



Генеральная Ассамблея

Distr.: General
4 June 2013
Russian
Original: English

Совет по правам человека

Двадцать третья сессия

Пункт 3 повестки дня

**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав,
включая право на развитие**

Доклад Специального докладчика по вопросу о насилии в отношении женщин, его причинах и последствиях Рашиды Манджу

Добавление

Миссия в Боснию и Герцеговину* **

Резюме

В настоящем докладе излагаются выводы Специального докладчика по вопросу о насилии в отношении женщин, его причинах и последствиях по итогам ее поездки в Боснию и Герцеговину, состоявшуюся 28 октября и 6 ноября 2012 года. В нем рассматривается положение дел в стране в вопросах, касающихся насилия в отношении женщин, с учетом его причин и последствий. В докладе также обсуждаются меры, принимаемые государством с целью предупреждения такого насилия, защиты женщин и предоставления средств правовой защиты женщинам, ставшим жертвами такого насилия, а также судебного преследования и наказания виновных.

* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на языке представления.

** Представлено с опозданием.

GE.13-14345 (R) 191213 191213



* 1 3 1 4 3 4 5 *

Просьба отправить на вторичную переработку



Annex

[English only]

Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to Bosnia and Herzegovina (28 October - 6 November 2012)

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–7	3
II. The economic and political context and its implications for women	8–13	3
III. Main manifestations of violence against women	14–29	5
A. Domestic violence	14–21	5
B. Wartime sexual violence.....	22–29	6
IV. Legislative framework	30–50	7
A. Human rights, equality and non-discrimination.....	30–35	7
B. Domestic violence	36–41	8
C. Sexual violence	42–45	9
D. Social protection and benefits for women victims of violence.....	46–50	10
V. Institutional responses.....	51–63	10
A. Domestic violence	51–54	10
B. Wartime sexual violence.....	55–63	11
VI. Main challenges	64–101	13
A. Prevention of domestic violence and protection of victims	64–80	13
B. Investigation and punishment of domestic violence cases	81–89	15
C. Prosecution of wartime crimes and protection for victims.....	90–95	17
D. Reparations for victims	96–101	18
VII. Conclusions and recommendations	102–105	19
Appendix		
Selected testimonies.....		23

I. Introduction

1. At the invitation of the Government, the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, conducted an official mission to Bosnia and Herzegovina from 28 October to 6 November 2012. The objective of the visit was to examine the situation of violence against women in the country.
2. The Special Rapporteur visited Sarajevo, Banja Luka, Mostar, Tuzla, and the Brcko District, where she met with authorities at the State, Entity, cantonal and municipal level. In Sarajevo, she met with the head of the Agency for Gender Equality, with the Minister for Human Rights and Refugees, as well as with officials from the Ministry of Justice and the Ministry of Security.
3. The Special Rapporteur also held meetings with the Committee on Gender Equality of the House of Representatives in the Parliamentary Assembly, the President of the Association of Women Judges, and representatives of the Institute of the Ombudsman. She also met with representatives of United Nations agencies, funds and programmes, and from the Organization for Security and Co-operation in Europe (OSCE) Mission to Bosnia and Herzegovina. The Special Rapporteur regrets that representatives of the High Judicial and Prosecutorial Council were not available to meet with her during her visit.
4. In the Federation of Bosnia and Herzegovina, the Special Rapporteur met with government officials from the Gender Centre, the Ministry of Interior, the Ministry of Justice, the Ministry of Labour and Social Policy, the Ministry of Health and the Ministry of Education and Science. She also met with authorities at the cantonal level, including from the Ministry of Interior of the Tuzla canton and from the Centres for Social Work of the Sarajevo and the Tuzla cantons.
5. In the Republika Srpska, the Special Rapporteur met with the Minister for Family, Youth and Sport, and with representatives of the ministries of Health and Social Welfare, Education and Culture, Justice and Internal Affairs, as well as from the Gender Centre. The Special Rapporteur also visited the Centres for Social Work of Banja Luka and East Sarajevo.
6. Throughout her visit, the Special Rapporteur met with representatives of civil society and women's organizations. She had the opportunity to visit three non-governmental (NGO)-run women's shelters in Sarajevo, Banja Luka and Mostar, where she heard the personal testimonies of women survivors of violence. The Special Rapporteur also visited the women's department of the prison in Tuzla, where she interviewed a number of female inmates.
7. The Special Rapporteur wishes to express her appreciation to the Government for its cooperation. She is also grateful to the United Nations Country Team for the valuable support extended in preparation of and during her visit. She looks forward to a fruitful and continued dialogue with the Government and other stakeholders on the implementation of her recommendations.

II. The economic and political context and its implications for women

8. Bosnia and Herzegovina is a country currently undergoing critical political and economic transitions, as it strives to achieve the development targets necessary for its accession to the European Union, while still struggling to overcome the legacy of the 1992-1995 war. The country has a complex political and administrative structure which creates

challenges vis-à-vis consensus building and decision-making and which reportedly affects the capacity to deliver positive development outcomes resulting from recent economic stability and growth.¹

9. There are high levels of overall unemployment, with young persons, particularly young women, being mostly affected, and large portions of the population engaged in the informal sector.² Data provided by the Labour Force Survey indicate that the employment rate for women in 2011 was 23.0 per cent compared to 41.3 per cent for men.³

10. In the current social and economic context, women have borne to a greater extent the negative consequences of poverty and transition. Interviewees explained how, before the war, many women were employed and had some level of economic independence; however war destroyed industrial production and limited employment access for women. Middle-aged women with low levels of education have reportedly been the first to lose their jobs following the privatization of companies, and face great difficulties finding new employment.

11. As property is usually registered under men's names, women have little access to economic independence and financial resources, including credit options. This impacts victims of domestic violence, as they are often unable to leave violent family environments due to economic dependence on abusers.⁴ Women also suffer additional consequences of poverty, as husbands and partners who are frustrated, unemployed and facing low living standards, commonly respond with violent behaviour within the family.⁵

12. In terms of access to education, in 2007 the percentage of women with no school education was 17 per cent compared to a 6 per cent rate for men.⁶ In the cultural context of Bosnia and Herzegovina, women are generally portrayed vis-à-vis their relations to men, that is, as mothers, wives, sisters or intimate partners, but rarely as businesswomen, intellectuals or leaders. This is reportedly evident in school textbooks, literature, and media throughout the country. Women are socialized from an early age into socially imposed roles and expectations, and often face judgment or ridicule when not adhering to them.⁷

13. Bosnia and Herzegovina has a traditional and patriarchal society and participation of women in politics remains low. Furthermore, it is argued that female politicians do not necessarily represent women's interests once in power.⁸ Despite legislation establishing a 30 per cent quota for women in election lists, in the 2006-2010 government only 9 per cent of leadership positions at presidential, ministerial, or deputy level were held by women.⁹ In the general elections of 2010, numerous political parties fielded large groups of women candidates.¹⁰ In this election, 19 per cent of the seats in the House of Representatives of the Parliamentary Assembly were won by women, 22 per cent in the National Assembly of the Republika Srpska, and 17.3 per cent in the House of Representatives of the Federation of Bosnia and Herzegovina.¹¹

¹ United Nations Country Team in Bosnia and Herzegovina, United Nations Development Assistance Framework (UNCT-UNDAF) 2010-2014, p. 12.

