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## Re-shaping How Political Settlements Engage with Conflict-Related Violence Against Women

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### ABSTRACT

The exceptionalism attributed to acts of sexualised violence in war has reinforced the idea that what happens in war is different from that occurring outside of war. This counters long-standing feminist scholarship which has argued that violence against women (VAW) in conflict is a reflection of the everyday, mundane ways that women experience violence in their everyday lives. The paper presents a new ‘pre, during- and post-conflict framework’ to map, on the basis of theory and empirics, the inter-relationship between VAW within and outside conflict. Applied to the case study of Timor-Leste, the paper finds that common across time and space are the sustained presence of gendered harms, and that VAW is ambulant in nature and responsive to context, identifying connections and distinctions in VAW across conflict-time and peace-time. Through analysis of the Timor-Leste truth commission’s outcomes, the paper argues that an understanding of this complexity to VAW is essential to advancing gender-inclusive political settlements. The findings underline that sustaining an approach to conflict-time violence out of sync with how women experience violence within political processes means sustaining the structural inequalities that cause that violence, regardless of whether it is during or outside of armed conflict.

**KEY WORDS:** conflict-related violence against women; conflict-related sexual violence; continuums; gender; feminist legal theory; strategic rape; Timor-Leste; Truth Commission.

### INTRODUCTION

The question of whether the violence that occurs during war is exceptional in respect of the violent act and thereby ‘different’ from the violence that occurs outside of war remains under debate, not least in relation to conflict-related violence against women (CRVAW).<sup>1</sup> Recent scholarship has estimated that the ‘innovations in sexual brutality that we observe on the part of some armed organisations (e.g. rape with guns, sexual mutilation etc.), [are] innovations that would appear to have little precedent in peacetime’ (Wood, 2014). Global law and policy on conflict-related sexual violence (CRSV)<sup>2</sup> has

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<sup>1</sup> I use the term Conflict-related Violence Against Women (CRVAW) throughout the article to refer to all forms of physical, sexual, economic, psychological, emotional harms and abuse that may be directly or indirectly related to a conflict, may be enacted by armed and non-armed/civilian actors and take place in the context of a conflict setting.

<sup>2</sup> I use the term Conflict-related Sexual Violence (CRSV) to refer to forms of sexualised harms that may be directly or indirectly related to a conflict, may be enacted by armed and non-armed/civilian actors and take place in the context of a conflict setting.

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evolved as a result of and has propagated this same perceived exceptionalism, shaped around the idea of specific forms of armed and politically motivated ‘strategic rape’ (Eriksson Baaz and Stern, 2013). While legal capture of CRSV has been critical to making those harms visible (Engle, 2005), accountability has also broadly served to address strategic sexualised violence distinct from wider forms of CRVAW, and in ways that gendered violence outside of armed conflict has simply not achieved at global levels. While critical to advancing visibility and accountability for those harms, these developments have prompted an increasingly dichotomous approach to addressing the violence in women’s lives, entrenching the idea of difference between what happens within and outside of conflict, and that each requires a differential response and understanding.

Feminist scholars have long espoused a counter idea: that what happens in war is in fact a reflection of the everyday, mundane and persistent ways that women experience sexualised and other forms of gendered harm in their everyday lives. The perceived extraordinary eruption of sexualised violence during war is instead understood as an outcome of ongoing and pervasive gendered harms across all societies, whether those societies are engaged in armed conflict or not (Ibeanu, 2001). Feminists argue that the focus on strategic CRSV over broader ranging forms of CRVAW, and the dichotomy created between the two, have ‘produced a range of omissions that are contrary to the inclusive, thick account of conflict that many feminist scholars and practitioners aimed to produce’ (Buss, 2014, 14). Women’s own articulation of the violence in their lives is negated, and its historical prevalence and gendered basis across differing contexts is occluded. While a ‘narrow focus on bodily violation can obscure the wider social context in which abuse occurs’ (Ní Aoláin, 2009, 240), a focus on ‘thick’ descriptions of physical violence against women (VAW) that also pays attention to their contextual conditioning will deepen understanding of the manifestation of those harms across time and space.

Tensions between these two different approaches raise critical and as yet unanswered questions. Is conflict-time violence different and separate from the ordinary human practice of violence prior to and outside of conflict? Can violence be exceptional in prevalence and form in armed conflict, while at the same time be related to the mundane ways of violence outside of conflict? It remains unclear whether this is an either/or scenario. Rather, these questions point to the need for further scrutiny of the political, legal and conceptual boundaries that are imposed between conflict and peacetime violence, as well as the special place that is reserved for CRSV in the body of knowledge and policy responses to patterns of VAW globally. These questions nudge us towards acknowledging that when we argue that something is exceptional or distinctive, we also need to consider what the context of that comparison is. The temptation to make assumptions about the uniqueness of conflict-time harms when egregious harms take place all around us all the time, just in ways that are hidden or are perceived as normative, must be engaged with. A deeper analysis of the patterns of VAW across inter-related contexts will identify the varying sites, sources and manifestations of violence in women’s lives. It will reveal, as I later argue in this article through analysis of the case study of Timor-Leste, that there is mutation in forms of VAW across inter-related pre-, during- and post-conflict contexts that are responsive to differing contextual factors and actors present in each period. The inter-relationship between forms of violence within and outside of conflict is therefore more complex than is immediately apparent or assumed.

In the context of the Political Settlements Research Programme (PRSP)<sup>3</sup> under which the research for this paper has advanced, understanding that complexity becomes starkly relevant. This paper responds

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<sup>3</sup> See: <http://www.politicalsettlements.org>. For more on gender research from the PRSP see O’Rourke (2019).

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to a key motivation of the PRSP which is to contribute to more rigorous, gender-inclusive post-conflict processes and rule of law institutions. Where VAW limits women's safety, freedom and autonomy, it also inhibits any authority or participation in decision-making (Manjoo, 2011), directly relevant to achieving a gender-inclusive settlement. While the prevalence of armed violence is the very reason a political settlement is instigated (Ní Aoláin, 2016), selectivity in addressing gender and violence has characterised those processes (O'Rourke, 2017). Feminist scholarship has shown that where VAW has appeared in peace agreements for example, it has done so in 'oblique' ways and focused on specific aspects of 'political' violence (Bell, 2015a, 15). Gender analysis based on deeper research and understanding of CRVAW is therefore critical to advancing gender-inclusive settlements. How CRVAW is researched and documented therefore matters. Within the realm of mechanisms that make up political settlements, justice and accountability mechanisms have now become 'the most productive, recent sites' (Buss, 2009, 146) for the documentation of women's experiences of conflict. In particular, the reports of truth commissions have become a key determinant of what becomes known about CRVAW in a given conflict. While these processes may produce an abundance of descriptive detail, there is growing acknowledgment of the inherent silences within them, not only in the absence of women's voices, but also in the focus on reductive typologies of violence (Ross, 2003; Rooney, 2006). Given that the documentation process will determine the analysis that shapes what we come to know and understand about CRVAW, which in turn shapes the political settlement, how CRVAW is engaged with during post-conflict transitions requires more scrutiny. While the truth commission in Timor-Leste is a positive example in adopting a gendered approach, it is examined in this paper in respect of the complexity of CRVAW that the paper identifies, with key learning and shortfalls identified.

