CONFERENCE REPORT

Ensuring Justice, Reparations and Rehabilitation for Victims of Conflict Related Sexual Violence

Sarajevo, 5-6 September, 2012
INTRODUCTION

The United Nations Population Fund (UNFPA) and the Ministry of Human Rights and Refugees of Bosnia and Herzegovina (MHRR) organized a conference Ensuring Justice, Reparations and Rehabilitation for Victims of Conflict Related Sexual Violence in Sarajevo, on 5-6 September, 2012. This conference was unique in many ways. For the first time Bosnia and Herzegovina, through the MHRR, co-hosted an event that gathered over 100 participants from the region, and wider, who represented different segments of society - survivors of conflict related sexual violence, activists for women’s rights, representative of CSOs that provide services and support to survivors, representatives of relevant government institutions, international organizations and academic institutions. The conference sought to provide a forum for practitioners and activists to meet and learn from each other, discuss, clarify and codify their common goals and experiences, and acknowledge the problems and obstacles they've faced in implementing their activities. The conference also served as a forum to begin to shape and define the framework for advancement of the work on conflict related sexual violence.

The conference was organized as part of an ongoing UNFPA project through which technical and financial support is provided to the MHRR for development of a Programme for improvement of the status of survivors of conflict related sexual violence and other forms of torture in BiH. This project, implemented by UNFPA and the MHRR, is funded by UN Action against Sexual Violence in Conflict and runs in the period 2010 – 2012.

SUMMARY

Although there are differences in how governments and NGOs have approached the issue of conflict related sexual violence in the aftermath of mass atrocities that occurred in the countries of former Yugoslavia, the discussions at the conference pointed out to several issues that were common for the survivors’ lives in the post-conflict context of their countries:

- The number of war crime cases involving sexual violence that have been prosecuted remain extremely low – at the same time fight against impunity remains on top of the priority list for the victims;
- The victims of conflict related sexual violence remain socially and economically marginalized – none of the countries in the region (Croatia, Kosova, Serbia, BiH) have comprehensive reparations programmes, housing politics, educational support or alike;
- Complicated legal frameworks, or complete absence of rights for victims of wartime rape, impede access to affordable health and mental care – at the same time unhealed war traumas are intensifying leading to deterioration of survivors’ health and general wellbeing;
- State services for survivors of conflict related sexual violence have thus far remained mostly absent – in the meantime NGOs have stepped in and played an important role in assisting the victims

These segments were discussed in depth during the different sessions of the conference but many participants expressed a need for establishing a space for further discussing these issues in different forums, smaller expert groups, round tables and alike.
OVERVIEW OF THE SESSIONS

OPENING SESSION
At the opening of the conference the participants were addressed by Ms. Nuzhat Ehsan, UNFPA Representative for Ukraine, Country Director for Bosnia and Herzegovina; Mr. Vjekoslav Bakula, advisor to the Minister, Ministry of Human Rights and Refugees BiH; Ms. Enisa Salčinović, survivor of conflict related sexual violence; Ms. Emine Bozkurt, European Parliament, member of the parliament; Ms. Erika Kvapilova, UN Women, Regional Programme Director.

“It is the intention of UNFPA to continue to, jointly with our sister agencies, strive towards achievement of an institutionalized and sustainable response to these questions. We consider the Programme for improvement of the status of survivors of conflict related sexual violence and other forms of torture in BiH to be an essential part of that institutionalization and we look forward to deepening our partnership with the Ministry of Human Rights and Refugees through joint projects supporting the implementation of the Programme” – Ms. Nuzhat Ehsan, UNFPA Representative for Ukraine, Country Director for Bosnia and Herzegovina

“As a victim of sexual violence, I want to convey the message that we are not looking for charity – we want our rights, we want justice and we want a system that will ensure that these crimes will not happen again. We want victims to have access to treatments and services and not to be ashamed of what they are” – Ms. Enisa Salčinović, representative of women victims of rape, opening speech