² Ibid., p. 13.

³ Agency for Statistics of Bosnia and Herzegovina, *Women and Men in Bosnia and Herzegovina*, 2011, p. 30.

⁴ Civil society interviewees.

⁵ Ibid.

⁶ UNCT-UNDAF, see note 1 above, p. 10.

⁷ Civil society interviewees.

⁸ Ibid.

⁹ UNCT-UNDAF, see note 1 above, p. 10.

¹⁰ CEDAW/C/BIH/4-5, para. 8.

¹¹ CEDAW/C/BIH/4-5, p. 96.

III. Main manifestations of violence against women

A. Domestic violence

14. Domestic violence is recognized by both State and non-State actors as a widespread problem in the country.

15. In its combined fourth and fifth periodic report to the Committee on the Elimination of Discrimination against Women, Bosnia and Herzegovina provided statistics on domestic violence cases reported from 2006 to 2009 in both entities. Data on calls made to domestic violence hotlines, cases submitted to courts, cases reported to police, and on the provision of protection measures was included.¹² Nevertheless, the information available is fragmented and incomplete, thus not allowing for a thorough analysis or periodic review of the main manifestations and trends in the entire country. The Special Rapporteur was informed, however, that comprehensive research had been carried out towards the end of 2012 through the country's first nationwide survey on domestic violence, and that the results of the survey would be available in May 2013.

16. Domestic violence is in many cases linked to the legacy of war, and women and men suffering from Post-Traumatic Stress Disorder (PTSD), and other war-related mental health problems. Factors such as inadequate living conditions, unemployment, financial insecurity, stress, mental diseases, and drug or alcohol addiction, are coupled with a patriarchal understanding of the relationships between men and women.¹³ According to several interviewees, culture, religion, and personal prejudice influence the prevailing ideas in the country about the role of women, who are commonly expected to protect the family at all costs. Some argue that Bosnia and Herzegovina has a traditional society that until recently turned a blind eye to what happens in families. However, as the consequences of family violence permeated into the communities, resulting in increased levels of juvenile delinquency and aggressive behaviour, there has been a shift in acknowledging domestic violence as a public issue.

17. In 2011, an NGO survey identified the most common manifestations of domestic violence.¹⁴ Slapping (79 per cent), pushing or other forms of manhandling (67.3 per cent), hitting (64 per cent) and kicking (55 per cent) were identified as the most common types of physical violence. In some cases women also experienced attempted murder (11 per cent) or had been wounded by a weapon (6.5 per cent). As regards sexual violence, the most common manifestation involved unwanted sexual comments and unwanted/forced physical contact (40 per cent), unwanted sexual acts (26.6 per cent), and rape (10.6 per cent). In terms of psychological violence, women interviewed had experienced derogatory or humiliating treatment (88.1 per cent), and threats (78 per cent), with more than a third of the respondents having being threatened with a weapon. Children were often used to exert psychological violence, with 47.5 per cent of the respondents being threatened with having their children taken away. Women were also commonly subjected to isolation, not allowed any contact with relatives or friends (56 per cent) or banned from leaving the home except for specific activities, such as work (38.7 per cent). Economic violence was manifested in

¹² CEDAW/C/BIH/4-5, p. 93.

¹³ http://www.unece.org/fileadmin/DAM/Gender/documents/Beijing+15/Bosnia_and_Herzegovina.pdf

¹⁴ A questionnaire was designed, piloted and administered to victims through 7 civil society organizations in 56 cities and rural areas.
See: Women to Women, *Protection from violence in the experience of female victims of violence in Bosnian and Herzegovinian society*, Sarajevo, 2012.

the withholding of basic necessities (54.2 per cent), the misappropriation and sale of personal property (36 per cent) or the prohibition of potential employment (32 per cent).

18. With respect to femicide, none of the interviewed government authorities were able to provide disaggregated data at the national level. However, both NGO and government representatives from the Republika Srpska estimated that 57 women had been murdered in the entity in the last year. Entity authorities estimated that between 40 to 60 per cent of the female murder cases in the last three years involved women who had been long-term victims of domestic violence.¹⁵

19. The Special Rapporteur interviewed victims of domestic violence living in three shelters she visited, as well as women serving sentences in the women's ward of the prison in Tuzla. While most of the women had suffered both physical and psychological violence, she met a number of women who had endured severe psychological violence and had faced great difficulties in receiving adequate support from the authorities (see appendix). Most cases of domestic violence involved intimate partners, yet testimonies included women who were abused by other family members (see appendix). She also met women who had been subjected to labour exploitation by their husbands (see appendix).

20. The Special Rapporteur was also made aware of the challenges faced by Roma women who are victims of domestic violence. They face additional barriers to accessing justice and services, and do not reach out to authorities due to fear of losing their children and lack of confidence in any action being taken against perpetrators.¹⁶

21. Life for women after they leave an abusive relationship is extremely difficult, and the women interviewed were very anxious about their capacity to survive independently without the support of a shelter. This is particularly the case for women with low educational levels or with little working experience, given the country's current economic environment. The lack of medium- and long-term housing alternatives was also a recurrent concern.

B. Wartime sexual violence

22. Throughout the 1992-1995 war, thousands of women and girls experienced rape and other forms of sexual violence. While some women experienced isolated experiences of rape, others were raped systematically and repeatedly, sometimes while being held as sex slaves in detention centres. Despite the progress made through the International Criminal Tribunal for the former Yugoslavia (ICTY) in recognizing rape as a crime against humanity, prosecuting cases, and developing jurisprudence in this regard, there has been very little progress in providing effective remedies to women survivors, with many perpetrators remaining unpunished and women still struggling to rebuild their lives.

23. According to data provided by the Gender Agency, until the end of 2011 a total of 75 cases handled by the Court of Bosnia and Herzegovina were closed with final verdicts, of which 29 cases (38.6 per cent) were verdicts for war crimes including acts of sexual violence against women. This number is extremely low, especially taking into consideration the estimated 20,000 to 50,000 persons reportedly raped or sexually abused during the war.¹⁷ The lack of accountability for many perpetrators has resulted in many victims still having to encounter them in their everyday life.

¹⁵ Interviews with Ministry of Interior and the Ministry of Family Youth and Sports of the Republika Srpska.

¹⁶ Report on Domestic Violence against Roma Women in BiH (2010). Available at: <http://www.rightsforall.ba/publikacije-en.html>

¹⁷ http://www.icty.org/x/file/About/OTP/un_commission_of_experts_report1994_en.pdf

24. The Special Rapporteur met with individual survivors of wartime rape, as well as with service providers and organizations supporting and representing victims. Victims shared how their suffering not only amounted to the instances of rape, torture or sexual enslavement, but also included widowhood, displacement, and homelessness.

25. Many women have only recently started speaking out and service providers continue to meet victims who have remained silent for 18 or 20 years. According to these interviewees, until a few years ago this subject was still taboo. Women keep silent out of fear of their perpetrators, fear of disclosing their experiences to their husbands, their children and other family, and fear of social stigmatization, which is widespread for women victims of rape, regardless of their social, ethnic or religious background.