It is this paper's contention that neither VAW in conflict, nor in peacetime, can be understood without reference to the other. Further, the paper works on the assumption that an inclusive political settlement cannot be achieved without fully addressing the complexity of the violence that women experience. While 'conflict' is the pivotal point around which the examination of VAW is framed, the paper explores the relationship between the violence of the everyday and that which is termed the political violence of conflict, i.e. the organised use of violence by armed groups to achieve political objectives. The paper contributes to continuing feminist work of expanding understanding of CRVAW. It does so by presenting a new framework for researching the relationship between conflict and peacetime VAW. It uses a case study of Timor-Leste to demonstrate the utility of the research framework and to evidence the complexity of CRVAW and why truth processes require more attention to that complexity. The paper begins by engaging with prevailing critical debate to identify the productive tensions in approaches to understanding the irregular nature of CRSV. The paper next introduces a 'pre-, during- and post-conflict framework' as a new way to document, analyse, and produce qualitative, evidence-based analysis of the complexity of the inter-relationship between conflict and non-conflict gendered harms. Through the case-study analysis, the paper identifies that a more fulsome way to understand CRVAW is to identify the connections as well as distinctions in VAW across time and space. The paper discusses those findings in relation to the truth commission in Timor-Leste to illustrate the prevailing gaps even where efforts are made at designing gender inclusive processes.

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## EXCEPTIONS AND CONTINUUMS: PRODUCTIVE TENSIONS IN THE IN-BETWEEN

In the endeavour to uncover women's experiences of the violence of warfare, feminist scholarship has argued that the sexualised violence that is so publicly evident and now legally and politically acknowledged during warfare, cannot be understood as distant from the violence women experience in their own homes and communities (Copelon, 2000; Nordstrom, 1997). The concept of a 'gendered continuum of violence' and a 'continuum of sexual violence' has made visible the constancy of violence in women's lives from public to private, and from non-conflict to conflict settings (Cockburn, 2004; Moser, 2001; Kelly, 1998; Kelly and Radford, 1996). This understanding of VAW is deepened by scholarship demonstrating the relevance of 'interactional contexts' to how VAW takes place in different ways across differing situations (Dobash and Dobash, 1998; Dobash and Dobash, 1983). The targeting of women for sexualised violence during conflicts was identified by feminists as materially and theoretically grounded in structural gendered inequalities existing across societies (Card, 1996; Copelon, 1992). The overarching structural condition in which women experience violence was identified as 'giv[ing] a man power over her – even before he perpetrates direct violence against her' (Cockburn, 2001, 16) and providing the scaffolding for ever-present harms in their lives. These bodies of work advanced understanding that broad forms of physical, emotional, economic and psychological CRVAW are a multi-causal and context-responsive phenomenon embedded in the inequalities that frame women's lives (Moser, 2001).

Since this body of thinking initially emerged, scholarship and policy have pivoted towards a focus on specific forms of CRSV, most prominently strategic rape. While this move lends a plurality of theoretical inquiry and political response to the issue, the 'hypervisibility' (Buss, 2009, 153) of CRSV as a 'securitised' concern has become predominant (Meger, 2016, 149). These developments have propagated the idea that CRSV only appears as strategic rape and that women only experience war in this way (Mertens and Pardy, 2017; Eriksson Baaz and Stern, 2013). With this has come an 'unwarranted confidence' and an assumption that this is all there is to be known about this issue (Mertens and Pardy, 2017, 957). Strategic rape by armed groups is unquestionably significant and may be prominent in many women's experiences of conflict, and there is arguably a need to regulate wartime actors and their actions through legally accountable means. The elevation of the issue to exceptional status however and the resulting draw of political actors to strategic rape alone, discounts the possibility that other forms of VAW may be present in a conflict, or could be related to harms occurring outside of that conflict. Recent scholarship has found that VAW occurs in variant ways directly and indirectly related to a conflict for political as well as private ends, and by a range of armed and non-armed actors (Swaine, 2015a; Gray, 2019; Usta et al., 2008). There is growing evidence that not only is private-space VAW highly prevalent during conflicts, but that these forms of harm might exceed those purported to be 'strategic' (CPC, 2009; Erikson and Rastog, 2015). Intimate Partner Violence (IPV) has been found to be more prevalent in South Sudan, the DRC and Côte d'Ivoire than CRSV by combatants for example (Peterman et al., 2011; Harvard Humanitarian Initiative, 2010; Murphy et al., 2017; Hossain et al., 2014). Research is pointing to the need for 'increased recognition of intimate partners and caregivers as perpetrators of violence in conflict-affected settings' (Stark et al., 2017, 203). The 'extraction of everyday forms' of VAW has, however, expelled the relevance of gender or broader social factors as causal to conflict violence (Gray, 2019, 190). The idea of gendered continuums of violence or the potential for co-occurring forms of VAW within one conflict is absent from global approaches to addressing CRSV (Gray, 2019; Kirby and Shepherd, 2016), while forms of violence such as IPV have disappeared altogether (Gray, 2019). The 'ordinary lives of the bodies in war who are

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involved in an intimate relationship with the “everyday” (Parashar, 2013, 619) are disappeared, as are the connections between forms of violence that they encounter (Kelly and Radford, 1996).

Reductive and universalising categorisations of VAW have implications. They influence what forms of violence receive attention and what forms of violence may be legitimately claimed as a harm and are eligible for accountability post-conflict. This holds particular relevance for whether post-conflict justice processes contribute, or not, to making known the full experience of CRVAW. Problematically, political settlement mechanisms have operated on the assumption that a preceding armed conflict and its transition are gender neutral phenomena (Puechguirbal, 2012; Strickland and Duvvury, 2003). As a result, they miss new realities of violence and the presence of multiple forms of violence in one armed conflict, over-emphasise the centrality of statist paradigms of violence and lack recognition of the multi-causal and multi-purpose violence taking place in conflicts, including criminal and private violence directed at women (Bell, 2015b; Swaine, 2018). A gender-inclusive political settlement not only recognises the gendered nature of conflict and political transitions, it also responds to the multifarious ways VAW has featured *previous to*, as well as *during* the events of a conflict and recognises that these violences are an outcome of historic and ongoing gender injustices in women’s lives that are ‘intimately connected to gender norms that exclude and devalue women’s participation in public life’ (O’Rourke, 2019; Doyle and McWilliams, 2019). Addressing CRVAW becomes about not only addressing the fact of the harm and its impact, but also about identifying and upending the conditions that allow those harms and that directly and indirectly inhibit women’s full freedoms. Deconstructing the false dichotomies between conflict and non-conflict VAW, so that the pretext to and tolerance for VAW across any context are disabled becomes an imperative for feminist scholarship. Methods of gender analysis are critically important to this work (O’Rourke, 2017). How (and whether) gender analysis is done and how it is used matter as its employment will influence whether and how the conditions beyond the act of harm itself are made visible and thereby available to procuring a gendered political settlement. In a context such as Timor-Leste, where women experienced a variant range of VAW directly and indirectly linked to the conflict, the documentation process, based on and producing a sound gender analysis, should present a fulsome picture of the range, nature and characteristics of that violence across the whole of the Timorese conflict and non-conflict context. Where the documentation processes employed by truth mechanisms set the context for onward peacebuilding dispensations, this is a pressing need. It would ensure that a comprehensive understanding of gendered harms informs how the interests of women are addressed through the political settlement process and its outcomes.