“It was in 2010 that I had the privilege to meet and hear stories from strong, brave and inspiring women from Bosnia and Herzegovina. I was deeply and intensely touched. That is the reason why I have put this subject on the agenda of the European Parliament, urged the Bosnian authorities on the State level and both entities, the Bosnian Ombudsman and European Commissioner Füle, High representative Catherine Ashton to take this issue as a priority and asked for a strategy to be developed in order to finally provide reparation and justice to victims of sexual violence during the war, making it one of the measurable requirements for BiH’s progress towards the Union”. – Ms. Emine Bozkurt, European Parliament, member of the parliament, , opening speech
UNDERSTANDING OF AND RESPONDING TO CONFLICT RELATED SEXUAL VIOLENCE
Ms. Madeleine Rees, General Secretary, Women’s International League for Peace and Freedom

The conference started with a session on Understanding of, and responding to, conflict related sexual violence, held by Ms. Madeleine Rees. At the session Ms. Rees introduced the concept of conflict related sexual violence and its place within the international legal framework. International humanitarian law, international criminal law (e.g. the ad hoc tribunals for former Yugoslavia, ICTY, and Rwanda, ICTR), international human rights law, regional mechanisms such as the European Convention for Human Rights, and national laws all create a framework for implementation of activities aimed at combating conflict related sexual violence.

In her speech Ms. Rees focused on equal and effective access to justice for women (access to justice being one of the remedies prescribed by the UN Basic Principles). During the session Ms. Rees identified three very specific questions that practitioners, particularly professionals within the justice systems, need to think about:

1) Whether the law has succeeded in describing women's experience of war;
2) Whether the ways in which sexual violence is investigated assists in the understanding of that experience from a woman’s perspective; and
3) Whether our current practices actively discriminate in the delivery of justice.

RIGHT TO REPARATIONS FROM WOMEN’S PERSPECTIVE
Ms. Rashida Manjoo, UN Special Rapporteur on Violence against Women, its Causes and Consequences

Ms. Manjoo’s starting point at this session was the Thematic Report she submitted to the Human Rights Council in 2010 – Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. The report focused on the topic of reparations to women who have experienced sexual violence in contexts of both peace and conflict. According to the international standards one of the aims of reparations is to “restore” the dignity of the victims. When speaking about survivors of conflict related sexual violence the reparation programmes should take on an additional dimension – they should have a transformative impact because much of the violence women experience predates the conflict and continues to aggravate the discrimination of women and girls in the post-conflict scenario.

Even in non-conflict scenarios, violence against women is part of a larger system of gender hierarchy that can only be fully grasped when seen in the broader structural context. Hence, adequate reparations
for women cannot be just about returning them to where they were before the individual instance of violence. In the aftermath of mass atrocity, states have the opportunity to review and reform systems and policies that entrenched discrimination and marginalization of certain groups. Reparation programmes that seek to address both the causes and consequences of wartime violations and operationalize principles of gender equality, non-discrimination and victim participation and empowerment can further these goals and have transformative impacts on victims, communities and states.

**SITUATIONAL ANALYSIS AND OVERVIEW OF ACTIVITIES AROUND THE REGION**

The following situational analysis and overview of activities in the countries of the region emerged at the panel sessions held both by representative of the governmental and non-governmental sector (through their presentations) as well as through discussion during the entire conference.

**BOSNIA AND HERZEGOVINA**

In Bosnia and Herzegovina, because of its complex constitutional structure, the implementation of international obligations, including obligations related to combating sexual violence, has proved to be a difficult process. Despite the international obligations of the country, the inter-institutional communication and exchange of information regarding the international standards and obligations, particularly between the policy makers and local authorities, is very weak. In terms of legislation, the civilian victims of war, including the victims of sexual violence, do not have equal access to transitional justice mechanisms. In practice, a conflation of transitional justice mechanisms with non-conflict related social welfare provisions has occurred.

