the role of women during the war and on the ways in which gender issues have been addressed in the peace agreement, questions about the long-term impact of gender mainstreaming on women in the whole conflict transition phase are still left unanswered. It is important to address this issue in order to evaluate the long-term effects that the transition phase has had on Bosnian women, who were deeply affected by the conflict in the ways explained above. Therefore, this research will try to answer the following question: How has gender mainstreaming in the conflict transition phase of the war in Bosnia impacted Bosnian women’s living conditions in the long run?

3 Research design

3.1 Case Selection

This research will analyse the relationship between gender mainstreaming in the peace agreements signed during the three different stages of the conflict transition model identified by Bell (2006) and the current status of women's living conditions in Bosnia, thus making it a case study. The choice of conducting a case study has been taken for two main reasons. Firstly, as argued by Halperin and Heath (2017), a case study allows for more in-depth analysis and it suits the main objective of this research that is, to analyse how the entirety of the peace agreements have dealt with gender mainstreaming in Bosnia. Furthermore, investigating a case study will provide an increased validity of the findings; in particular, the research will result in high internal validity, given the extensive coverage of one case. Secondly, a single-N study lends itself well to "assess specific mechanisms identified in theories" (Halperin & Heath, 2017, p. 154). Indeed, given the theory driven nature of this research project, the single case research design is believed to be optimal.

As mentioned above, the case that will be analysed is the case of Bosnia. The country has been selected for two reasons. The first reason follows one of the two criteria suggested by Geddes for case selection namely, that the case selected should be representative of the bigger pool of cases from which the theories have been formulated to be tested (as cited in Halperin & Heath, 2017, p. 216). Bosnia, together with Rwanda, represents the first case where crimes against women were identified as war crimes, in the ICTY statute; it is an emblematic case of how rape can be used systematically for war purposes and of how this impacts women's lives negatively (Charlesworth & Chinkin, 2000). Thus, the case of Bosnia has been chosen because is a typical case in which a conflict produced different consequences for men and women and that was concluded with the signing of several agreements. The second reason for this choice is of a practical nature. The conflict in Bosnia took place between 1992 and 1995, the DPA was signed at the end of 1995 and both the peace building forces and NATO forces that were deployed in the immediate aftermath of the military operation have now been withdrawn. Although the presence of the international community can still be seen with the multiples agencies still working on the territory and, most importantly, with the institution of the High Representative reporting directly to the UN, the conflict is concluded and the country has entered the stage of stability which is the required state of affairs for the research question of this thesis.

3.2 Methodology

This research project will be developed through a qualitative textual analysis. According to Halperin and Heath (2017), relying on textual documents allows to have lower levels of bias compared to other types of data collection methods, such as interviews or focus groups. Furthermore, textual analysis suits the scope of the analysis, that is, to look at the peace agreements of the Bosnian conflict. The research will be based on an analysis of the key agreements signed during the three stages of Bell's (2006) conflict transition model. The focus in the first three sections of the analysis will be on official documents, e.g. letters to the UN, the DPA and legal texts. Subsequently, in order to assess the status of women's living conditions in Bosnia, the thesis will look at reports published by both international governmental organizations, such as the Organization for Security and Co-operation in Europe (OSCE), non-governmental organization, such as the Sarajevo Open Centre, and national plans published by the Bosnian government.

The coding protocol used is based on four categories of women's security identified by a 2003 report by the United Nations Division for the Advancement of Women (UNDAW). These categories are women's legal, political, physical and socioeconomic security. Following the identification of these categories in the documents of each of the three stages, the research will proceed in analysing women's current living conditions in Bosnia. This analysis will rely on the four categories of security mentioned above in order to understand how each category has developed since the conflict has ended. As maintained by Halperin and Heath (2017), qualitative analyses "tend to study documents in their entirety" (p. 348); indeed, this research will analyse all the documents available in relation to the case.