In sum, the multi-faceted complexity of the issue of CRVAW has become polarised between distinct legal and political parameters – it is either a specific arsenal of armed political violence, or something not quite as delimited, and thereby normalised and not ‘conflict-related’. There are thus prevailing gaps in both research and accountability. There is potential to address those gaps in the space between the tensions that arise between the two bodies of thinking and to move us towards more creative approaches to understanding CRVAW. It rests in the critiques of each. While continuums theory offers a comprehensive way to understand the wholesale nature of violence in women’s lives, it also has the capacity to flatten or equalise acts of VAW (Urban Walker, 2009). In that vein, it reduces space for the ‘discontinuity’ in the ways that CRSV may take place and thereby does not provide enough visibility for the egregious ways that political outcomes may prompt differing forms of VAW (Urban Walker, 2009; O’Rourke, 2013), or indeed some of the innovations in violence (Wood, 2014). In effect, only ‘understanding sexual violence along a continuum does not say anything about the gravity of the violence or even how it might be experienced’ (Boesten, 2017, 513). Is there space and need for

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recognition of an exceptionalism attributed to some forms of VAW? Theory focused on CRSV identifies that there are practices and patterns to how militarised actors use sexual violence, a critical insight in any attempt to understand CRVAW (Wood, 2014; Cohen and Nordås, 2014). While the theory and policy addressing what has become ‘exceptionalised’ CRSV acknowledges that women are targeted because they are women, it ‘fails to address what makes such violence possible’ (Boesten, 2017, 2) or effective, namely the structural condition to that violence. In all, it may be argued that the ‘persistence in the continuum of sexual violence against women that supersedes the categories of war and peace’ (Boesten, 2017, 2) requires recognition, and at the same time, so too do the ways that during a conflict, new forms of violence may be introduced or experienced as ‘new’ by women and feel different from the normative violence in their lives. Creating space for interactions between pluralist theoretical approaches to the issue of VAW may make visible and enable a more fulsome understanding of the complexities underpinning CRVAW, including how different women may experience different forms of violence within the one setting of conflict. A gender analysis approach that considers what went before (the gendered subjugation of women through endemic gendered violence) and a contextual approach that acknowledges that violence responds to conditional factors (including the introduction of armed conflict) provides a means to assess how VAW before and outside of conflict may be linked to what happens during conflict, and further, whether and how some forms of VAW may be distinctive to the conflict period.

### **A FRAMEWORK FOR ANALYSING PRE-, DURING AND POST-CONFLICT VIOLENCE AGAINST WOMEN**

In the interests of building on the productive interactions between the concepts of exceptionalisms and continuums in CRVAW, a ‘pre-, during and post-conflict framework’ is proposed here as a means to develop a more comprehensive theoretical and empirical analysis of the inter-relationship between conflict and peacetime VAW. The framework facilitates collation of all empirical evidence of VAW in a given context and can be used to advance a two-fold analysis. First, evidence of VAW is compiled and organised within each phase of pre-, during and post-conflict on a disaggregated basis. Second, that disaggregated evidence is used to advance an aggregated qualitative analysis of VAW across each phase and across time. The initial disaggregated approach allows for an in-depth, drill-down examination of prevalence and forms of VAW in each distinct phase along the (so-called) peace to conflict to peace continuum. It ensures that any analysis of VAW across the conflict to peace phases is based on exhaustive documentation for each distinctive phase. The aggregated analysis ensures that understanding of the relationship between conflict and peacetime VAW is not just focused on the violent act itself. Rather, the structural conditions that underpin pluralities of harm are made relevant to advancing analysis beyond the siloed documentation of harms implied by the framework and to ensure analysis is not confined to restrictive legal or policy definitions of violations. By drawing lines and taking a disaggregated approach the framework enables examination of the distinctive characteristics of violence in each phase; while at the same time, those lines are erased through a complementary aggregated assessment that identifies patterns and connections across the phases.

In proposing this framework, it is acknowledged that demarcating conflict and non-conflict imposes artificial and arbitrary boundaries on temporal phases that do not necessarily have clear stop-and-start moments and that conflict dynamics are fluid and often sporadic in coverage and outbreak (Zarkov and Cockburn, 2002). Such an approach of course risks reinforcing the dichotomies of VAW that have just been critiqued, countering private sphere VAW as political and the peace context as a space of political struggle for women. Challenging such boundaries has been the essence of feminist theorising which

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has pointed to the prevention of violence in women's lives as reliant on eradiating such boundaries (Boesten, 2017). Taken in its strictest sense, the limitations of this framework are evident: a pre-, during-, and post-conflict composition will not provide a true picture of the conflict–violence nexus, nor the gender-conflict nexus. By no means perfect or the solution to theoretical or evidentiary gaps, this approach does however enable the identification of commonalities and contrasts in VAW across the three temporal phases for a given context. A dual disaggregated and aggregated approach will go some way to counter the invisibility of social context to the perpetration of physical harms and the meanings ascribed to them. The pre-, during-, and post-conflict framework is presented here as a means to develop a descriptive, experiential and analytical picture of VAW for a given context from which differing bodies of theory and policy can draw.

## **APPLICATION OF THE FRAMEWORK: AMBULANT VIOLENCE AGAINST WOMEN IN TIMOR-LESTE**

Here, the framework is applied to a case study of Timor-Leste. The collation of data on CRVAW within this framework is centred around the Indonesian occupation of Timor-Leste from 1975-1999, inclusive of the period of Timorese inter-party contestation in 1974/75. From the outset, the Indonesian regime employed aggressive tactics to quash the Timorese resistance including wide-scale aerial bombardment, ground attacks on villages, mass violence and killing, detention, engagement of Timorese auxiliaries/militia and the stationing of troops in barracks across the country in efforts to quell the armed and diplomatic/ clandestine Timorese resistance. Overall, it is estimated that between 102,800 and 183,000 people died during the 1974–99 period (CAVR, 2006a). The disaggregated assessment of VAW in Timor-Leste is first mapped across each temporal phase. This is followed by an aggregated analytical discussion of the trends revealed by the disaggregated mapping.

### **Disaggregated Analysis: Violence Against Women Across Pre-, During- and Post-Conflict Timor-Leste**

The data here is drawn from a combination of resources in English and Tetum. This includes archival and secondary sources such as testimonies and reports of the Commission for Reception, Truth and Reconciliation (CAVR) established in the transition period in Timor-Leste, academic studies, reports of NGOs and primary data gathered by the author from qualitative interviews with service providers and through extended periods of working on VAW in Timor-Leste. The data cited here represent a summary of available evidence for the purposes of this article only and are not meant to be exhaustive or wholly representative of all data on VAW for this setting.

#### *Pre-Conflict*

The presence and pervasiveness of violence and discrimination in the lives of women before the Indonesian period (1975-1999) is substantiated and confirmed through a compilation of available evidence. Before outlining that evidence, it is important to note the limitations to the data. Like many settings globally, studies on VAW prior to the contemporary era are not immediately available for Timor-Leste. By the end of the conflict (1999), available data was limited to conflict actors (Robertson, 2005). Not only will investment or attention to issues like women's rights be inhibited during conflicts (McWilliams and Ní Aioláin, 2013), moves by the United Nations to standardise states' data collection on VAW are very recent (United Nations, 2014). Further, domestic political and legal responses to VAW in Timor-Leste were established after the Indonesian period and therefore any materials prior to this will be influenced by what was categorised and 'known' as VAW in that time. In addition, it is

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important to acknowledge that using internationalised definitions of VAW erases how women themselves might articulate the harms in their lives (Charlesworth and Chinkin, 1993; Charlesworth and Chinkin, 2000). It removes from analysis the reality ‘that location, and the particular, matter centrally’ to how violence is understood for any context (Epstein, 2014, 295). Significant to assessing data is how historical colonial presences and the mixing of external and existing patriarchies through such presences will influence how VAW has taken place and how it was and is understood, and this should inform the mapping of violence made in the proposed framework here.