26. A recurrent concern was the inability of these women to provide adequately for their families. Expenses such as rent, medication, and utilities result in very little money left for food and other basic necessities, despite some support provided by the Government. The lack of housing is still one of the main problems encountered. Unemployment has not only limited the working opportunities for these women, but also for their children, many of whom have now graduated from school but are unemployed and unable to support their mothers.

27. Survivors' needs include services such as free legal advice to help them navigate the complex legal framework in the entities and apply for welfare or other benefits; access to affordable and appropriate health and mental care services, including sexual and reproductive health services, which are particularly important for women survivors of sexual violence.

28. Another important challenge is the lack of widespread societal recognition of the harms suffered by women during the war and of the consequences these crimes had on them. The stigma and the attitudes of society towards victims of rape, or the denial of their existence, serves as another form of victimization.

29. As discussed in section B below, the challenges faced by women survivors of wartime sexual violence are compounded by the lack of a coherent legal framework to address past crimes, which results in women having unequal access to the limited remedies available, depending on their geographic location within the country.

IV. Legislative framework

A. Human rights, equality and non-discrimination

30. The Constitution of Bosnia and Herzegovina pledges to ensure the highest level of internationally recognized human rights and fundamental freedoms to be secured to all persons without any discrimination, including on the grounds of sex. Constitutional rights generally reflect international conventions to which the country is party, including the Convention on the Elimination of All Forms of Discrimination against Women. The Constitution of the Republika Srpska and the Constitution of the Federation of Bosnia and Herzegovina include similar provisions.

See also: TRIAL, "Written Information for the Adoption of the List of Issues by CEDAW", p. 7, available at: http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/Trial_JointNGOsSubmission_ForPS_WG_E_BiH_CEDAW55.pdf

31. Furthermore, the 2009 Law on Prohibition of Discrimination prohibits discrimination on the grounds of, inter alia: sex, sexual expression or sexual orientation. The law also refers to specific forms of discrimination which affect women disproportionately, such as harassment, sexual harassment and mobbing. The Law foresees the implementation of temporary special measures targeting diverse disadvantaged groups including persons with disabilities, women, pregnant women, civilian victims of war, displaced persons, refugees and asylum seekers. It also establishes administrative and court procedures for non-compliance with the law, and identifies the Institute of the Ombudsman as the lead institution to implement the law.

32. The Law on Gender Equality was adopted in 2003 and amended in 2009. It is based on the Convention on the Elimination of All Forms of Discrimination against Women, advocating for gender equality in the private and public spheres, and prohibiting discrimination on the grounds of sex or sexual orientation. The Law establishes specific provisions vis à vis discrimination against women in education, employment, social and health care, sports, culture, public life and the media. It also differentiates between direct and indirect gender-based discrimination.

33. The Gender Equality Law establishes a minimal 40 per cent representation of women in State bodies at all levels of authority, including the legislative, executive and judicial authorities at State, entity, cantonal and municipal levels. In line with this law, shortly before the Special Rapporteur's visit, the Parliamentary Assembly passed amendments to the Election Law to establish the 40 per cent quota.

34. The Gender Equality Law explicitly prohibits gender-based violence in private and public life, as well as acts of harassment and sexual harassment. It compels authorities to undertake all appropriate measures in order to eliminate and prevent gender-based violence, and to provide instruments of protection, assistance and compensation to victims. The law calls for the elimination of bias, customs and practices based on the idea of inferiority or superiority of either sex, as well as stereotyped roles of men and women. This includes through education and raising awareness among civil servants, and the general public.

35. The Gender Equality law provides for court protection and penal provisions, and the right of victims of discrimination to seek judicial protection. It prescribes imprisonment for a term of six months to five years for a person who commits gender-based violence, harassment or sexual harassment. The Law also refers to the Gender Action Plan (GAP) and the responsibility of the Gender Equality Agency, the entity-level Gender Centres, and other public bodies, to monitor and ensure the implementation of both the Law, and GAP.

B. Domestic violence

36. Bosnia and Herzegovina signed the Council of Europe Convention on Violence against women and Domestic Violence in March 2013, and the Committee on Gender Equality of the House of Representatives is currently working to promote its ratification.

37. In 2005 both entities adopted laws on Protection from Family Violence. These laws introduced protective measures for victims of domestic violence, such as restraining orders, removal of perpetrators from the family home, the prohibition of harassment and stalking, mandatory psychosocial treatment and mandatory rehabilitation.

38. With regard to protective measures, these are issued by a Misdemeanour Court upon request of victims/someone on their behalf, or ex officio. Both laws establish sanctions for any State officials who fail to report cases of domestic violence. While the protective measures provided by both laws are essentially similar, the Family Violence law in the Republika Srpska includes fines for perpetrators who commit acts of domestic violence

and/or violate protection measures, while the law in the Federation of Bosnia and Herzegovina only fines perpetrators if they violate a protection order.

39. The Special Rapporteur was informed that a new law on domestic violence had recently been passed in the Republika Srpska, which reportedly incorporates most of the standards from the Council of Europe Convention, and provides for urgent (24-hour) protective measures, as well as multidisciplinary cooperation between health and social institutions to provide services for victims free of charge. It is noteworthy that the new law attempts to shift from a “family protection” to a “victim protection” approach, in order for State responses to adequately protect victims and prevent new instances of violence.¹⁸

40. In terms of the criminal law, both Entities include the offence of domestic violence in their criminal codes. According to article 222 of the Criminal Code of the Federation of Bosnia and Herzegovina, offenders shall be subject to a fine or imprisonment for a maximum of three years. Aggravating factors such as the use of a weapon, causing serious bodily harm or death, and causing death of a family member carry sentences of between three months and 15 years, or “long-term imprisonment” of between 21 and 45 years.

41. In the case of the Republika Srpska, the criminal offence of “domestic violence” is included in article 208 of the Criminal Code, with a maximum term of imprisonment of 2 years. However, a minimum sentence of 10 years in prison is prescribed for cases which result in the death of the victim. Other aggravated circumstances, such as causing serious bodily harm, would result in higher sentences. The Special Rapporteur was informed of an initiative to amend the Criminal Code to include forced marriages and female genital mutilation, as well as issues currently covered only by civil laws such as gender-based discrimination or sexual harassment.

C. Sexual violence

42. As regards sexual violence, rape is criminalized through articles 172 and 173 of the Criminal Code of Bosnia and Herzegovina, 193 of the Criminal Code of the Republika Srpska and 203 of the Criminal Code of the Federation of Bosnia and Herzegovina.

43. Conflict-related sexual violence is addressed at the State level through the Criminal Code of Bosnia and Herzegovina, but it refers to rape or sexual violence when linked to a widespread or systematic attack against civilians or as a war crime. Furthermore, the current definition establishes the use of force, or the threat of the use of force, as the only means to establish non-consensual sexual acts, ignoring other forms of coercion that are common, particularly during times of conflict.

44. The Criminal Codes at entity level do codify rape as an isolated offence, not necessarily linked to conflict. These codes also include specific provisions regarding rape against “helpless persons”, and children. However, the definitions included establish the condition of force or threat of immediate attack, to recognize a sexual act as non-consensual. None of these codes includes specific references to marital rape.