During the discussions following things emerged: a low number of war crime cases involving sexual violence have been prosecuted; the victims are in need of free legal aid which is not available to them; the state lacks reparation programs which would enable non-discriminatory access of all victims to the reparation measures as prescribed by international standards; complicated legal framework in both entities impede access to welfare; and absence of affordable and appropriate health and mental care services, including reproductive health, brings additional traumas and worsening of the psychological well being of the survivors. In addition, victims of sexual violence face many problems when returning to the place where they lived prior to the war. They are still faced with stigma, and the attitudes of the society towards them can add to the trauma.
While NGOs such as Vive Žene, Medica Zenica, Žene Ženama, Horizonti Tuzla, Naš glas, Snaga Žene, Žena BiH Mostar and many others have been implementing activities aimed at helping and supporting the victims, systematic support on behalf of government institutions has been lacking. However, the MHRR, supported by UNFPA, is in the finalization phase of development of the Programme for improvement of the status of survivors of conflict related sexual violence and other forms of torture in BiH. The Programme will ensure the government making use of capacities that exist within the civil society, particularly women organizations, but also make certain that the governmental institutions provide the support necessary to these CSOs. The concept that is advocated for is based on the need to ensure access to fair trial (prosecution of all war criminals), right to compensations which should not impede the right to basic social security, and ensuring re-socialization and rehabilitation of women victims of conflict related sexual violence. The Programme is planned to be finalized in November 2012. Parallel to development of this Programme the MHRR has also taken the lead in drafting the Transitional Justice Strategy for Bosnia and Herzegovina. These two documents, together with the State Strategy for War Crimes create a framework for dealing with legacy of mass atrocities that took place in Bosnia and Herzegovina between 1992 and 1995.

At this session the work of NGOs in Bosnia and Herzegovina was presented through the example of the NGO “Vive Žene” whose work is focused on healing war traumas and opening departments for ambulatory treatments, documentation, education and work on the community level. Lobbying and representing the needs of the beneficiaries present an integrated part of Vive Žene's work and it is done through contacts with appropriate ministries and professionals, media presentations, and organized campaigns.

SERBIA
The legal framework when it comes to gender equality in Serbia rests on a number of provisions: Constitution of Republic of Serbia, Law on Gender Equality, Penal Code, Law on the Prohibition of Discrimination, National Strategy for Improvement of Status of Women and Enhancement of Gender Equality, National Action Plan for the Implementation of Strategy for Improvement of Status of Women and Enhancement of Gender Equality, National strategy for preventing and combating violence against women and family violence, National Action Plan for implementation of United Nations Security Council resolution 1325 – women, peace and security in Republic of Serbia 2010-2015. However, despite the extensive legal framework little or no work has been done from the governmental side when it comes to combating conflict related sexual violence, particularly when it comes to working with victims of sexual violence during the wars in the region.

At the conference Serbian NGOs were represented by Women in Black, an organization active since 1992. During the war in Bosnia (1992-1995) Women in Black demanded establishment of an international court made up of only women for prosecution of wartime rape. They also demanded that the governments who received refugees (i.e. recipient countries) enable women that survived conflict related sexual violence political asylum and that the international community puts pressures on the regimes of former Yugoslavia to disband the camps, private prisons, and army brothels within which sexual slavery of women was legalized. During the war a continuous solidarity between individual women, as well as professional NGOs and feminist organizations from Belgrade was maintained with organizations from BiH. Today, Women in Black, together with a number of organizations from across
the region are part of the Initiative for Women’s Court for former Yugoslavia as a mode of alternative mechanism for justice. The intention is for the women’s courts to provide a space for women to testify about their everyday experiences of injustice and to create new concepts of justice and peace.

**CROATIA**

Today, 20 years after the war, women that survived wartime rape in Croatia have not been able to realize any of their legal rights, nor have they been able to acquire status adequate to their needs. In Croatia there is no law that regulates the status of women victims of wartime rape. However, this year a working group was formed to develop legal regulations. This happened only after the survivors decided to speak up about what they have been through and how they live today: without financial assistance, unemployed, and with reduced working abilities as a direct result of the trauma they’ve experienced. The state lacks adequate housing politics and educational support for their children. The women survivors that today live in Croatia are not economically independent, most of them don’t have adequate health insurance or access to adequate psycho-social support. They live with suppressed trauma, and the burden, mostly created due to unspoken traumas, hinders their return to the place they lived before the war, which means they don’t submit requests for return of property. They don’t receive any compensation based on the consequences of the torture they went through.