While there is limited data on patterns of VAW during Portuguese colonisation (1500s to 1975) (at least that are accessible in English), women have spoken of fear and the need for protection in respect of Portuguese military bases across the country. ‘Prostitution’ and ‘relationships’ between Portuguese men and Timorese women were understood as exploitative due to differentials in cultural mores, socio-economic, ethno-national and political statuses. Women were left with little support for children born of either abuses or consensual relationships with Portuguese men (interviews; Fernandes Alves et al., 2009; Thatcher, 1988). There is some evidence of the trafficking of women from other Portuguese colonies to brothels in Dili (Alola Foundation, 2004). Research elsewhere demonstrates that collusion between elite colonial and indigenous males may eradicate any standing women may have originally held in pre-colonial societies (Niner, 2011 citing Pettman, 1995; Behrendt, 2000). In the Timor-Leste case, the Portuguese are estimated to have done little to advance the status of women, solidifying their role in the home (Franks, 1996) and the attendant arrival of the Catholic Church brought further conservatism in respect of confirming women’s role in domesticity and child rearing. The Portuguese have also been accused of handing Timorese women over to Japanese forces that occupied Timor-Leste during World War II (February 1942 - September 1945) in order to protect European women from their abuses (Jolliffe, 2001 ). Sexualised violence was an organised feature of the Japanese occupation (Chinkin, 2001). It is estimated that 700 Timorese women and girls were held by the Japanese for the purposes of forced labour during the day and violent rape at night. Women have stated that their sexualised violation was understood as a mode of protection for their families and community from the Japanese forces (Assosiasaun Hak, 2010; Alola Foundation, 2004).

Outside of colonial and militarised actors, the most common forms of VAW documented during this time were by men known to women and occurred in their homes and communities. IPV, including physical, sexual, and psychological abuse, as well as economic deprivation, was normalised within marital relationships through its characterisation as the natural clash between the fork and spoon on the plate in the daily meal (UNFPA, 2001). Important to document here is the pre-conflict status of women and its relevance to gendered violence: there is an underlying set of systemic inequalities which position women as legally, economically and politically inferior in respect of men’s legal and socio-culturally ascribed entitlements and have direct bearing on this violence. Animist belief systems (‘Lulik’) structure hierarchies between men and women, confirmed by the adage ‘feto hakat klot; mane hakat luan (a woman is born for narrow steps while a man is born for wide steps)’ (Niner, 2011, 417; Ospina and Hohe, 2001). Women experienced discrimination in the spheres of public employment, property ownership and girls were disfavoured in preference for boys attaining education (UNESCO, 2004). The practice of ‘barlaque’ which varies in form across ethno-linguistic groups, re-termed as a ‘bride-price’ in the contemporary era, is an important basis for the exchange of fertility and harmony between families through marriage. For some women in Timor-Leste, barlaque is understood as situating women as chattel in exchanges of fertility between men. For others, the practice symbolises the value of women within the broader and much valued kinship system. Women’s child bearing directly influences her level of social power and standing in families and communities. Activists in Timor-



Leste often blame barlaque for the abuse that women experienced (and continue to experience) in Timor-Leste (Alldén, 2007; UNESCO, 2004; Robertson, 2005; FOKUPERS, 2001; Niner, 2012). Violence within the home was considered a disruption to the harmony that a marital agreement brings about between two families and was resolved through customary justice forums, which more often than not attributed blame for the violence to women for failing to comply with behavioural expectations (UNFPA, 2001; Swaine, 2003). ‘Traditional’ practices known as ‘soft-pillow’ gifted young girls to visiting dignitaries for overnight stays in the community (Fernandes Alves et al., 2009). Evident here is the inferior positioning of women in respect of men’s sexual entitlements and power, and the resulting presence of variant forms of VAW pre-conflict. This is the pre-conflict status of women and prevalence of VAW upon which armed conflict violence erupts.

### *During Conflict*

Data on during-conflict violence is still emerging as time and distance from those events offer more space for women to articulate the harms that they experienced. A wide array of academic studies document CRVAW, as do reports of NGOs and the UN, while the report of the CAVR is a critical resource and is heavily cited here. The majority of sources focus on the actions of the Indonesian regime and its proxies, mainly for the purposes of legal accountability and political advocacy. It is important to note however that in the period leading up to the Indonesian occupation (1975-1999), conflict between Timorese political parties involved the sexual assault of women. Violence by members of the UDT, Apodeti and Fretilin/Falintil political parties included cross-party VAW (CAVR, 2006c). VAW by Falintil members during the Indonesian period has also been documented, including against women who were suspected of being Indonesian spies (CAVR, 2006c, 8).

The CAVR collected 853 reports of CRSV and estimated that its prevalence constituted the ‘systematic’ use of sexualised VAW by the Indonesian regime (CAVR, 2006c). It found that ‘there was a widely accepted practice for members of the security forces to rape and sexually torture women while on official duty, in military installations and other official buildings. These practices were covered by almost total impunity’ (CAVR, 2006c, 3). Pro-Indonesia militia also used these tactics to harass, intimidate and punish civilians (UNIFEM, 2005). Rape by Indonesian forces was the most commonly reported incident at 46.1 percent of the total reports, followed by sexual harassment and other acts of sexualised violence at 27.1 percent, and sexual slavery at 26.8 percent. A 2002 study (two years after the Indonesian exit) found that 1 in every 4 women had experienced violence by a perpetrator outside their family during the crisis in 1999 (92 percent involved a weapon, 95.8 percent involved sexual harassment) (Hynes et al., 2004).

Galuh Wandita et al. have identified three broad categories of women targeted for abuses by Indonesian forces: women who were active members of the resistance; women married or related to men in the resistance; and women with no connection to the resistance but who were victimised through large scale offensive operations (Wandita et al., 2006). A further category of women who were assaulted on an opportunistic basis by members of the Indonesian military and their proxy militia groups is also identifiable, all of which are now outlined.

Women mobilised in the clandestine and armed wings of the Timorese resistance and were directly targeted by Indonesian forces. ‘Every night one [OPMT member<sup>4</sup>] would be taken by the troops and

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<sup>4</sup> Organização Popular Mulher Timorense (Popular Organisation of Timorese Women or OPMT)

raped, sometimes as many as three rapes a night. We children had to watch this' (Aditjondro, 1997). Rape and sexual violence also featured heavily as part of torture techniques used on women who were detained, including forced sex between Timorese detainees (Aditjondro, 1997), stripping, electrocution of genitals and breasts, burning of skin, beatings, and other forms of physical torture, verbal abuse and threats and water submersion. It is estimated that almost 10 percent of Timorese women detained by the Indonesian military were raped (CAVR, 2006c; Stanley, 2009).

Women related to members of the resistance were targeted for sexualised violence by the Indonesian military as retribution and to force Falintil members out of hiding (UNIFEM, 2005). Women were summoned to military barracks to provide sexual entertainment to soldiers on an ongoing basis. Others were forced to 'marry' Indonesian soldiers who either came to women's homes on a daily basis to rape them and/or lived in the home. In some cases soldiers passed these women on to incoming soldiers during military rotations (CAVR, 2006c). Similar to the Japanese occupation, it was understood that if a woman did not accept an Indonesian 'husband,' she was putting her family and community in danger, and risking the cover needed by nearby Falintil forces. Centres for sexualised violence and slavery were established in some hotels (CAVR, 2006c).

The Indonesian military forced women into their military operations to assist in rooting out the Falintil and/or they were targeted for assault during military offensives (CAVR, 2006c). Gang rape was common during armed attacks on communities and Falintil outposts in early stages. Many women died as a consequence of the violence and viciousness of the sexualised abuses (CAVR, 2006c). In one offensive, the Indonesian military gathered all of the women of the hamlet, and forced them to do agricultural labour naked, again similar to the tactics used by the Japanese occupiers (Taylor, 1999). Sexualised violence was used at an increased rate in the lead up to the popular consultation (CAVR, 2006c; UNIFEM, 2005; Coomaraswamy, 1999; Human Rights Watch, 1999; Wandita et al., 2015).