45. Numerous calls have been made for amendments to the Criminal Code to include a definition of sexual violence in accordance with international standards and jurisprudence related to the prosecution of war crimes of sexual violence.¹⁹ While these amendments have not yet been made, the Special Rapporteur was informed that jurisprudence has been developed by the Court of Bosnia and Herzegovina to consider coercion or the lack of

¹⁸ Interviews with authorities of the Republika Srpska.

¹⁹ See concluding observations of the Committee against Torture (CAT/C/BIH/CO/2-5, para. 9) or European Commission, Bosnia and Herzegovina 2010 Progress Report (SEC (2010) 1331 p. 18).

consent of the victim as sufficient elements to prove the existence of “force or threat of immediate attack”.

D. Social protection and benefits for women victims of violence

46. There is currently no State-level law addressing entitlements for women victims of wartime violence. While in the Federation of Bosnia and Herzegovina, women survivors of wartime rape have some benefits recognized through the Law on Civilian Victims of War, the Republika Srpska has yet to recognize this category of women.

47. The Law in the Republika Srpska only provides social protection benefits to persons who, due to wartime violence, suffered bodily harm of at least 60 per cent, including through rape. It also includes some benefits for relatives of civilians who were killed or disappeared. Civilian victims of war in the Republika Srpska currently receive between 100 and 350 KM, depending on the extent of their bodily harm.

48. The law in the Federation of Bosnia and Herzegovina includes similar definitions of civilian victims of war. However, in 2006 women were recognized as potential beneficiaries in the Law, and the 60 per cent bodily injury requirement does not apply to them. Rape victims are recognized as a separate category of civilian war victims. The evidence needed for the recognition of this status includes medical documentation of treatment issued immediately after the occurrence, as well as adequate proof issued by relevant institutions such as NGOs or other authorized organizations providing assistance to victims of rape.²⁰ Currently women civilian victims of war receive KM540 per month and other entitlements such as priority in employment, housing, and support in accessing health care.

49. As regards social protection for victims of domestic violence, in the Federation of Bosnia and Herzegovina victims are not entitled to social rights and the provision of support is left to the discretion of the cantons. The Special Rapporteur was informed that currently only the cantons of Tuzla, Sarajevo and Zenica include victims of violence within their social protection provisions.

50. In the Republika Srpska, a new Social Protection Law recognizes domestic violence victims as beneficiaries of the social protection network and services, which are provided through the Centres for Social Work (CSWs). The law is gender neutral, considering both men and women as potential victims of domestic violence.

V. Institutional responses

A. Domestic violence

51. Since 1999 there has been an explicit effort to introduce a gender perspective into the country’s institutions, and the first step in this regard was the establishment of the Gender Centres in the Federation of Bosnia and Herzegovina, in 2000, and in Republika Srpska, in 2001. In 2004, the Agency for Gender Equality of Bosnia and Herzegovina was established within the Ministry for Human Rights and Refugees.

52. The Agency is mandated to prepare, monitor and coordinate a periodical Gender Action Plan (GAP), which is based on proposals from all State-level ministries and the plans prepared by entity-level Gender Centres. The most recent GAP covers the period

²⁰ Information provided by the Gender Agency.

between 2010 and 2013 and one of its core objectives is to “eradicate violence against women and men in public and private spheres”.²¹ The Plan focuses on domestic violence, violence on the grounds of sex, sexual harassment and harassment. It presents a concrete list of activities, specifying the authority responsible, timeframes and implementation partners. Activities include the harmonization of legislation and the drafting of bylaws, the development of prevention strategies through work with potential perpetrators, the development of data collection methodology and the education of public servants, to name but a few.²² The GAP is gender neutral and does not specifically refer to women as victims.

53. In 2009, the Strategy for Prevention and Combating Domestic Violence (2009-2011) was adopted by the Council of Ministers and approved by the Parliamentary Assembly. It was drafted by a multi-sectoral working group and aims to ensure harmonized and adequate coordination between authorities and NGOs at State and entity levels. The Strategy includes four specific goals which combine objectives from the entity-level strategic plans on Domestic Violence. These focus on the harmonization of domestic violence-related legislation; the improved protection of victims through education and sensitization of professionals and enhanced coordination; awareness-raising and prevention among the public; and the systematic collection, consolidation, processing and publication of data to develop sustainable strategies.²³

54. Implementation of the Strategy is monitored by the Agency for Gender Equality, and a report is presented to the Council of Ministers based on information from the entity-level Gender Centres.²⁴ A revised strategy has reportedly been presented to Parliament which will incorporate the standards established in the new Council of Europe Convention. The Federation of Bosnia and Herzegovina also reported on the drafting of a new 2013-2016 Strategy which will also incorporate these standards.

B. Wartime sexual violence

55. A number of policy initiatives have also been launched to address the outstanding issue of wartime sexual violence. The National Strategy for War Crimes Processing was adopted in December 2008 in order to address a large backlog of unresolved war-related cases, including cases of rape and sexual violence committed during the 1992-1995 war.

56. The Strategy established that by 2010 the Prosecutor’s Office of Bosnia and Herzegovina would undertake a mapping of all wartime cases investigated in the country and that the State Court of Bosnia and Herzegovina would refer each case to be prosecuted either at State or at entity level, depending on the complexity of the case. Less complex cases would be dealt with by the Entity courts to allow State-level institutions to focus on the most complex cases, such as mass killing, as opposed to single murder, or systematic rape and sexual slavery, as opposed to individual sexual assault. More complex cases would be prosecuted within 7 years from the time of adoption of the Strategy, and the less complex cases within 15 years.

57. By October 2012, 1,316 pending cases had been reviewed, with 653 referred to the Prosecutor’s Office of Bosnia and Herzegovina and 663 referred to local jurisdictions.²⁵ According to civil society stakeholders, this mapping and redistribution of pending cases

²¹ Gender Equality Agency, *Gender Action Plan of Bosnia and Herzegovina* (2009), p. 112.

²² *Ibid.*, pp. 112-122.

²³ Gender Equality Agency, *Strategy for prevention and combat against domestic violence in Bosnia and Herzegovina for period of 2009 – 2011*, pp. 12-13

²⁴ *Ibid.*, p. 35

²⁵ Information provided by the Bosnian delegation during the examination before the Human Rights Committee in November 2012.

represented an important step in the implementation of the Strategy as it helped determine the exact number of war crimes case files pending in different jurisdictions.²⁶ Unfortunately, there is no publicly available information regarding the percentage of these reassigned cases that refers specifically to rape and other forms of sexual violence.

58. The Special Rapporteur was also informed of the Transitional Justice Strategy (TJS), which is spearheaded by the Ministry of Human Rights, with the participation of the judiciary, other authorities, and in collaboration with civil society representatives. In June 2012, a working document was presented by the Ministry of Human Rights and Refugees, together with the Ministry of Justice and the United Nations Development Programme. The Strategy is yet to be adopted.²⁷

59. The Strategy is focused on non-judicial transitional justice mechanisms such as reparations, memorials, truth telling, and institutional reform. It aims to address the issue of past war-crimes, in conjunction with the National Strategy for War Crimes Processing, and other action plans currently being drafted, such as the Programme for Victims of Wartime Rape, Sexual Abuse and Torture, and their Families 2013-2016.