4 Conceptual framework

This section will explain what this research means with gender mainstreaming and with women's current living conditions. The choice of looking at gender mainstreaming in the texts of the agreements derives from the widely acknowledged idea that identifying women's absence from the decision-making tables during peace making processes is not sufficient to understand the persistence of inequalities (Ní Aoláin, 2009). Therefore, it is by looking at how gender issues were taken into account in the actual texts of the peace agreements that this research seeks to explain the current status of women's living conditions in Bosnia. The analysis starts from the definition of gender mainstreaming provided by the UN Economic and Social Council that conceptualizes it as:

The process of assessing the implications for women and men of any planned action, including legislation, policies or programs, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality. (1999, p. 24)

This understanding of gender mainstreaming has been contested by feminist scholars for two main reasons. Firstly, it is argued that gender mainstreaming misuses the term "gender" as a synonym for "sex", namely, it equalizes men and women on the lines of biological sex. By overlooking the socio constructive nature of the term "gender", gender mainstreaming fails to understand the power relations at play (Charlesworth, 2005). Secondly, gender mainstreaming is often focused uniquely on equal political representation between men and women and overestimates the impact that women can have in a society that is inherently unequal because it is built by men (Otto, 2006). This research tries to take into account these criticisms. First of all, it is aware that the socially constructed ideas of gender and gender roles are different from the biological sex. However, it is also aware of the necessity of tackling constructed gender roles and of the importance that gender mainstreaming in peace agreements can have in this challenging task. In other words, gender mainstreaming is a necessary first step (UNDAW, 2003). In response to the second criticism, this analysis will not only focus on equal political representation but also on policies related to the socioeconomic, physical and legal security of women.

This research deems important to look in particular at how women, their issues and their needs are considered in the peace agreements. Hence, it will follow the interpretation of the ECOSOC's

definition of gender mainstreaming given by Aroussi (2015) who argues that it entails “making women’s needs and experiences integral to the design of peace agreements and requires the evaluation of the impact of every decision or policy on women and girls” (p. 74). Further validation for this interpretation is given by Ní Aoláin, Haynes and Cahn (2011) who claim that gender is mainstreamed when “women and their needs are considered” (p. 103). Aroussi (2015) identifies guidelines on “how best to mainstream gender issues in peace agreements” (p. 75) in the 2003 UNDAW report “Peace Agreements as a Means for Promoting Gender Equality and Ensuring Participation of Women – A Framework of Model Provisions,” which resulted from an expert meeting between several feminist scholars, activists and practitioners. This thesis will follow these guidelines and gender mainstreaming will be operationalised as “provisions on women’s legal, political and physical securities and provisions on women’s social and economic security” (Aroussi, 2015, p. 76). This research will look at the following provisions within each category of women’s security: commitment to women’s rights, mechanisms to internalise these rights into national legislation and their inclusion in the constitution (legal security); explicit reference to women’s political participation, affirmative discrimination (e.g. quota) and women’s representation in electoral campaign (political security); protection from SGBV, particularly for refugee women, and screening of foreign personnel’s private history in relation to SGBV (physical security). Finally, it will look at provisions aimed at implementing women’s right to education, employment and health (socioeconomic security).

The real-life issue that this thesis seeks to understand is “women’s current living conditions” in Bosnia. According to Human Rights Watch (2019), the biggest problems for women in Bosnia and Herzegovina are persistent inequalities and, more generally, lack of implementation of women’s rights, resulting in poor living conditions. In the literature, the concepts of “gender equality” and “women’s rights” can often be found together. According to the CEDAW (1979) gender equality is achieved with the equal “enjoyment of human rights” (p. 2) between men and women. Intuitively, the ratification and the execution of women’s rights is a condition for the achievement of gender equality. However, this research has chosen a slightly broader approach. It includes “women’s living conditions” in an attempt to analyse the tangible execution of women’s rights. Thus, the concept of “women’s living condition” for the purpose of this thesis will include both legal rights as well as real-life effects. In order to assess women’s living conditions this research will begin from the four categories included in the UNDAW report mentioned above. Indeed, the distinction in thematic areas (legal, political, physical and socioeconomic security) allows for the consideration of several aspects of women’s lives more systematically. Firstly, this research will look at the legal framework that protects women from discrimination in force in Bosnia in 2019, looking at both international and national legislations (CEDAW, 1979). Secondly, to measure the status of women’s political rights in

politics in Bosnia, it will look at women's representation in electoral campaigns and their participation in the structures of decision making. Moreover, it will address the status of the implementation of the measures in force to guarantee the equal participation of women in the public life of the country. To understand the situation of women's physical security, this research will look at records of Sexual and Gender Based Violence (SGBV) in the country and the situation of the structures where women can find shelter (i.e. safe houses). Finally, to measure the status of socioeconomic rights of Bosnian women this research will study women's situations in the areas of education, employment and health.