Opportunistic sexualised assault also featured as a result of the conflict. Some women were randomly subject to violence by soldiers and militia for their own entertainment (Aditjondro, 1997). Militia 'drank and were drunk and went out into the streets' and frequently sexually assaulted women (interviews). Many women took extreme measures to avoid being 'selected,' including looking dirty and dressing down (Franks, 1996; Aditjondro, 1997).

Women's reproductive capacities were also specifically targeted as well as generally affected by the Indonesian regime. Its 'Family Planning Programme' involved the coerced, forced and covert sterilisation of some women and girls (CAVR, 2005; Sissons, 1997). Women were given injected birth control as part of forced vaccination campaigns without information and consent (Taylor, 1999), girls were targeted in schools for obligatory 'vaccinations' which sterilised them, while others were involuntarily sterilised during periods of hospital stay for completely unrelated illnesses (CAVR, 2005). These strategies moved control of women's bodies and reproduction from Timorese practices into the hands of the occupying forces (Franks, 1996) and was used to stem the number of Timorese births. It often resulted in complications during pregnancy, such as defects and there is evidence of unsafe abortions and of women giving birth while in detention (CAVR, 2005; Rimmer, 2007). In addition, there were incidents of women who had fetuses removed as part of assaults and murder (UNIFEM, 2005). Many women had children and experienced forced maternity as a result of systematic and opportunistic rape. In some instances, those children were taken away from women, and on a wider

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scale, the CAVR estimates that 4000 children were taken from their families and sent to Indonesia between 1975 to 1999, some of whom experienced further abuses (Wandita et al., 2015). Many had children in the context of forced 'relationships' which they remained in with the perpetrator for years at a time, becoming economically dependent on the perpetrators of violence due to ostracisation from wider family and community (CAVR, 2006c). The majority of officers returned to Indonesia, leaving women without support for these children and to face severe social stigma from their communities. Some women were forced to abandon children as a result (Coomaraswamy, 1999), and others had their children taken from them, while children remaining with their mothers faced challenges of associated stigma (Faludi et al., 2017).

There is evidence that throughout the conflict, women continued to endure violence in their familial and community spaces from family and community members. Research during this time found that 'a wife would be dealt with severely if she did not carry out her domestic chores satisfactorily' (Thatcher, 1988, 76). Women were expected to be virgins on marriage and to fulfil reproductive roles; any infertility issues were blamed on women, allowing a man to re-marry to procure children with another wife (Thatcher, 1988). Marital practices favoured men as the central and only actors who could initiate and end a marriage. There is some evidence of broader gendered harms including sexualised assault outside the home for which women and girls were blamed as they were expected to avoid making themselves vulnerable to such harms (Thatcher, 1988). Prostitution and trafficking were also documented during this period associated with the presence of the Indonesian military. Gender inequalities and discrimination impacting women's social, economic and political status were largely sustained during this period, with the exigencies of the conflict placing women at even greater risk of violence. In sum, it is evident that, during the conflict, various forms of multipurpose violence existed within and outside women's homes. Sources of violence expanded to include not just spouses, family and community members, but also the new military actors who enacted violence for both political/militarised, as well as personalised ends, which the majority of the documentation of that time has focused on.

### *Post-Conflict*

The source of strategic political violence described in the previous section, the Indonesian regime, left Timor-Leste at the end of the conflict. No longer present, those actors no longer posed a physical threat. The presence of the ex-militia and ex-resistance fighters (Falintil) continued however, with some associated violence, as well as ongoing endemic forms of VAW. Violence in the immediate and longer-term aftermath requires further disaggregation to be made visible.

In the immediate aftermath of the exit of the Indonesian regime in 1999, two major sources of harm are identifiable. Women who fled to West Timor and were residing there as refugees in camps 'were sexually abused, sexually violated . . . the places they slept were not secure, and the washing facilities were also not secure' (interviews; CAVR, 2006c). Women were also held as sexual slaves and as 'war trophies' by soldiers and militia in those camps (Agence France-Presse, 2000; Farsetta, 2001). In Timor, ex-Falintil fighters were reported to have returned home expecting women to be in the same roles they had left 25 years previously, with IPV cited as a means of reasserting their roles in their homes (O'Kane, 2001; Charlesworth and Wood, 2001). In 2000, four women were hacked to death with machetes by male family members and several women were attacked for wearing what were perceived to be unacceptable westernised clothing in public spaces (O'Kane, 2001). Further, women

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were forced to live in proximity to ex-militia who had enacted abuses on them, some returning to villages some years after the Indonesian withdrawal (Burgess, 2004).

In the longer-term aftermath, VAW in familial and community spaces emerged as the most urgent issue for women. The CAVR report observed that victims/survivors of conflict-time VAW were now experiencing IPV in their homes and noted that (some) male survivors of detention and torture admitted they had ‘fallen into a pattern of violent behavior’ (CAVR, 2006c, 12). The UN reported in 2002 that IPV represented approximately 45-50 percent of all reports to agencies, the highest percentage of all crimes (UNIFEM, 2005). A study in 2002 found that 51 percent of women surveyed had felt unsafe in their relationship with their husband in the last 12 months. The most common forms of violence reported were physical abuse, such as being hit, kicked, punched, slapped, twisting of arm or hair pulled (21 percent) and psychological abuse such as threats to children or the woman’s possessions, the husband stopping the wife from making her own decisions or degrading her, and 4 percent had had their lives threatened by their husband (Hynes et al., 2004). A 2010 Demographic and Health Survey (DHS) found that 36 percent of married women had experienced IPV, and 3 percent had experienced sexual violence (National Statistics Directorate Timor-Leste, 2010). A 2016 study by the Asia Foundation found that 59 percent of ever-partnered women between the ages of 15 and 49 had experienced physical and/or sexual violence in relationships, while 47 percent had experienced one of these forms of violence by a partner in the previous 12 months (Asia Foundation, 2016). For many women, ‘abandonment’, whereby a husband or partner leaves them without support for children, is experienced as a violation and is among the highest types of cases that the Ministry for Social Services in Timor-Leste deals with (Swaine, 2015b). Sexual abuse of minors has been increasingly reported in the post-conflict context (Ospina, 2006). Research on VAW has also identified sexual abuse of women and children by family members, as well as those in positions of social and economic power within the community, including members of the church, police officers, teachers and NGOs (Hayati, 2012). In addition, mobility has been limited for many women and like the pre- and during conflict phases, some have to ask permission to travel distances beyond the domestic and community locale (Grenfell et al., 2015). For many women, social freedoms, mobility and interactions with family and friends are controlled by their husbands (National Statistics Directorate Timor-Leste, 2010). Women and girls have expressed concern for personal safety outside the home, feeling unsafe to go out at night due to risks of sexual harassment from male community members (Grenfell et al., 2008). The killing of women for ‘witchcraft’ has also become visible in some communities (Strating and Edmondson, 2015).

The arrival of new actors, including the staff of international organisations working in Timor-Leste, introduced new forms of violence to the post-conflict context. Sexually exploitative relationships and sexualised abuse, including incidents of rape and child abuse rings by UN peacekeepers, have characterised post-conflict Timor-Leste (Robertson, 2005; Murdoch, 2006; Koyama and Myrntinen, 2007). The phrase ‘UN Babies’ emerged in response to the numbers of children ‘abandoned’ by departed peacekeepers (Ospina, 2006; Swaine, 2010). Trafficking also became evident in Timor-Leste after the Indonesian period, with its large population of well-paid international staff making it a destination country once again. Similar to the refugee camps, women displaced within Timor-Leste during its 2006 crisis experienced sexual harassment linked to shared toileting facilities (interviews).