60. The Strategy does not deal with women victims as a separate category, although women are considered within the category of “civilian victims of war”. While the Strategy does not define actions specifically intended for women, it reportedly aims to ensure that the basic principles of gender equality, as well as the special needs of this category of victims, are recognized and taken into consideration when developing concrete programmes.

61. The Strategy recognizes that the war had a differentiated impact on women, which has also affected their post-war situation. It also stresses women’s roles during the war, not only as victims of sexual violence, but also as witnesses, veterans, and even perpetrators.

62. The Programme for Victims of Wartime Rape, Sexual Abuse and Torture, and their Families 2013-2016 is also led by the Ministry of Human Rights and Refugees, with the support of the United Nations Population Fund (UNFPA). The programme will focus on issues including the implementing of rehabilitation programmes, the right to compensation, and the social integration of victims. The development of the programme is important to provide clarity vis-à-vis the scope and nature of transitional justice mechanisms and their differentiation from provisions related to social security. The prevailing confusion as regards these concepts has negatively affected the way authorities have responded to wartime victims. It is hoped that this programme will also foster social integration and better understanding within communities.

63. While the Programme was originally conceived to focus on women, it was later modified to recognize the existence of male victims of wartime rape. As with the Transitional Justice Strategy, State-level authorities and NGOs have been very supportive of the initiative, yet entity-level governments have shown less support. This is particularly the case for the Republika Srpska, which has reportedly still not delegated members to the programme’s working groups. The programme has been debated in public and in Parliamentary committees, but still has no endorsement. It is argued that financial implications may be the main obstacle.

²⁶ Amnesty International, *Bosnia and Herzegovina: Submission to the UN Human Rights Committee: for the 106th session of the Human Rights Committee* (2012), p. 7.

²⁷ <http://www.undp.ba/index.aspx?PID=7&RID=772>

VI. Main challenges

A. Prevention of domestic violence and protection of victims

64. The Special Rapporteur visited Centres for Social Welfare (CSWs) in the Federation of Bosnia and Herzegovina and in the Republika Srpska. A first striking difference between these centres was the disparity in the prevalence of domestic violence reported by them. While the CSWs of Banja Luka, Sarajevo and Tuzla referred to domestic violence as one of their main areas of work and of coordination with the police and with NGOs, the CSW in East Sarajevo stated that very few incidents of domestic violence had been registered.²⁸ It was not clear if this indeed arose from lower levels of domestic violence in this municipality, a greater reluctance among its population to recognize the problem, the inability of the CSW to identify domestic violence cases, or the reality of their focus on protection of the family at all costs.

65. Several NGO activists argued that CSWs often fail to recognize cases of domestic violence when there is no physical violence involved. Centres will not take action when first reports of non-physical violence are received, and only react after victims return, with injuries. Another important omission in these institutions is that they do not assist women victims of past sexual violence, as the focus is solely on current family violence.

66. As regards the functioning of CSWs, they receive domestic violence cases (a) directly, (b) through the police, or (c) through NGOs, neighbours or other third parties. In Tuzla, for example, if victims go directly to the CSW, the centre will inform the police and make contact with the closest shelter if necessary. If the police receive a report during the business hours of the CSW (usually from 7 a.m. to 3 p.m.), they will establish contact with the CSW and with the prosecutor, but if the report is received outside business hours, they will try to place victims with a relative and bring them back to the station the next day to continue with proceedings and refer the case to the CSW.

67. In both entities, hotlines have been made available, which refer victims to NGO-run shelters which provide advice and support. However, victims may not be received directly by these shelters if they are not referred by the competent authorities.

68. Most CSWs are staffed by social workers, at least one psychologist and a lawyer working on all cases received, including domestic violence cases. In the CSW in Sarajevo, the first point of contact is a psychologist who conducts a risk assessment of victims and any accompanying children. Depending on the results, victims might be referred to a safe house or to any relatives who can accommodate them. The CSW reportedly accompanies and advises victims through any necessary proceedings, whether they need to be referred to a clinic or hospital, a shelter, or to the police station to make a statement. The CSW will also inform the public prosecutor in very serious cases, in order for them to take action.

69. All CSW staff interviewed mentioned having good working relationships with the police. In the Republika Srpska, “mobile teams” have been established in more than 50 per cent of the municipalities through memorandums of understanding (MOUs) signed between the CSWs, the police and, in some cases, NGOs, in order to respond jointly to reports of domestic violence. These teams will go together to the family home, where the police will make a report on the scene and send it to the public prosecutor if necessary. NGO activists interviewed deemed the operation of these mobile teams a very positive practice and voiced concerns about recent moves to exclude NGOs from these arrangements. This is reportedly

²⁸ While CSW staff claimed there is no need for a shelter in East Sarajevo, the Special Rapporteur met a victim in the Banja Luka shelter who was referred from East Sarajevo, due to a lack of safe houses there.

a consequence of some NGOs being critical of the staff employed in the CSWs, particularly directors who are often appointed by political parties, are not social workers, and do not have the necessary expertise to lead the work of the centres.

70. Another source of concern is the priority given by CSWs to family unification, including in cases of domestic violence. In many cases, it is perpetrators who approach the CSW looking for reconciliation, after which the victims decide not to move forward with their cases. However, even when women do not retract cases, CSWs mediate to achieve family unification. If a victim wants to file for divorce, the CSW is obliged to contact her spouse to mediate. However, none of the CSWs interviewed appeared to acknowledge, or have any methodology to address, the power imbalances which exist between victims and abusers when mediating such cases.

71. CSWs also facilitate family visits in cases in which women flee their homes without their children, and where perpetrators do not allow victims to have contact with them. In such cases, CSWs will “invite” the father to discuss the issue, and explain the rights of the mother. However, if he is uncooperative, no action seems to be taken to assist the mother to enforce her custodial and/or visitation rights. In these cases, CSWs will advise the mother on the legal steps for filing for divorce and acquiring custody of children, but children will not be removed from the perpetrator’s custody. This may amount to neglecting the best interests of the child.

72. It was made clear that if a perpetrator is violent towards a woman, but not towards her children, he may still be deemed capable of caring for them and CSWs will actually promote and facilitate continued contact. While most CSWs argued that children are interviewed and that risk assessments are undertaken, this practice still has devastating consequences. It devalues the suffering of the battered victim, as well as the negative consequences that witnessing domestic violence might have had on the children. It was unclear whether CSWs have the skills to conduct effective risk assessment when they have an overwhelming focus on family unification.

73. Even when legislation provides for protection measures such as the removal of perpetrators from the family home, this is rarely implemented. Victims are sometimes given a short period of time, ranging from 4 to 10 days, during which perpetrators are excluded from the family home and women are allowed time to collect their personal belongings and to leave the home.

74. The Special Rapporteur heard the case of a woman who was in a shelter for six months with her four children. Since the home in which her family lived belonged to her mother, she was required to provide her abusive husband with alternative accommodation. As she could not afford this, she had to stay in a shelter while the perpetrator stayed in her home. In order to solve the problem, she needed to wait for the divorce procedures to be finalized. She had been waiting for this for over a year. In this case, the CSW had decided the abusive husband could use one of the rooms in the house while the divorce process was finalized. This lack of focus on victim safety by State authorities was a recurrent complaint made by interviewees.