Several scholars have dealt with the relationship between gender mainstreaming and women's living conditions. To analyse the presence of gender mainstreaming in different phases of conflict transition in Bosnia, this research will build on Bell's (2006) conflict transition model. According to Bell (2006), there are three stages in the period between the final stages of the conflict and the moment when the conflict is officially over. In these three stages the exclusion or inclusion of provisions on women's security can be identified and analysed. The first stage includes the "pre-negotiation" agreements namely, the informal accords signed before the official peace agreement; at this stage the armed conflict is not terminated yet. Thus, the key emphasis of these agreements are military issues. The second stage is characterized by the "substantive/framework" agreements, in other words, the official peace agreements. These agreements finalize the ones mentioned in the first stage and include ambitious plans for the future reforms that the state will undertake. The final stage comprises the "implementation agreements", where the content of the framework agreements is implemented. It involves discussing and negotiating the technicalities of the actual realization of the peace agreements.

The extent to which gender is mainstreamed in the peace agreements affects both short term outcomes, such as the return of women to their homes, and long-term outcomes. Scholars have theorized the relationship between gender mainstreaming in peace agreements and women's future living conditions in two ways, which are two sides of the same coin. The first theoretical approach suggests that if peace agreements include provisions on the legal, political, physical and socioeconomic security of women they can constitute a mean to improve the living conditions of women (with the ultimate goal being to achieve gender equality) (UNDAW, 2003; Aroussi, 2015). A similar, yet broader, argument is advanced by Ní Aoláin, Haynes and Cahn (2011). They argue that if women's needs are placed central in all the stages of post-conflict, this will lead to women being able to reach "equal ground and opportunity in the aftermath of war" (p. 95). In light of the discussed theoretical approach the first hypothesis that this research tries to investigate is: "The inclusion of gender mainstreaming in the three stages of conflict transition in former Yugoslavia has led to positive records of women's living conditions in Bosnia and Herzegovina nowadays".

The second theoretical approach put forward in the literature inverts this point of view. It is argued that if peace agreements exclude women's needs from their content, a window of opportunity for the improvement of women's living conditions will be lost and gender inequality will persist in the long run (Aroussi, 2015). Indeed, Aroussi (2015) argues that "when women's rights and concerns are not incorporated in peace agreements, they are unlikely to be given priority in the reconstruction phase" (p. 72). In addition, the 2003 UNDAW report theorizes that the marginalization and discrimination of women in post-conflict societies is caused by the lack of gender mainstreaming in peace agreements, namely, the exclusion of provisions on the four aforementioned categories of women's security. In light of this second theoretical insight the second hypothesis that this research tries to investigate is: "The lack of gender mainstreaming in the three stages of conflict transition in former Yugoslavia has led to poor records of women's living conditions in Bosnia and Herzegovina nowadays".

5 Analysis and results

In this section, the thesis will analyse gender mainstreaming in the agreements of the three different stages. Consequently, it will look at women's rights in Bosnia and, in the final sub section, it will report the results of the findings.

5.1 Gender mainstreaming in the pre-negotiation agreements

The first stage of the conflict transition model identified by Bell (2006) is characterized by the so-called "pre-negotiation" agreements. Between 1992 and 1994 several peace initiatives were put forward, such as the three initiatives on a territorial and constitutional setting for post-war Bosnia proposed by the International Conference on the Former Yugoslavia or the peace plan advanced by the Contact Group, a negotiation forum for the main world powers committed to end the conflict (Paczulla, 2005). However, none of these attempts were successful and none can be considered part of the pre-negotiation agreements.

The beginning of the first stage can be traced back to the period between the summer of 1995 and the signing of the DPA, in November 1995. Indeed, the events occurred during July and August 1995, particularly the Srebrenica genocide and the bombing of the market in Sarajevo, are seen as turning points in the history of the war (Paczulla, 2005). After the removal of the United Nations Protection Force (UNPROFOR) from the country and the NATO campaign against Serb strongholds (Paczulla, 2005), the diplomatic venue took a new path. The United States' chief negotiator for Bosnia, Richard Holbrooke, initiated a "cycle of intensive shuttle diplomacy" (Paczulla, 2005, p. 308) throughout Europe and the United States, the pre-negotiation stage, that ultimately led to the Dayton Accords.