While there are changes to formal legal equality provisions for women in the post-conflict phase, the presence of ongoing gender harms is but one indicator of the lack of substantive equality. ‘Despite the raft of progressive gender policies adopted in Timor-Leste since independence, the lives of most Timorese women remain dominated by the expectations of marriage and traditional attitudes underlying

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a resilient gender order restricting women to the private sphere and a domestic role' (O'Keefe, 2017, 64). While 'traditional' roles for women are sustained across time and re-asserted post-conflict, these must be understood with respect to preceding influences such as colonialism, the Catholic Church and differing armed forces (Niner, 2011). In the post-conflict context a quarter of girls are married by age 18, 14 percent of girls give birth by age 18, and half by 22 years of age (Pappa et al., 2013). Practices of customary justice remain the primary site of help-seeking for women looking to resolve IPV and these practices remain predicated on blaming women for drawing violence onto themselves (Swaine, 2003; Kovar and Harrington, 2013). Academic studies demonstrate that belief systems continue to 'reinforce male dominance and female subjugation within the family' (O'Keefe, 2017, 64) and that these systems, present before conflict, have not dissipated during or following the conflict (Grenfell et al., 2015). VAW related to the conflict (by ex-armed actors and newly arrived peacekeeping actors), as well enduring violence in familial and community spaces, continues.

### **Aggregated Analysis: Identifying Connections and Distinctions in VAW in Timor-Leste**

The parsing out of data across the tri-partite temporal framework demonstrates that there is a constancy of violence in women's lives and it appears in different ways across time and space. VAW predominantly by known men is ever-present across the phases (e.g. IPV and sexual abuse in the family) with some changes in response to the presence, absence or return of those men; VAW linked to political and militarised occupations (e.g. sexualised violence with both militarised and personalised aims) erupts and recedes with the arrival and exit of known and not-known men but is nonetheless present in each phase (e.g. Portuguese, Japanese, Indonesian, Timorese militia). Even where strategic sexualised violence is taking place, women are still experiencing IPV and practices that curtail their freedoms that inform and occur alongside that violence. There are concurrent forms of VAW taking place by different actors and in different spaces. The 'volume' of the violence must be acknowledged in this assessment, as must the consistent presence of gendered structural norms that disadvantage women socio-culturally, politically, economically and otherwise. The pre-, during-, and post-conflict framework reveals that the prevalence, form, sites and sources of VAW and its motivations fluctuate in different ways and to different degrees in response to contextual factors, particularly the introduction of new actors (or absence of some actors). This mutation and fluctuation in violence means that women are experiencing harms across all phases that are normative (e.g. IPV), while also experiencing forms of violence that are 'new' or non-normative, enacted by new actors and thereby not normative to their roles and positioning in Timorese societies (e.g. sexual slavery by military actors). These patterns of violence prompt a number of critical observations in relation to the political and conceptual boundaries that are imposed between conflict and peacetime VAW.

First, the disaggregated data evidences that there are *connections* in VAW across pre-, during- and post-conflict contexts. Connections, *materially, empirically, practically*, are evident in the continuities of specific forms of violence, such as IPV, which is evident across all temporal phases, and in sexualised violence, which consistently features in the violence directed at women, whether performed by known or unknown/militarised actors and in familial or state institutions (see also Kelly, 1998). Connections, *conceptually, structurally, practically*, arising from a social order that positions women as inferior in economic, political and socio-cultural terms across time and space, are also evident. These identifiable connections in VAW are broadly embedded in pre-conflict and enduring gender norms that generate specific vulnerabilities to violence for women, whether by men known to them or by unknown/militarised actors. As found in continuums theory, gender is a 'link' between forms of VAW

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(Cockburn, 2004). Critically these gendered norms inculcate a social tolerance of certain forms and levels of gendered harm. As a result, women will expect and accept certain levels of violence as normative and some men's control of them as 'protective' (Urban Walker, 2009), a critical dynamic when it comes to understanding what kinds of violence may be considered as 'exceptional' and what violence may be considered 'ordinary' to women and their societies. The gendered normativity to continuities in VAW is evidenced in Timor-Leste in women's own beliefs that the domestic sphere is not a place of secondary power, rather 'it is a woman's role and right to be tied to the private domain', that women are men's property upon marriage and must be 'submissive' to them and their families, and that men's gendered power is automatically attributed to them while women's must be proven through child bearing (Thatcher, 1988, 73, 156-7). Further, the normativity of VAW is demonstrated in women's acceptance of *some forms of* violence. Research has found that 86 percent of Timorese women believe that a husband is justified in beating his wife where she neglects child care or household duties; 47 per cent believe that men cannot control their sexual behaviour (National Statistics Directorate Timor-Leste, 2010), noted elsewhere as 'a proxy for justifying sexual violence'; while many believe that a husband has the right to require sex from his wife (Grenfell et al., 2015, 31).

Second, the disaggregated data evidences that there are *distinctions* in violence *across* and *within* the temporal phases. Distinctions can be identified between normative violence that is expected (as above) and violence that is not normative and outside of expected practices. In this context (which may differ elsewhere), what becomes distinctive is violence that is enacted by external or unexpected actors, extends beyond acceptable/expected thresholds and/or which may be linked to political/militarised motivations, such as mass rape during military operations, or forced sexual access to women outside of normative and permitted regulation. Distinctive manifestations of VAW are simultaneously enabled and limited by formal (e.g. law) and informal (e.g. socio-cultural norms) practices (Ayers Counts et al., 1992). As noted before, pre-conflict gendered oppression and violence were delimited by a modicum of 'respect' and 'protection' for women determined by modes of normative restraint. While some of that violence is performed with political, social and sometimes legal sanction, it is however 'the backdrop against which sexual violence in conflict must be understood' (Jefferson, 2004, 3). Where violence becomes 'disengaged from the larger structure of social norms that limit and channel gender domination within normative boundaries' (Urban Walker, 2009, 31), unsanctioned violence by unsanctioned actors appears and becomes distinctive in function, form and outcome from prevailing and continuing normative gendered violence. The mass killings, rape in military offensives, sexual enslavement, forced marriages, forced sexualised labour and sexualised torture in detention are all distinct from what had been previously normative. For example, harms such as forced marriage directly contested and disrupted the normative systemic ordering of male 'gatekeeping' authority over the negotiated sexual/marital access to women, a practice also normative for women. Research has identified that prior to the Indonesian period, 'it was rare for women to be forced into marriage against her will' (Thatcher, 1988, 74). This changed utterly when soldiers forced women into 'marriage' and sexual slavery. Timorese males could do little but surrender their normative authority over these women to men who took over that authority. More powerful males were now deciding who had access to these women and how, a different dynamic conceptually and practically for Timorese men and women. These acts are distinctive because they result from the breaking of social mores about access to women and of course, in terms of violence, many acts go beyond expected normative thresholds. Pre-conflict norms that limit violence mutate and shift, operating in new ways, led by actors and resulting in violence that may extend beyond what is normatively expected.