75. Interviewees in Banja Luka claimed that protective measures are rarely issued and that no monitoring of their application is actually undertaken when they are. Furthermore, CSWs and other authorities are often reluctant to inform women of the possibility of requesting protection measures.

76. The Special Rapporteur was also informed that some CSWs sometimes use their own premises to house victims of violence to avoid referring victims to shelters. These alternative shelters, however, only lodge victims for a few days, which is not enough time to provide the comprehensive services that would be offered by an NGO-run shelter. This

results in lack of expertise by service providers, more bureaucracy and less funding for crucial services, which are largely provided by NGOs.

77. These practices are to a large extent influenced by cost concerns, as the cantons in the Federation of Bosnia and Herzegovina and the municipalities in the Republika Srpska meet some of the costs of lodging women in a shelter.

78. In the Federation of Bosnia and Herzegovina, the cost is borne by the authority that refers a victim to the safe house, whether the police or the CSW. However, the effectiveness of the support varies from canton to canton. Sarajevo canton is reportedly one of the rare cases in which the NGO-run shelter enjoys stable financing by the cantonal Ministry for Social Welfare. However, while it previously covered 100 per cent of the cost of each beneficiary, it currently only covers 60 per cent of the cost. This has negative effects on the NGOs because in addition to the cost of lodging victims, shelters offer other services such as free legal advice and counselling, inter alia. This results in NGOs having to depend on international support and donor funding to carry out their work.

79. In the Republika Srpska, current legislation includes allocations to set up safe houses, with 70 per cent of the funds being provided by the entity budget and 30 per cent by the municipalities. However, only the Banja Luka shelter is currently receiving the 30 per cent budget that should come from the municipality and NGOs are struggling to establish much-needed shelter in other locations, such as Bijeljina.

80. CSWs in both entities made it clear that women do not need to file a police report to be placed in a shelter, nor do they need to do so at any point during their stay. However, shelters cannot provide support to victims without a referral from the relevant authorities. Whether a case comes through a helpline or through the police, it will first need to be registered through a CSW before it is referred to a shelter. With shelters having to follow this administrative procedure, it is common for urgent cases not to be treated expeditiously.

B. Investigation and punishment of domestic violence cases

81. The challenges faced by women victims are also reflected in the inadequate responses by the country's criminal justice system. Interviewees explained that when cases of domestic violence actually reach the courts, there is often a lack of clarity on the legal reasoning behind the way these cases are ultimately decided.

82. In the Republika Srpska, for example, while domestic violence can be deemed a criminal offence, it is often tried as a misdemeanour and treated in the same way as other minor offences, without due consideration of the particular elements of gender inequality and discrimination rooted in domestic violence. There is no specialization among the courts vis-à-vis the treatment of domestic violence cases, which are often not decided with the best interest of women in mind. It is reported that only the most serious cases are identified as criminal offences by virtue of the argument that "easier" cases will be processed more quickly. Activists claim that protection measures still take up to six months to be processed, with no consideration of the urgent nature of these measures.

83. As regards prosecution, lesser charges are commonly brought for domestic violence even when the acts involved could qualify as aggravated forms of violence due to the use of weapons, the abuse of children, or for causing grievous bodily harm.²⁹ Prosecutors fail to include these more serious charges, thereby impacting on the sentences imposed, which are consistently at or below the minimum levels prescribed by the law. It is reported that only

²⁹ OSCE, *Ensuring Accountability for Domestic Violence*, 2011, pp. 29-30.

in cases resulting in serious bodily injury or death of the victim are sentences in the upper range of possible penalties.³⁰

84. Another common complaint made by activists was that prosecutors rely heavily on testimonies by victims, perpetrators and witnesses, rather than collecting the necessary evidence during the investigatory phase. This has a particular effect on women victims, who often undergo these criminal proceedings without adequate social, psychological and legal assistance.³¹ In the specific case of the Republika Srpska, even though current legislation envisages specific measures to support victims during criminal proceedings and provide free legal aid, these provisions are reportedly rarely applied.

85. There are reportedly also high levels of confusion among the judiciary about the nature and purpose of “protection measures”, with authorities using these in lieu of sanctions against perpetrators. Therefore, mandatory psychotherapy or substance abuse treatment will be often issued both as a “protection measure” and as a form of punishment. Furthermore, the Special Rapporteur received numerous reports of perpetrators not complying with such mandatory treatment and facing no consequences for violating these orders.

86. Another recurrent practice is the suspension of sentences, or courts allowing fines for offences that would normally require imprisonment, with little follow-up as regards the compliance by offenders with any conditions associated with these suspensions. This results in no real sanctions being imposed on perpetrators.³²

87. During 2011, suspended sentences were handed down in most cases (75 per cent) in the Federation of Bosnia and Herzegovina, followed by prison sentences (16 per cent) and fines (6 per cent). In the case of the Republika Srpska, information available from 2010 indicates that verdicts on domestic violence included 15 prison sentences, 14 fines, 58 suspended sentences, one judicial caution and seven protective measures.³³

88. Interviewed activists claimed that these decisions often stem from patriarchal views among many judges. They feel that they need to be sensitive with men when deciding on a domestic violence case, because no one will provide for the family if the man is in jail. However, activists claim these concerns regarding the family budget are not considered at all in cases involving other crimes committed by men.

89. There is reportedly a general lack of information regarding how courts decide on domestic violence cases, and how aggravating or mitigating circumstances are used in their sentencing decisions. Through interviews with the Ministries of Justice in both entities, it became clear that there is no monitoring taking place and only the High Judicial and Prosecutorial Council (HJPC) has unrestricted access to all domestic violence cases, whether pending or completed. Unfortunately the assessments, statistics and evaluations of the HJPC are not easily or publicly available, nor disclosed in annual reports. While it is important to uphold the independence of the judiciary and the separation of powers, it is also important for other State authorities, including the legislative and executive branches, to receive information as regards the cases and issues being addressed by the courts. This will ensure that policy and law-making adequately reflect the real concerns and needs of the population.

³⁰ Ibid., p. 26.

³¹ United Women, “Monitoring and Analysis of Sexual and Gender-Based Violence Criminal Proceedings and Case-Law in Republic of Srpska”, 2011, p. 8.

³² OSCE, *Ensuring Accountability for Domestic Violence* (see note 29 above), p. 19.

³³ CEDAW/C/BIH/Q/4-5/Add.1, pp. 16-17.

C. Prosecution of wartime crimes and protection for victims

90. With regard to wartime crimes, activists expressed concerns as regards the treatment of women victims in local courts. While the State-level court has established a Witness and Victim Support Section to provide assistance and psychological support to survivors, these mechanisms are absent in district, municipal and cantonal level courts. NGO representatives claim that on occasion the rooms used in local courts to hear cases of sexual violence place women in a very vulnerable and exposed position.³⁴ This adds to women's reluctance to testify.