The first pre-negotiation agreement considered, the "Agreed Basic Principles", was signed by the foreign ministers of Bosnia, Croatia and Yugoslavia, the latter representing for the first time also the Bosnian Serbs, on September 8th, 1995, after months of intense diplomacy. In this accord, the countries agreed to the preservation and recognition of Bosnia and Herzegovina and its division in two entities, the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS). It is worth to mention that, although the document lacks gender mainstreaming, for the first time in the context of the war, there is an agreement over the adherence to international human rights and the establishment of a Human Rights Commission (United Nations General Assembly [UNGA], 1995).

The second document, the "Further Agreed Basic Principles" was drafted during the UN General Assembly in September 1995. It shifts the attention from territorial concerns towards the

political set up of Bosnia, identifying as the main goal to hold democratic elections as soon as the situation will permit them (UNGA, 1995). Although this document's main focus is on the political life in the post-conflict Bosnia, it does not contain references to women's political security. As in the previous Agreed Basic Principles, there is a general reference to human rights, but no mention to any of the four categories of women's security identified by the 2003 UNDAW report. The following extract shows how the reference to human rights remained quite vague:

Both Governments will immediately pledge their full support, starting immediately, for (a) freedom of movement; (b) the right of displaced persons to repossess their property or to receive just compensation; (c) freedom of speech and of the press; and (d) protection of all other internationally recognized human rights in order to enhance and empower the democratic election process. (UNGA, 1995, p. 2)

The final document of the pre-negotiation phase is the ceasefire signed on October 5th, 1995 and entered into force on October 10th of the same year. The only reference to the protection of civilians during the sixty days of the ceasefire is "that all civilians and prisoners will be treated humanely" (UNGA, 1995, p. 4), with no distinction between the different needs of men and women and, importantly in the context of a ceasefire, no reference to the physical security of women.

5.2 Gender mainstreaming in the substantive/framework agreements

The second stage includes the "substantive/framework" agreements; in the case of the Bosnian conflict, this coincides with "The General Framework Agreement for Peace in Bosnia and Herzegovina", commonly known as the Dayton Peace Accords, Dayton Peace Agreement or DPA, concluded on the 21st of November 1995 (UNGA, 1995). Between the ceasefire and the formal signing, high level negotiations were conducted for three weeks between the delegations of the three Balkan countries involved in the conflict, under the supervision and influence of the US delegation (Paczulla, 2005). Despite the results of the negotiations often being described as too broad, with scholars calling the DPA, among the various expressions, an "ambitious post-war agenda" (Paczulla, 2005, p. 269) and a "shabby compromise" (Björkdahl, 2012, p. 294), the agreement succeeded in ending the war and in creating a post-Yugoslavia, post-socialism, post-war country. Its content is divided into 10 articles, 11 annexes and 102 maps. The first ten articles agree on the territorial division between the countries and the reciprocal recognition of each other's sovereignty (UNGA, 1995).

The first two annexes (Annex 1-A, 1-B and 2) deal with military and territorial issues, including the authorization of the deployment of the multinational Implementation Force (IFOR) to Bosnia, in order to enforce compliance to the DPA and to the ceasefire. The annex specifies the role of IFOR, that is, to “respond appropriately to deliberate violence to life and person” (UNGA, 1995, p. 18), but does not allude to any physical security issues women might face after the ceasefire. It does not recognize the need to protect women, especially refugee women, from SGBV. Moreover, these first two annexes deal with the deployment of international military forces but do not include processes of screening foreign personnel and whether they have committed “human rights abuses and violence against women, including domestic violence” (UNDAW, 2003, p. 22).

The third and fourth annexes focus on the political and institutional settings of Bosnia. Annex three begins by stating that the ultimate goal is to “ensure the progressive achievement of democratic goals throughout Bosnia and Herzegovina” (UNGA, 1995, p. 53) and guarantees the right to vote to “every citizen of Bosnia and Herzegovina aged 18 or older” (UNGA, 1995, p. 55). However, there is no mention to women’s political security (e.g. equal participation in decision-making structures) and no reference to positive discrimination such as quota (UNDAW, 2003). Annex four spells out the constitution of Bosnia and Herzegovina. Article two of the constitution illustrates the country’s commitment to international human rights, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, the 1957 Convention on the Nationality of Married Women and the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (UNGA, 1995). According to UNDAW (2003), the Convention on the Nationality of Married Women and the CEDAW are part of the provisions that should always be included in peace agreements to ensure women’s legal security. The fifth annex is the Agreement on Arbitration and it is not the locus where gender mainstreaming would be expected and, indeed, was not found.