At the conference the work of Croatians NGOs was represented through the example of Centre for Women Victims of War ROSA, established in 1992. The Centre for Women Victims of War organizes self-help groups in more than 25 locations; they provide psycho-social help, financial and other forms of material help for emergent medical needs and basic living needs as well as individual counseling. „House ROSA” provided accommodation for women and children who were especially traumatized by the violence and they’ve also worked with women in war torn areas of west Slavonija, in ethnically divided communities such as Pakrac, Petrinja and surrounding villages. Like Women in Black, one of the central demands of the Centre for Women Victims of War was the rights of women raped in war to receive asylum in foreign countries. Today Centre for Women Victims of War ROSA is also part of the Initiative for Women’s Court for former Yugoslavia.

**KOSOVO**

An estimated 10,000 to 20,000 women and girls suffered sexual violence during the war in Kosovo, though no accurate estimate exists. Investigation and prosecution of war rape and other crimes committed against women remains low and only few charges of war-time rape and other crimes against women have been brought against perpetrators. Despite the thousands of instances of sexual violence in Kosovo, not a single person has been convicted of sexual violence against women in Kosovo. Victims of sexual violence are not included in the law for civil victims of war. They cannot claim any remedies and no public services assist them specifically. No reparations are available for persons who suffered sexual violence in Kosovo. Social stigmas regarding sexual violence hinder justice, humiliating persons who suffered violence and destroying families and communities. Weak health and welfare systems render women particularly vulnerable to marginalization and poverty (e.g., no health insurance, expensive medication).
In the absence of state services, NGOs have played an important role in assisting persons who suffered sexual violence. NGOs provide various services, including psychosocial support (e.g., from Kosovo Rehabilitation Center for Torture Victims and Medica Kosova) and awareness-raising activities seeking to foster crucial public support and understanding for persons who suffered violence. Although women who suffered sexual violence during the war received minimal attention from key institutions in the last 13 years, there have been some recent movements forward – e.g. EULEX has begun to investigate few cases involving alleged sexual violence against women and the Minister for European Integration has formed a consultative group, including experienced women’s NGOs to advise on steps that should be taken by institutions. The Commission on Human Rights, Gender and Missing People is also working with the aforementioned consultative group to include women in the Law for civilian victims, not as invalids but as survivors of war.

At the conference non governmental organization from Kosovo were represented by the Kosova Women’s Network (KWN), a network of 91 diverse women’s organizations located throughout Kosovo. The mission of KWN is to support, protect and promote the rights and the interests of women and girls throughout Kosovo, regardless of their political beliefs, religion, age, level of education, sexual orientation and ability.

**PANEL DISCUSSION: FIGHT AGAINST IMPUNITY**

The victims of conflict related sexual violence in the countries of former Yugoslavia have a sense that the justice is slow and unreachable for them. At the same time, prosecution of perpetrators of these crimes constitutes an important element in the healing process. Many victims feel frustrated over the slow progress in criminal proceedings, lack of adequate communication channels between judicial institutions and the public (particularly the victim witnesses involved in the case lack information about the ongoing cases and how far they have come), occurring threats towards victim witnesses and lack of psychological and legal assistance to victim witnesses before, during and after the trials.

Part of the conference agenda was a panel discussion on fight against impunity with panelists from *Bosnia and Herzegovina* (Prosecutor's Office BiH, Department for War Crimes, prosecutor Mr. Ibro Bulić), *Croatia* (State Prosecutor's Office, Department for War Crimes, Ms. Davorka Čolak) and *Serbia* (Office of the War Crimes Prosecutor, deputy prosecutor Mr. Milan Petrović).

During the panel discussion the participants of the conference had an opportunity to hear information about the number of cases of conflict related sexual violence currently being prosecuted, the number of rulings and the number of ongoing investigations in the region, as well as challenges and obstacles the prosecutor’s are facing in their work. A common denominator for all three prosecutors in terms of obstacles in their work is the fact that the number of criminal charges raised by the victims of wartime rape is generally low, which can be attributed to stigma and lack of psychological support to victim witnesses, not just during but also prior and after the proceedings.

Question that raised most interest of the audience was regional cooperation between the prosecutors’ offices, particularly when it comes to indictments against defendants who were living in countries in the region (e.g. when BiH’s prosecutor’s office raises an indictment against a person that lives in Serbia). Representatives of victim associations particularly raised the issue of perpetrators who were in possession of double citizenship and the practice of the countries in the region not to extradite their citizens, even when these persons are indicted for gross human rights violations.
CONCLUSIONS and RECOMMENDATIONS

At the conference participants were divided in four groups. The below conclusions and recommendations are the outcome of these group discussions, combined with conclusions and recommendations raised throughout the conference.