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Third, the disaggregated data evidences that *what is distinctive is also still connected* to earlier iterations of forms of VAW, and to broader social tolerance of men's abuse of women. While I have argued above that forms of VAW such as sexual slavery may be distinctive in form and function, it must be acknowledged that at the same time, their distinctiveness does not altogether make that violence detached from the social context in which it occurs and/or practices that are normative to the actors of that violence (for example, imported patriarchies of colonising and militarised actors). There is a gendered normativity omnipresent and inherent to the varying contexts and motivations to and the resulting forms of VAW across time and space, even where some forms may be understood and experienced empirically as 'distinctive.' This can be seen in two ways: In the first instance, the previous example of the distinctiveness of forced marriage was outlined. However, notable within that phenomenon is its clear conceptual and practical connection to practices of sexual access to women prior to conflict. Familial and community-based regulation of marital/sexual access to women illuminates the tension evident in what are continuums and exceptionalisms in VAW. While discriminatory in respect of western/internationalised ideas of gender equality, men's regulation of sexual access to women through marriage practices nonetheless upholds women's standing through marriage and secures women's positioning within socio-cultural and socio-economic systems in which marriage finds gendered function. Research in the Sierra Leone conflict for example, found that forced marriages, sexual slavery and servitude of women within armed groups mimicked men's expectation of the roles women held before the conflict, where agreed marriages and free female labour were common (Jefferson, 2004). Existing (pre-conflict) societal attitudes and practices that generate structural gender inequalities and VAW underpin politically targeted and opportunistic forms of CRVAW. The meaning of that violence derives from women's gendered positioning. Forced marriage in this case, for example not only satisfies personal motivations for access to women on the part of armed actors, it also 'gets at' the men of that community and upends their normative authority, and in the same way, is a direct communication to absent fighters of their inability to protect women from non-normative violence, earlier iterations of which they themselves might sanction. Sexualised abuse of women finds connective meaning across different settings because of hierarchical gender orders in which that violence originally finds relevance. In other words, it is what is normative about VAW in peacetime that provides a basis for mutated and exceptionalised versions of that same normative violence during conflict. Similarly, control of women's reproduction is empirically visible across all temporal phases in the framework through the same practices governing marriage/sexual access to women. However, for some women and arguably for society as a whole, control of women's reproductive capacities was taken over by external actors (the Indonesian regime) in the during-conflict phase, and became a target for violence and abuse by those actors. Control of fertility and reproduction reverts back to Timorese patriarchal customary practices post-conflict. While the reproductive harms of the Indonesian regime are distinctive and egregious in how they take place, they are simultaneously rooted in the normative control of women's reproduction by male leaders, mirrored by masculinised state political and legal systems that restrict women's control over their own bodies.

In the second instance, it is notable that there are connections in how distinctive forms of CRSV appear across all iterations of political contestation in Timor-Leste. Even in the midst and turmoil of colonial domination and militarised occupation, the gendered norms of the sexualised and physically abusive domination and control of women endure across and within each temporal phase and determine women's experiences of those events. Variant forms of sexualised violence are enacted by the Indonesian regime, practices of sexual abuse and exploitation appear under Portuguese colonisation and by UN peacekeepers post-conflict, and sexual slavery and forced and sexualised labour appear during

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the Japanese occupation. While not an historical, inherited or institutional practice within one militarised entity, and while enacted in somewhat different ways and to different degrees by differing sets of political/armed actors, there is a common connective thread of the sexualised abuse of women by all political/ military instalments across time in the Timor-Leste setting. A further connective thread is related back to the omnipresence of the gendered normative basis to that violence - the enduring requirement that women exchange access to and use of their bodies for what is perceived to be political protection for their families and communities. Rather than only seeing 'distinctive' forms of violence as 'irregular,' CRVAW can be understood as remaining rooted in the normative sexualised abuse of women by men.

Drawing these observations together, it is clear that a comprehensive way to understand CRVAW is to acknowledge the *simultaneous connections and distinctions in violence*, with all forms of VAW rooted in the normative gendered subordination of women across time and context. Rather than an either/or scenario, wherein conflict-time violence is either similar to what went before, or solely exceptional or distinctive, CRVAW may possess characteristics that make it both (i) connected to pre-conflict structural norms and forms of VAW and (ii) distinctive in form, function and empirical experience for those subject to it, while at the same time, arising from and holding meaning because of its original gendered structural basis. Gendered violations, such as forced sexual access to women without normative sanction is distinctive not only to individual women subject to assault, but also to society more broadly, giving power to the attribution of stigma to women for perceived transgression of normative sexual practices. The analysis available through this frameworks uniquely demonstrates that some forms of CRVAW, while experienced as distinctive, are mutated forms of ordinary violence and oppressive practices existing prior to conflict, now used to personal or political ends by militarised actors. Understanding VAW and the norms that regulate it as pliant and responsive to context illuminates its ambulant nature and how it mutates in form and function across context and temporal phase. Understanding violence as *ambulant* captures the changing sites and sources of violence, its responsiveness to contextual factors, including gender norms or the introduction of armed conflict, and also creates space for recognition of where its distinctive manifestation is still grounded in the foregoing oppression of women.

## **IMPLICATIONS OF THE FRAMEWORK AND ITS FINDINGS**

The findings of the disaggregated and aggregated analysis of VAW for Timor-Leste are briefly considered here in respect of how political settlements could be enhanced through the more rigorous analysis that the framework offers and, most importantly, how such analysis could be used to enhance the gender-inclusivity of post-conflict processes. As discussed earlier, women's exclusion from formalised institutions, including post-conflict political institutions, 'is caused and exacerbated by discrimination, harmful stereotypes and gender-based violence' (Šimonović, 2018, 5). Where VAW acts as a barrier to women's participation, there is further cause for the complexity of CRVAW to be fully understood as a prerequisite for a fulsome, comprehensive and inclusive political settlement to be achieved. The complexity to CRVAW in Timor-Leste was identified in the relationships between enduring discriminatory normative gendered beliefs and practices and the appearance of variant gendered harms evident within and across each phase of the framework. Whether and how post-conflict mechanisms, such as justice processes identify and address those conditional complexities is testament to the degree of gender analysis achieved and further, the degree to which a political settlement could then, potentially, be shaped by a fulsome gendered analysis of VAW.



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The Timor-Leste CAVR is lightly examined here in this regard. The CAVR was arguably successful in facilitating dialogue and advancing reconciliation among the Timorese population. It has also been recognised for making great strides in advancing gendered approaches to understanding women's experiences of that conflict (ICTJ, 2006). There are evidentiary gaps in that work however that fall short of achieving the kind of comprehensive understanding of CRVAW that would illuminate the connections and distinctions in violence that require attention if gender-inclusive settlements are to be advanced. The two major outputs of the CAVR were its Community Reconciliation Procedures (CRP) and its broad documentation process which produced its reporting/narratives of the conflict, which I briefly discuss here.

In the CRPs, which were community-level ceremonies based on customary practices that facilitated dialogue between 'perpetrators' (who volunteered their participation) and 'victims' of transgressions (Larke, 2009), important efforts were made to overcome the 'practical, cultural and political barriers to women's participation' (CAVR, 2006b, 26; Wandita et al., 2006). Women were allotted a range of roles, including quotas for numbers of commissioners of the hearings and testimony giving roles in the hearings. Nonetheless, women appointed as commissioners experienced discrimination from the perceived 'true' holders of authority, i.e. male leaders of local justice forums. For example, the male authority figures ('Lian Nain' or local law-holders) overseeing the CRPs were not entirely comfortable with women's presence and commented that 'in the past you would have been in the kitchen cooking (JSMP, 2004, 39). Women were largely under-represented among those giving testimony (Larke, 2009; JSMP, 2004), and where they did do so, they also experienced discriminations. For example, in a CRP hearing in 2003, the husband of a woman who was the 'victim' in the hearing spoke on her behalf and repeatedly asked the 'perpetrator' why, during the conflict, he had called his wife down to the nearby barracks every evening. The respondent avoided the question, offering excuses and the conversation went back and forth between both men. The woman remained mute. Implied in the accusation is the alleged intent behind the demand for her presence at the barracks – sexualised harassment, entertainment and abuse which was a common feature of the conflict as described in the framework. In effect the process became a conversation between two men about authority over sexual access to the woman in question.