The sixth and seventh annexes are the Agreement on Human Rights and the Agreement on Refugees and Displaced Persons. On the one hand, annex six establishes a Commission on Human Rights, divided between the Office of the Ombudsman and the Human Rights Chamber, to monitor the compliance to international human rights (UNGA, 1995). As already mentioned in the Bosnian constitution, in this annex the parties commit to the Convention on the Nationality of Married Women and the CEDAW, therefore introducing formal legal security for women at the national level. On the other hand, annex seven mentions the commitment of the parties to “the protection of ethnic and/or minority” (UNGA, 1995, p. 95) populations but does not make specific reference to the physical security that women refugees should be granted in the aftermath of the conflict. In the tenth annex, the figure of the High Representative, appointed by the Security Council with the scope of facilitating

and coordinating the enforcement of the civilian aspects of the DPA, is created (UNGA, 1995). Overall, annexes eight, nine and eleven do not make any specific reference to women's security.

To sum up, the DPA is a vast and articulated peace agreement that marked the end of the conflict in Bosnia and designated the political and territorial set-up of the region. Although many factors had to be taken into account, including the complexity of the conflict and the unsuccessful previous attempts to end the war, gender mainstreaming is mostly absent (except from the signing of the two international agreements mentioned above), in a conflict where women were target of systematic rape.

5.3 Gender mainstreaming in the implementation agreements

The third stage of the transition phase involves the actual implementation of the provisions of the DPA. At the international level, it will include agreements to regulate the relationship between the countries involved in the conflict (Bell, 2006). At the domestic level, it will consist of those legislations aimed at realizing the content of the DPA, under the supervision of international actors and the Office of the High Representative (Bell, 2006). At the international level, the "Joint Declaration (on Normalisation of Relations Between Federal Republic of Yugoslavia and Bosnia and Herzegovina)" and the "Joint Statement between the Republic of Croatia and Bosnia and Herzegovina" were signed in 1996 and 1997. The two documents confirmed the commitment to the DPA and the realization of the cooperation between the countries. There is no mention to any category of women security in either of the two documents. At the domestic level, the two main legislations that carry out the commitment to the CEDAW are the Gender Equality Law (GEL) of 2003 and the Anti-Discrimination Law of 2009, both promulgated several years after the signing of the DPA.

The GEL, in its 2010 amended version, includes a various range of provisions in the areas of political, physical and socioeconomic security of women, areas that have not been covered at all in the first two stages of Bell's (2006) model. Article 20 of the GEL argues for gender equality in all branches and at all levels of the government, specifying 40% quotas for public offices (Law on Gender Equality in Bosnia and Herzegovina, 2010). Further, for the first time, there are provisions dealing with the physical security of women: Article 6 acknowledges and prohibits gender-based violence in both the public and private spheres, including "physical, mental, sexual or economic damage or suffering" (Law on Gender Equality in Bosnia and Herzegovina, 2010, p. 2). Moreover, it spells out the role of authorities in preventing violence, i.e. through education and awareness raising, and in protecting, assisting and compensating victims of violence. Articles 10, 16 and 17 deal with women's socioeconomic security, guaranteeing respectively equal rights to education, social welfare

and health care (including special measures to protect and promote women's reproductive health). Moreover, Articles 12 to 15 deal with the equality of employment opportunity and the discriminations prohibited in the workplace, such as unequal salary or different policies on parental leave between men and women (Law on Gender Equality in Bosnia and Herzegovina, 2010).

A further step in the implementation of CEDAW was taken in 2009 with the Law on Prohibition of Discrimination of Bosnia and Herzegovina, also known as the Anti-Discrimination Law. It provides a comprehensive definition of discrimination, including discrimination on the basis of "sex, sexual expression or sexual orientation" (Law on Prohibition of Discrimination in Bosnia and Herzegovina, 2009, p. 1). In Article 5, it explains the exceptions to the principle of equal treatment, creating de-facto conditions for affirmative discrimination to enhance gender equality. With this law, women are recognized as one of the groups in need for protection from discrimination "in all the spheres of life" (Law on Prohibition of Discrimination in Bosnia and Herzegovina, 2009, p. 4), including physical security (recognizes sexual harassment as a form of discrimination) as well as social and economic security (prohibits discrimination in the fields of employment, education and health).