91. Due to financial constraints, currently only 3 out of 16 local courts have witness support staff, including the Banja Luka District Court and the Sarajevo Cantonal Court, which established these systems with international support.³⁵ A UNDP initiative was launched in 2008, aimed at creating a system of victim/witness protection and support for each prosecutor's office and court.³⁶ Civil society advocates claimed, however, that it is not only psychological support and assistance that these victims need, but also protective measures throughout the processes, as many have been subject to threats and harassment when leaving the courts.

92. Adequate assistance and psychological support to survivors is absent in most districts, municipal and cantonal level courts; however, two networks were recently established to provide assistance and psychological support to the survivors/witnesses in the Zenica-Doboj and Central Bosnia cantons in the Federation of Bosnia and Herzegovina.³⁷ The Special Rapporteur was informed that by the end of 2013 the model would be established in the Una-Sana canton and the Banja Luka region.

93. Another obstacle as regards prosecution is the time these cases take to be heard. Even women who have identified their rapists, and are willing to testify, are shocked to learn that their cases will take 15 years to be heard. Activists fear that as time goes by, victims, witnesses and evidence are lost, and this reinforces women's feelings of injustice and insecurity, 20 years after these crimes occurred.

94. Victims' associations also complained that the criminal procedures normally do not allow for victims to make any financial compensation claims, and they are therefore forced to initiate separate civil procedures to claim compensations. While article 193 of the Criminal Procedures Code of Bosnia and Herzegovina allows victims to make financial claims, prosecutors and judges do not use this provision, claiming it would delay the process. However, most survivors are facing economic difficulties, and the costs involved in initiating a separate compensation claim are not feasible given their economic situation.

95. Finally, interviewees reported an overt reluctance among authorities in the Republika Srpska to recognize the existence of wartime rape victims. During interviews with the CSWs in Banja Luka and East Sarajevo, it was made clear that they do not undertake any work with women victims of sexual violence in conflict. The reluctance to address the issue goes up to the highest levels and is evident in statements made by high-ranking politicians who have criticized the Court and the Prosecutor's Office of Bosnia and Herzegovina, questioning their integrity and legitimacy, and labelling them as anti-Serb

³⁴ Amnesty International, *Still on the Frontline*, available at: <http://www.amnesty.ca/news/multimedia/videos/still-on-the-frontline>

³⁵ Interviews with the Ministry of Justice and the OSCE mission in BiH.

³⁶ UNDP, *Support to Processing of War Crimes Cases in BiH*, p. 9.

³⁷ From 2011, and supported by UN Women, the NGO Medica Zenica established State/non-State networks and protocols to provide victim and witness support.

institutions. Politicians have reportedly also pressed the judiciary to indict certain individuals on the basis of ethnic considerations.³⁸

D. Reparations for victims

96. Women survivors of wartime rape and sexual violence generally feel the State neglects their existence and tries to avoid addressing its responsibilities towards them. This is particularly the case for women living in remote areas who are still not aware of their rights and the legal avenues available to them.³⁹ So far there has not been a widespread outreach strategy by the State and it is mainly NGOs and women's organizations which have strived to identify new victims, support them and encourage them to provide their testimonies and ensure more perpetrators are identified and brought to justice.

97. In addition to overcoming the trauma of the harms they suffered, women victims of conflict-related sexual violence carry the burden of social and economic marginalization. Survivors face general poverty, low educational levels and unemployment. This is exacerbated by the country's poor economic situation, the inadequate resources assigned for public services, the lack of training and sensitivity among civil servants, and the lack of clarity about applicable laws. Local institutions do not appear to have the capacity or resources to provide much-needed services. Survivors are also discriminated against vis-à-vis veterans in terms of access to social benefits.⁴⁰

98. The Special Rapporteur was informed that the Transitional Justice Strategy aims to establish non-judicial mechanisms to address these concerns through fact-finding and truth-telling activities, memorialization, reparation and compensation programmes, as well as rehabilitation through, inter alia, psychosocial services. Civil society representatives from both entities expressed their support for this initiative and have made efforts to contact women victims of rape, as well as associations of victims of concentration camps, in order to organize consultations.

99. However, while the civil society organization (CSO) sector from the Republika Srpska has been involved in the development of the Strategy, the entity-level authorities have not been as supportive. While they were formally involved in the development of the Strategy during the pre-drafting consultations, and as members of the Working Group, they then left the Working Group halfway through the process.⁴¹

100. The Gender Centre in the Republika Srpska is reportedly engaging and discussing with relevant entity-level Ministries and authorities to reconcile views and prompt the participation of the Entity in this important initiative. State-level authorities are also striving to create an atmosphere for minimum consensus. According to stakeholders interviewed, some progress had been achieved and it is hoped that political divisions will be overcome to facilitate a process that would be very beneficial for women victims of war of all ethnic and religious backgrounds.

101. The failure by Bosnia and Herzegovina to comply with its due diligence obligation to provide reparations to women victims of violence has resulted in a lack of access for victims of wartime sexual violence to both criminal and civil remedies, as well as to adequate protection, support and rehabilitation services.

³⁸ OSCE, *Delivering Justice in Bosnia and Herzegovina*, 2011, p. 85.

³⁹ TRIAL, (see note 17 above), para. 7.

⁴⁰ Amnesty International, *Submission to the Human Rights Committee for the 106th session*, 2012 (see note 26 above), p. 10.

⁴¹ Information provided during interviews with the Ministry of Interior and the Ministry of Justice of the Republika Srpska.

VII. Conclusions and recommendations

102. The Government of Bosnia and Herzegovina has recognized the importance of upholding and protecting the human rights of women by signing and ratifying relevant international human rights instruments and enacting legislation that acknowledges the State's obligation to provide measures of prevention, protection, assistance and compensation. The success of these initiatives, however, is hampered by the high levels of fragmentation and the fact that no State-level authority has the jurisdiction to ensure the adequate implementation of these initiatives. This often results in the lack of effective redress for women who have been victims of violence, both past and present.

103. Furthermore, and according to interviewees, fewer victims are reporting cases of domestic violence, while the killing of women has increased. It is of concern that this drop in reporting rates may be due to the perceived ineffectiveness of the available services.

104. It is crucial for government authorities at all levels to recognize the existence of civilian women victims of rape and torture, regardless of their ethnic or religious backgrounds, and to ensure that they have equal access to remedies and services, regardless of their physical location within the country. There is also a need for society, including the media, to recognize and affirm these victims. Efforts should be made to create greater awareness, at both State and non-State levels, that violence against women is more than just domestic violence.

105. In light of the above, the Special Rapporteur would like to make the following recommendations to the Government at the State, entity and local level, as well as to the legislative and executive branches, as appropriate:

Statistics and data collection

(a) Carry out a thorough analysis of the first nationwide survey on domestic violence to identify and understand the magnitude, trends and patterns at both State and entity level. Review and incorporate the methodology into the country's periodic demographic and/or health surveys, to allow for continuous monitoring and evaluation of this phenomenon.

(b) Under the lead of the High Judicial and Prosecutorial Council, conduct a detailed analytical study of how State, entity, and local level courts are addressing violence against women, including femicides, in order to publicly assess the adequacy of the investigation, prosecutions and sentencing of such cases.

(c) Set up a unified and accurate database of women victims of rape or other forms of sexual violence during the war, including former camp detainees and victims living abroad. The database should be set up through a transparent and participative process, yet ensuring the adequate protection of security and privacy rights of the victims.