The CAVR's research and documentation process, while progressive, also fell short of fully addressing the roots of discrimination and violence in women's lives. Through its research process, the CAVR made a significant effort to ensure women were represented and when they were not initially coming forward, it adapted its process to increase participation (ICTJ, 2006). The final report made very clear recommendations that going forward, specific steps should be taken to address IPV and stated that 'the elimination of violence against women, in both the public and private domains, is essential to break the cycle of violence and fear that characterises the lives of many women and girls', and identified the need to address discrimination as a contributory factor to that violence (CAVR, 2006a, 2585). The findings of this paper underline the need for just such an approach. However, the chapter of the CAVR report dealing with women's experiences of violence in the conflict and the overall focus of its research became 'sexual violence' – clearly implying that women's experiences of the conflict were largely about sexual violence attached to the conflict, and that these were the harms that merit attention by a truth process, extracted from other harms such as IPV.

While the CAVR process made significant efforts to contribute to a gender-inclusive and responsive political settlement for Timor-Leste, there is learning still to be done for how women's inclusion and

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the need to address the complexity of CRVAW can be advanced. There remains the assumption in this and other justice processes elsewhere that ‘women’s inequality is removed once women participate equally in decision-making fora . . . [which] . . . ignores the underlying structures and power relations that contribute to the oppression of women’ (Charlesworth and Chinkin, 2000, 231). As identified in the analytical framework proposed in this paper, according to custom, women may never hold positions of authority or decision-making in local law forums. While women were accepted onto the panels of the CAVR hearings, ‘true’ holders of the law in these communities understood this as a development imposed from the outside and one which would have to be tolerated. Research in 2009, four years after the closure of the CAVR, showed that 58 percent of respondents disapproved of the idea of allowing women to speak within local law forums, demonstrating little effect of these measures (Everett, 2009). Women’s inclusion in the CAVR, whether in leadership or participant roles, remained challenged. In its documentation of CRVAW, the CAVR also failed to engage with the structural basis of gendered harms. The focus on sexualised violence by conflict actors, without attention to its social, gendered and normative context and relationship to pre-conflict norms of both Timorese societies and of incoming militarised actors, demonstrated as critical to that violence in the foregoing section, did little to ensure those gender norms and VAW were not a critical barrier to women’s participation in public life. Under its mandate to establish the truth regarding ‘less serious’ human rights violations occurring in Timor-Leste between 1974 and October 1999, there was ample room for the research process to pivot from strategic sexualised violence to include the documentation of multi-purpose, co-occurring broader harms, and their inter-relationship. Also, because crimes of a ‘serious’ nature were passed from the CAVR to the accompanying criminal hybrid court-led process which failed to fully prosecute those crimes, they largely fell through the accountability gap between these two mechanisms. The message that sends to communities matters, not only in signalling the seriousness of all gendered harms, but in establishing a basis for addressing such harms after conflict. As a result of these dynamics it is estimated that ‘the CRP may have played a role in restoring the ‘natural order of things’ in the communities within which it operated’ (Larke, 2009, 671). This is the natural or normative order identified previously around which societies situate ‘community-based hierarchies of power’ (Larke, 2009, 671). By reinforcing this normative mechanism of Timorese societies after the conflict, the CRP did little to challenge the restoration of structural power claimed by men, enabling their control of women, through violence or otherwise.

## CONCLUSION

This paper has responded to the over-emphasis on the ‘during conflict’ sexualised violence that has emerged in scholarship and policy over the last three decades. It presented a new framework using empirical analysis to deepen existing scholarship on CRVAW. The framework encourages the grounding of analysis of CRVAW within its broader contextual positioning, including the book-ends of pre- and post-conflict dynamics, but also and importantly, the socio-cultural, political and economic contextual factors that contribute to the appearance of differing kinds of VAW within and across different temporal phases. While the concepts of continuums and exceptionalisms in CRVAW have contributed substantial and existing bodies of knowledge, the paper’s proposed pre-, during and post-conflict analytical framework affirms the importance and relevance of each body of work. It finds that common across time and space is the sustained presence of gendered harms, and at times of political contestation, harms that may be experienced as distinctive and require understanding in and of themselves, as well as in respect to their enduring relationship to existing and mutating gender norms. The findings underline that sustaining an approach to conflict-time violence out of sync with how women experience violence within political settlement processes means sustaining the structural

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inequalities that cause that violence, regardless of whether it is during or outside of armed conflict. As was evidenced, even where CRVAW has been included in a strong truth process such as that in Timor-Leste, the same dichotomous trend outlined before is evident, and a clipped version, largely confined to strategic sexualised violence features in documentation outcomes.

The proposed framework demonstrates the utility of qualitative assessments and gender analysis of violence and their relevance to ensuring that a fulsome understanding of conflict-violence, and its structural basis, is identified. Empirical and ‘thick’ descriptions of violence have potential to be aligned with victim/survivor centred approaches and allowing women’s voices to be heard, to describe their own experiences in their own words, and to catch all of the variation to that violence. It is important that the framework would be adapted for application to different contexts. The dynamics of the conflict may make a difference. A context such as Liberia will differ greatly from Timor-Leste in terms of analytical outcomes. For example, in Liberia, because many of the armed actors responsible for the distinctive forms of CRVAW are from there, many returned to their communities in the post-conflict period, influencing a differing set of data and outcomes for VAW post-conflict, compared to the Timor-Leste context where the main protagonists of violence left at the end of the occupation. Analysing that kind of conflict will provide different empirical data and analysis on the inter-relationship between VAW within and outside of conflict. Further, the analytical framework could be used for comparative analysis between and across differing conflict contexts, producing broader, generalisable and unique findings on patterns and trends in CRVAW (see, e.g. Swaine, 2018). Lest the paper paint a picture of women’s victimhood, the role of women in the resistance and in rebuilding Timor-Leste is essential in a deeper analysis than the one presented here. While analysis of the advantages of changing gender norms for women has been identified elsewhere, a further advancement of this framework would be to map women’s changing roles, their resistance to reversion to traditional gender roles post-conflict, and to interweave that with the violence documented here so that the inter-dynamic between agency and victimhood are more deeply assessed.

By demarcating conflict and non-conflict VAW as different things, scholarship and global policy have failed to address the complex roots and relationships between the harms that women experience across conflict and non-conflict spaces. How CRVAW could instead be understood as holding potency because it represents the continuing historic practice of the brutalisation of women’s bodies during warfare over time, as well as being a continuation of the gendered harms that women ordinarily experience outside of and before war, remains a critical gap in current knowledge and how we respond to that violence. Global legal and policy approaches focused on strategic rape miss addressing the comprehensive volume of violence in women’s lives and ensuring that processes focused on addressing CRVAW do so in ways that tackle its fundamental structural basis linking it all together. Much stronger consideration is needed than is currently given to how pre-conflict norms regulating women’s sexual and reproductive autonomy play a role in the manifestation of certain forms of gendered violence during conflict, and how exchanges of power between men will influence the violence that women experience. For political settlements to be shaped towards being more inclusive in process and outcome, gendered analysis of the events of conflict in respect of preceding colonial events, patterns of conflict and violence and the systemic positioning of women are essential.

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