5.4 Women's living conditions in Bosnia

The first paragraph of this section will assess the legal security of women in Bosnia presently. Almost twenty-five years after the end of the war, the legal security of women in Bosnia has developed substantially. Next to the GEL and the Anti-Discrimination Law, several other international conventions have been added to the legal framework for the protection of women's rights. For example, the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Trans-national Organized Crime" and the "Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence". Moreover, the country ratified several conventions of the International Labour Organization (ILO), among which the "Maternity Protection Convention" in 2010 and maintained the already signed "Equal Remuneration Convention", "Discrimination (employment and occupation) Convention" and "Workers with Family Responsibility Convention". Together with this solid commitment to international conventions, Bosnia has set up a complete legal framework at the national level. First of all, several laws, including the Election Law, have been harmonized with the GEL (Sarajevo Open Centre, 2019). Secondly, institutions such as the Agency for Gender Equality of BiH, the Commission for Gender Equality of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina and Gender Centres at the entity level have been established to monitor the implementation of the laws.

The second area that this research seeks to investigate is the status of women's political rights. According to the Orange Report 5. on the State of the Human Rights of Women in Bosnia and Herzegovina for the period 2016-2019, none of the political parties of the country meets the 40% gender equality quota and none of the parties' leaders is a woman (Sarajevo Open Centre, 2019). Women in elections contexts do not score better. In fact, according to the ODIHR's (2019) Final Report on the General Elections in Bosnia, gender inequality at the party level was reflected in the candidates lists in the 2018 national election, when several parties did not meet the 40% quota in their lists but were registered, nonetheless. Overall, women represented the 41,60% of the total number of candidates (Sarajevo Open Centre, 2019). Two state ministries of the cabinet formed in November 2019, out of sixteen, are headed by women, the Ministry of Foreign Affairs and the Ministry of Civil Affairs (Sarajevo Times, 2019). This number has not increased compared to the previous cabinet, where two women were heading the Ministry for Human Rights and Refugees and the Ministry of Defence (Policy Department for Citizens' Rights and Constitutional Affairs, 2019).

In the House of Representatives, one of the two chambers of the Parliamentary Assembly of BiH, 7 women were elected in 2018, 7% less than in the 2014 election (ODIHR, 2019; Sarajevo Open Centre, 2019). The number of women elected in the National Assembly of RS and in the House of Representatives of the FBiH are both decreasing compared to the previous election (Sarajevo Open Centre, 2019). According to the Sarajevo Open Centre (2019), in the 2016 local elections, which included the election of mayors and town heads, 6,22% (1% less than in the previous elections) of the candidates were women. Only six of them (1 more than in the previous elections) were elected as town heads from the 142 local government units, five in the RS and one in the FBiH (Policy Department for Citizens' Rights and Constitutional Affairs, 2019). Overall, the percentage of women elected in the city councils is 18,34%, just slightly higher than in the previous election (Policy Department for Citizens' Rights and Constitutional Affairs, 2019; Sarajevo Open Centre, 2019).

Along the lines of the Orange Report 5. are also the concerns of the 2019 CEDAW's Sixth Periodic Report regarding political life in Bosnia. Indeed, the Committee underlines the underrepresentation of women, arguing that the system of open list is "disadvantageous for women candidates" (p. 9). Moreover, it is argued that there is a total lack of participation of women from disadvantaged groups, i.e. Roma, and absence of ad-hoc training for women candidates in "political leadership, negotiation and campaigning skills" (CEDAW, 2019, p. 9).

The third category considered by this research is the physical security of women. According to the most recent OSCE-led Survey on Violence Against Women, almost half of Bosnian women have experienced "some form of violence" since the age of fifteen (OSCE, 2019), with the percentage of women who suffered from psychological or physical violence from a partner higher than the non-

partner violence. Although the numbers are not encouraging, the same report stresses that they are lower than the correspondent average from EU countries because Bosnian women talk less freely about violence suffered than the European counterparts (OSCE, 2019). The Bosnia and Herzegovina 2018 Report argues that Bosnia lacks effective implementation of the provisions to prevent and protect from gender-based violence and, in particular, domestic violence (European Commission, 2018).