PSYCHOSOCIAL SUPPORT TO SURVIVORS OF CONFLICT RELATED SEXUAL VIOLENCE

The need for rehabilitation services among survivors of conflict related sexual violence is still vast and there are still survivors who have not received any kind of rehabilitations services, either due to inaccessibility of these services (e.g. they live in remote areas, or there are no NGOs or government institutions that provide that kind of services close to their place of leaving) or stigma related to this crime.

- The need for psychological support must be viewed within the broader context – the rehabilitation must be provided through a multi-disciplinary approach;
- The survivors of conflict related sexual violence who are witnesses at war crime trials have specific needs in terms of support available to them prior, during and after the trials
  - A judicial system sensitized towards these specific needs would both encourage more survivors to step forward (thus increase the number of cases prosecuted) and ensure the well being of the survivors during the trials;
- The rehabilitation services must include the children of the survivors in order to prevent trans-generational transfer of trauma;

While participants recognize and command the initiative of the BiH Ministry of Human Rights and Refugees to develop the Programme for improvement of the status of survivors of conflict related sexual violence and other forms of torture in BiH it is important to remember that the non-governmental organizations in Bosnia and Herzegovina, and wider, possess long-term experience and professional capacities when it comes to providing rehabilitation services and support to survivors of war time rape. Thus:

- The NGOs must be included in development and implementation of government strategies and programmes related to this field;
- Government institutions must find a sustainable way of financing the work of NGOs.

FIGHT AGAINST STIGMA

The social stigma attached upon women (and men) who were victims of conflict related sexual violence is very strong throughout the region. The stigma attached upon them results in a large number of survivors still living in silence, not speaking out publicly about what they have been through, and marginalized by the society both de facto and de jure. In addition, the suffrage of civilian victims of war is still being used and manipulated by political elites in the region.

- Activities aiming at combating stigma should put in focus the individual suffering of the victim
• Relevant laws in BiH (Entity and Cantonal laws) must treat victims of conflict related sexual violence equally throughout BiH (current discrimination within the law must be removed and harmonization between the laws must be ensured);

• Victims of conflict related sexual violence must be included in relevant laws and policies of Croatia, Serbia and Kosovo;

• Awareness raising campaigns with the focus on highlighting the character of conflict related sexual violence should be implemented
  o Create a public atmosphere that will enable the survivors to speak up about their experiences without feeling ashamed (an affirmative atmosphere will also allow survivors to step forward and register themselves as such in order to gain access to compensation or other types of benefits);

• Regional multi-disciplinarily meetings should be held on regular bases with the aim of sharing experiences and learning from each other.

ECONOMIC AND SOCIAL EMPOWERMENT OF SURVIVORS OF CONFLICT RELATED SEXUAL VIOLENCE

Women victims of conflict related sexual violence often find themselves marginalized both socially and economically. Thus, activities aimed at combating sexual violence in conflict must also take into account the economic needs of the survivors and create sustainable livelihoods in order to reduce vulnerability to violence and empower women to be active agents during societal changes.

• Establish a fund for reparations
  o Full inclusion of women must be ensured during the preparation, design and implementation of the fund;

• Enable adequate information and education for women survivors about procedures and standards necessary for realizing their social and economic rights
  o The financial assistance that the victims are entitled to must be sensitive to their specific situation;

• Ensure adoption of the law at the state level that will determine the status and the rights of survivors of conflict related sexual violence;

• The cooperation between the government and NGOs must be strengthened;

• Ensure networking between organizations that implement activities of economic and social empowerment of the survivors for the purpose of sharing good practices, exchange of experience, strengthening of small organizations etc.;

• Support establishment of regional centers for economic and social empowerment of women victims of war
  o Regional centers can help individual victims to overcome the problem of not having access to these kind of services due to stigma (often the case with victims coming from small communities);
• All programmes and rights must include children;

• Ensure that call for proposals, employment ads and alike give priority to women victims of war;

• Ensure aid to women returnees that are integrating into new local communities;

• Free legal aid and representation at courts must be made available for the survivors, as well as legal aid in realization of social and economic rights.