Law and policy reforms

(a) Ratify the Council of Europe Convention on Violence against Women and Domestic Violence and ensure that the State and entity-level laws on Protection from Family Violence are adequately harmonized with these standards.

(b) Expedite the enactment of the Law on Civilian War Victims and Victims of Torture.

(c) Amend the Criminal Code of Bosnia and Herzegovina to ensure it includes a definition of sexual violence that is in accordance with international standards and jurisprudence related to the prosecution of war crimes of sexual violence.

(d) Remove from all criminal codes any conditions of force or threat of immediate attack, to recognize a sexual act as non-consensual, and include a specific prohibition of marital rape.

(e) Make necessary reforms to the criminal justice system to ensure that:

(i) Courts impose sentences that are commensurate with the gravity of domestic violence offences. Sentencing below the prescribed minimum penalties in law should be an exception and always thoroughly justified. Clear explanations should be provided vis-à-vis the consideration of extenuating and aggravating circumstances in all cases of domestic violence. Furthermore, suspended sentences should be applied minimally and always following a thorough assessment of the consequences for the individual victims.

(ii) Prosecutors take into consideration any aggravated forms of violence such as the use of weapons, or causing grievous bodily harm, when classifying crimes. Prosecutors should ensure the necessary evidence is collected during the investigatory phase to reduce their reliance on victim testimonies.

(iii) Protection measures are speedily and effectively implemented independently from any sanctions against perpetrators of domestic violence. Women victims should be informed by the relevant authorities about their right to request such measures.

(f) Conduct a thorough review of the way CSWs are addressing cases of violence against women and make the necessary reforms to ensure that:

(i) All CSWs are led by qualified and professional staff irrespective of any political considerations.

(ii) Staff receive the necessary training and sensitization to ensure the individual human rights of women victims of domestic violence are placed above any considerations for family preservation.

(iii) The necessary safeguards are established to ensure women victims are not mandated, either by law or practice, to participate in any counselling and/or mediation processes without their full and informed consent.

(iv) Cases of verbal abuse and psychological violence are taken seriously and addressed by the authorities, before they escalate into instances of physical violence.

(v) The removal of perpetrators from the family home is preferred over the removal of victims and their children. Police and CSWs must ensure that children are automatically removed from the care of perpetrators of domestic violence.

(g) Strengthen and disseminate existing public-private partnerships, such as the establishment of “mobile teams” to respond jointly to reports of domestic violence. This will ensure that authorities benefit and learn from the expertise and knowledge of civil society and women’s organizations that work with victims.

(h) Guarantee the continued support of NGO-run safe houses in all areas of the country. State and local level authorities should recognize the valuable work of these organizations and provide support and cooperation by, inter alia, providing the

financial support mandated by law, referring victims to shelters in a timely manner, and supporting the establishment of much-needed shelters in new locations.

(i) Expedite the implementation of the National Strategy for War Crimes Processing and ensure that any crimes of sexual violence are prioritized and prosecuted. Courts and prosecutors at the State, entity and cantonal levels should be provided with political and financial support to undertake these proceedings while ensuring witness support and protection measures and programmes for victims. Courts should also ensure the right of women to make any financial compensation claims during criminal proceedings.

(j) Finalize and launch the Programme for Victims of Wartime Rape, Sexual Abuse and Torture, and their Families 2013-2016 and ensure allocation of necessary financial and human resources for its implementation. The programme should be implemented with the full participation of relevant entity-level authorities and in consultation with civil society and victims' organizations.

(k) Finalize the launch of a nationwide Transitional Justice Strategy that includes:

(i) Fact-finding and truth-telling activities that acknowledge the war crimes experienced by women, regardless of their religious or ethnic background, and also recognize how shame, trauma or fear of stigmatization have restricted victims from speaking out.

(ii) Memorialization activities that foster the widespread societal recognition of the harms suffered by women during wartime, as well as the disparate and disproportionate consequences that these crimes had on them.

(iii) Reparations programmes that target the rehabilitation and de-victimization of survivors, as well as the improvement of their psychosocial and physical health, including by better coordinating the existing services provided by both State and CSOs. A clear differentiation should also be made between any reparations programmes and the social welfare provisions to which women are entitled.

(iv) Compensation schemes that avoid the differentiated treatment currently being received by civilian victims of war throughout the country. Such schemes should broadly include employment, housing and financial incentives for women survivors of wartime violence.

Societal change and awareness-raising

(a) Design and launch, in cooperation with women's organizations, targeted awareness-raising campaigns to educate and change societal attitudes, particularly those that foster patriarchal ideas about the roles of women in society and that undermine the human rights of women under the guise of "family protection".

(b) Ensure State, entity and local level authorities address violence against women as an extreme form of inequality and gender-based discrimination. While it is important to continue addressing structural factors such as war-related mental health problems, poverty, unemployment, or substance addiction as triggers of violence against women, it is crucial to recognize as the main underlying cause of such violence the prevailing patriarchal understanding of the relationships between men and women.

(c) Continue strengthening capacity-building and training activities for all those involved in providing services to women victims, including policymakers, judicial officers, health-care professionals and other service providers.

(d) In cooperation with women's organizations, train and sensitize the media on issues related to women's rights generally and violence against women in particular, in order to contribute to changing the predominant social and cultural beliefs and attitudes that perpetuate harmful stereotypes and myths about women.

Appendix

Selected testimonies

1. Z and her daughter were living in a shelter after escaping their abusive home. The threats and mistreatment inflicted by the perpetrator was such that they would often have to sleep in the streets or in parks to escape their abuser. However, as they did not have bruises or any physical injuries, their claims were often dismissed by the police when they reached out to them. It was only after they contacted the domestic violence hotline that they were recognized as victims and placed in shelters.

2. X had endured years of abuse by her son, who is an alcoholic. She is a war widow, and when her son turned 18 he became the legal owner of their apartment, which was an inheritance from his grandfather. He became aggressive and began physically and psychologically abusing his mother. He expected her to cook and care for him, and to provide him with money to go out with his friends. As she was no longer working and living on a pension, it became more difficult to meet her son's demands. On one occasion he tried to strangle her and on another occasion he threatened to throw her out of the window. He would also humiliate her and threaten her in front of his friends, who he frequently brought home to drink with him.

3. Y shared her story of abuse from her mother-in-law. She explained how the abuse began as soon as she married her husband and they moved into his family's home. Her mother-in-law psychologically abused her for six years. She exerted total control over her, would not allow her to go out, would not feed her, would decide what clothes she should wear, insult her in front of others or physically assault her. Even though her husband was aware of the abuse, he did not do anything to stop it. She never reached for help due to lack of awareness about the existing institutions.

4. D was living in a shelter with her newborn baby. Her partner was very abusive and forced her and her six children to beg in the streets and collect money for him. He was abusive during and after her pregnancies. He would not allow her to take any birth control and would become violent if she did not fall pregnant. She had not reported the violence and when her neighbours reported the situation to the authorities, she denied that any abuse was taking place. On one occasion she had run away and had been placed in a hospital, but eventually returned to her abuser because of her fear of him and the psychological control he exerted over her. She finally moved to a shelter after he kicked her out of the house during a violent episode.