The Orange Report 5. also shows a low number of safe houses (9 in the whole state), where victims of domestic violence can find shelter and support (Sarajevo Open Centre, 2019), and a low number of total beds (200 in the whole state) (European Women's Lobby, 2018). The same report suggests that safe houses lack funding (Sarajevo Open Centre, 2019) and, according to European Women's Lobby (2018), they are primarily dependent on international donations. Similarly, the OSCE's (2019) report concludes that institutions that should provide support are underfunded and not supported by the government. The European Commission (2018) adds that the lack of funds is a violation of the relevant legislation. A related issue concerns the lack of support for victims of rape outside of the family. Indeed, there are not "rape crisis centres or centres for victims of sexual violence" (OECD, 2019, p. 5) and the survivors do not receive medical support.

Another issue identified by the Well-Being and Safety of Women's report is the underreporting (OSCE, 2019). The number of cases reported to the police is low for every category of violence identified, with the lowest figure being that only the 5% of the women who suffered violence from the current partner reported it directly to the police (OSCE, 2019). The results of the qualitative analysis conducted by the OSCE (2019) reveal that this is linked to sentiments of shame, fear of repercussion, lack of trust in state institutions, desires to preserve the family, economic dependence and little awareness of sexual violence. The issue of underreporting is confirmed by the 2019 CEDAW's Sixth Periodic Report, which adds that those in charge of prosecuting and protecting women victims of violence are not receiving the proper training and other types of violence other than physical violence are prosecuted less frequently. Finally, the same report sheds light on the worrisome conditions of marginalized women, such as Roma women, that are subjects to sexual trafficking and forced labour (CEDAW, 2019).

The final section deals with the implementation of social and economic rights of women, in particular, rights to education, employment and health. According to the Orange Report 5., Bosnian women score better in terms of receiving academic titles but are significantly less present than men in teaching, research and management staff positions (Sarajevo Open Centre, 2019). In the Gender Action Plan 2018-2022, the Agency for Gender Equality (GEA) (2018) argues that women face substantial limits in accessing jobs that require higher education and stereotypes of the existence of

“female” and “male” positions are still vivid. Moreover, the GEA (2018) is concerned about the barriers faced by Roma women, who show higher levels of illiteracy and lower numbers of women enrolled at every level of the educational system. Furthermore, the Women’s Rights in Western Balkans Report underlines that school textbooks portray a division of labour based on gender roles that reinforces patriarchal values (Policy Department for Citizens’ Rights and Constitutional Affairs, 2019). In regard to employment possibilities, the GEA (2018) identifies several barriers such as:

longer waiting for a first job, lengthy gaps in the years of service due to maternity leave or the care of elderly or sick family members, or the inability to re-engage in the labour market due to the old age because of changes in the market and the ceased need for a certain type of work. (p. 26)

The rate of unemployment for women in 2019 is 13,6% (5,2% higher than the rate for men) (Sarajevo Open Centre, 2019). However, the OECD (2019) stresses that the rate of female unemployment must be read in light of factors such as a lack of support for childcare, low levels of implementation of the Anti-Discrimination Law and the discriminatory system of remuneration during maternity leave, that is different between the two entities and the self-governing Brčko District (BD). Concerning the pay gap between men and women, the most reliable source is the 2015 World Bank’s Bosnia and Herzegovina: Gender Disparities in Endowments, Access to Economic Opportunities and Agency’s Report that concludes that, in all the sectors considered, the wages per hour are higher for men.

Finally, looking at the access to health in Bosnia, the Orange Report 5. points out that the system is decentralized and different economic situations in the different cantons have led to different chances to access healthcare services (Sarajevo Open Centre, 2019). A similar conclusion is also reached by the Policy Department for Citizens’ Rights and Constitutional Affairs (2019) which argues that the administrative system is complex and it impacts the implementation of regulations. Both reports agree that this issue affects especially women that are part of minorities (e.g. disabled, LBT, victims of conflict) and women in rural areas, where clinics are not present and gynaecological exams are not prescribed (Policy Department for Citizens’ Rights and Constitutional Affairs, 2019; Sarajevo Open Centre, 2019). In regard to pregnancy termination, women in Bosnia are allowed to proceed with the termination up to the tenth week of pregnancy but this right is not respected in equal terms in the whole territory (Sarajevo Open Centre, 2019).