ESTABLISHING REGIONAL MECHANISM/RESOURCE CENTRE

The international human rights standards require mechanisms for participation, prevention and protection of women and girls in all levels of society and at all stages of peace process. While in BiH and the Western Balkan region agencies and other governmental bodies have been established to oversee and support gender mainstreaming and implementation of international human rights standards, an appropriate research centre that can capitalize on the work done in this field and provide comprehensive analytical work, facilitate regional networking and support policy development in the area of conflict related sexual violence, is missing. UNFPA, together with WILFP and other UN agencies, started developing the idea of establishment of a regional mechanism, a specialist body to monitor and advocate for strengthening the rights of women, be a regional knowledge and resource centre, provide expertise in this field both to decision makers and NGOs and act as facilitator of a regional women’s network. This idea was presented at the conference and the outcomes of the discussions are the following recommendations:

• The mechanism/resource centre should be established in Bosnia and Herzegovina but cooperation with the countries in the region should be ensured (e.g. through exchange of documentation, organization of expert meetings, round tables etc.)
  o In establishing cooperation within the region, participation of NGOs and individual experts from Kosovo must be ensured (in the lights of current difficulties for persons from Kosovo to travel to Bosnia and Herzegovina);

• The work of the mechanism/resource centre should be based on feministic principles and while it focuses on women survivors of conflict related sexual violence it should also use a more comprehensive approach that includes addressing root causes of conflict related sexual violence, such as gendered political and economic inequalities;

• The establishment of the mechanism/resource centre should be done in a transparent and inclusive way
  o A working group should be established consisting of representatives from women organizations;

• The mechanism/resource centre should have a strong documentation component
  o One of its tasks should be to consolidate existing data basis and conduct a mapping analysis;
• The research conducted within the mechanism/resource centre should be turned into concrete demands used for improvement of the lives of women survivors, such as improved rehabilitation systems, development of reparation programmes etc.

GENERAL RECOMMENDATIONS

• A donor conference for support to survivors of conflict related sexual violence should be organized;

• The government needs to provide the victims and NGOs with more information regarding the programmes and strategies that are being drafted and are relevant for this field;

• A review of women's status in all countries of former SFRY should be conducted;

• A regional cooperation between governments is necessary in order for women who survived wartime rape to enjoy their rights no matter where they live;

• Prosecution of perpetrators is a key factor in the healing process of the survivors of conflict related sexual violence;

• Government, NGOs, and international organizations should support contacts and networking among women survivors;

• Regular communication and exchange of information between victim associations, NGOs that provide support and governmental institutions must be ensured;

• Ensure broader participation of the representative from governmental authorities at conferences such as these.
NEXT STEPS

In light of the recommendations put forward at the conference the United Nations Population Fund and the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, as organizers of the conference, are planning the following steps in the upcoming period:

- Send out the conclusions from the conference to all relevant parties;
- Include relevant recommendations into the final draft of the Programme for improvement of the status of survivors of conflict related sexual violence and other forms of torture in BiH;
- Facilitate a meeting between women organizations and UN Special Rapporteur on Violence against Women, its Causes and Consequences during the SR’s country visit with the aim to discuss how women organizations could organize themselves through sharing of the experiences from South Africa;
- Support formation of the Working Group for establishment of the mechanism/resource centre;
- Continue to support regional and in-country multidisciplinary meetings between victim associations and CSOs that provide services with the aim of sharing experiences and learning from each other through organization of different expert meetings, round tables, discussion groups etc.;
- Elaborate on the idea on establishment of a reparations fund for victims of conflict related sexual violence;
- Support establishment of regional centers for economic and social empowerment of women victims of war;
- Organize a donor conference for support to survivors of conflict related sexual violence;
- Support contacts and networking among women survivors.
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96. Spomenka Krunić Gender Centre RS
97. Stanojka Tesić Women’s forum Bratunac
98. Suzana Božić CARITAS
99. Vanja Matić NATO HQ Sarajevo
100. Vesna Teršelić Documenta
101. Zijad Hasić BIH Parliamentary Group on Population and Development
102. Zorica Spasojević Association Women in Black