5.5 Results

This section will report the results of the analysis conducted. This research has found that, in the pre-negotiation agreements, Bosnia, Croatia and Yugoslavia mentioned their future adherence to international human rights, showing an implicit reference to women's legal security (indeed, the category of "international human rights" includes women's rights). In this first stage, provisions on women's physical, political and socioeconomic security were not included. In the substantive agreement, the Dayton Peace Agreement, provisions on the legal security of women were included, particularly with the ratification of CEDAW and its inclusion in the Bosnian constitution. However, provisions on women's political, physical and socioeconomic security were, again, excluded. In the implementation stage, Bosnia implemented its commitment to the CEDAW. In this phase, all four categories of women's security are included in the GEL and in the Anti-Discrimination Law. In the section analysing women's living condition in Bosnia, this research has shown how the country presents solid legal security for women, in line with international standards. At the same time, it has shown that the country does not have a positive record of women's physical security and that Bosnian women are underrepresented in politics. Additionally, it has proven that women face serious challenges in the sectors of education, employment and health. In the following section, these results will be read in light of the theories and hypothesis.

6 Conclusion

Provisions on the legal security of women were included since the beginning of Bell's (2006) conflict transition model. Firstly, by including a general commitment to human rights, secondly by including the ratification of the CEDAW and of the Convention on the Nationality of Married Women and, thirdly, with the implementation of the Gender Equality Law and the Anti-Discrimination Law. Thus, the legal security of women was addressed throughout the conflict transition model and has ultimately led to a solid legal framework for the protection of women in Bosnia. Provisions on the physical, political and socioeconomic security of women were not spelled out until the third phase when they were addressed in the Gender Equality Law and the Anti-Discrimination Law. As highlighted in the analysis section, Bosnia maintains poor records of women's physical security and poor records of women's political and socioeconomic rights.

The first hypothesis that this research has put forward is: "The inclusion of gender mainstreaming in the three stages of conflict transition in former Yugoslavia has led to positive records of women's living conditions in Bosnia and Herzegovina nowadays". This hypothesis is supported by the analysed documents. This analysis has found that the legal security of women, included since the beginning of the conflict transition model, has led to the establishment of a solid framework for the legal security of women in Bosnia in the long run. The second tested hypothesis is: "The lack of gender mainstreaming in the three stages of conflict transition in former Yugoslavia has led to poor records of women's living conditions in Bosnia and Herzegovina nowadays". The conducted analysis has shown some support for this hypothesis, although the causal relationship here is difficult to establish. While the results do show both a lack of mainstreaming of women's physical, political and socioeconomic security (until the third stage of the conflict transition model) and poor women's living conditions in the respective three areas, the relationship cannot be proven. Thus, this research cannot argue that their inclusion in the early stages of conflict transition would have changed their developments in the long run. However, one argument that can be made is that their exclusion from the pre-negotiation and substantive agreements certainly did not help the improvement of women's living conditions in these three areas. On a further note, it is important to note the inherent difference between women's legal security and the other three categories. Indeed, the existence of women's legal protection equals that women's legal rights are protected. Women's legal security does not require anything besides the mere existence of a legal framework. This is not true for physical, political and socioeconomic categories, which, apart from the inclusion of formal provisions require active implementation.

This analysis can be used as a starting point for further researches, both of the same case study and of other conflict transitions. First, further research could take a socio-legal perspective (i.e. by looking at the role that society and social norms play) and explore the reasons why a comprehensive legal system is not matched with positive records of women's living conditions. However, national norms are not the only norms already present in Bosnia. As this research has pointed out, several international actors played a role in restoring peace, thus further research could analyse the three stages from this perspective and seek to understand whether and how the influence of the international community has had a role on the ways in which gender was mainstreamed. Finally, a more prolonged analysis could consider analysing different cases from a comparative perspective to understand whether the relationship between gender mainstreaming and women's living condition is the same or differs in other contexts. Besides the limitation given by the case study research design, the analysis offers two main implications. Firstly, this study's academic implication involves the use of Bell's (2006) three key stages model. Indeed, in the literature, the focus is often solely on gender mainstreaming in the official peace agreements. The use of this model would allow for more contextualization of the state of affairs when gender mainstreaming occurs. This is directly linked to the second, societal implication of this research namely, that the first stages of the conflict transition cannot be overlooked. In other words, a conflict transition process that truly aims at achieving positive records of women's living conditions (and subsequently gender equality) in the future should promote and include gender mainstreaming from the very first stage, the pre-negotiation agreement, to the final stage, the implementation agreements. Mainstreaming a gender perspective should not only be left to the aftermath of the conflict but should be a primary focus throughout the entire transition.

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