

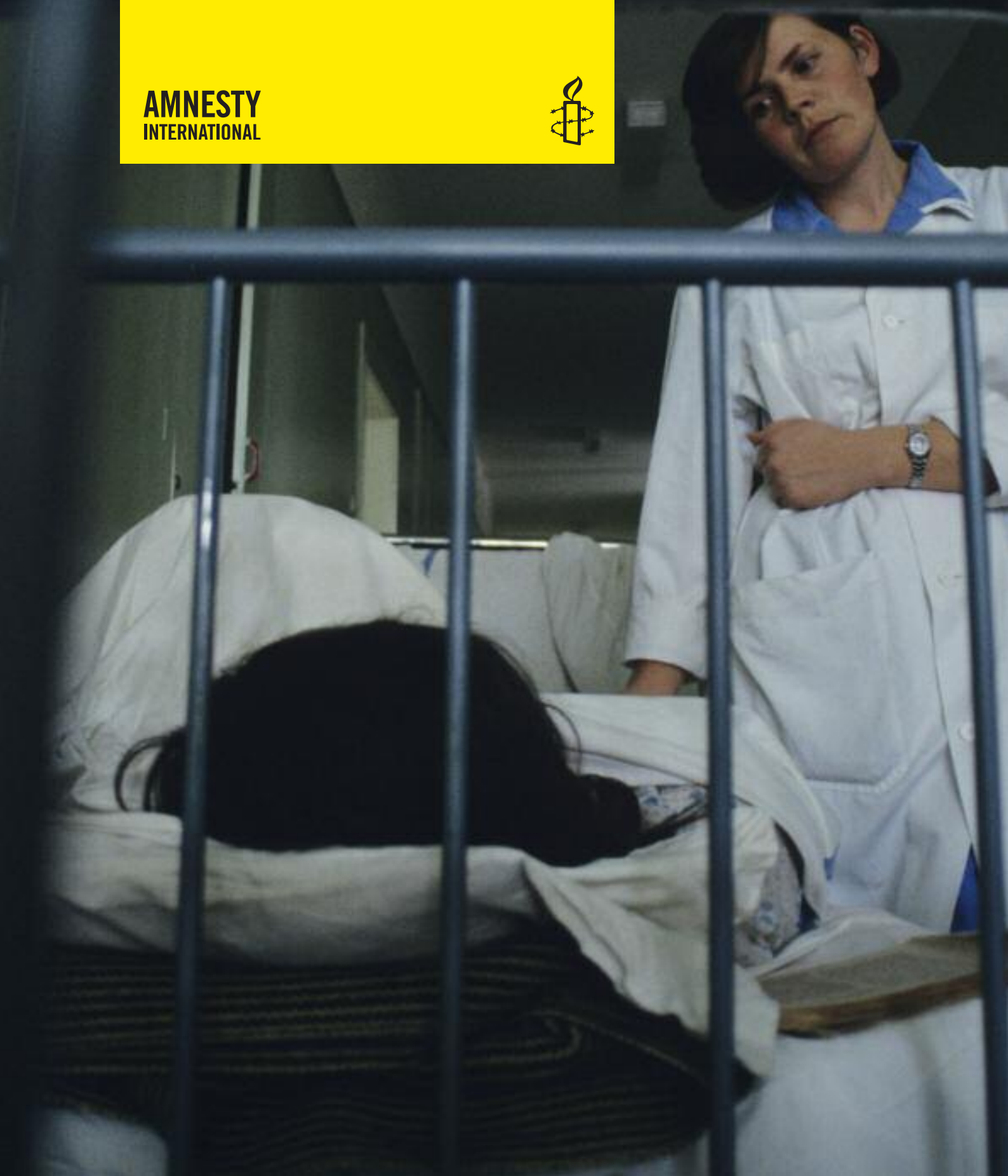
OLD CRIMES SAME SUFFERING

NO JUSTICE FOR SURVIVORS OF WARTIME RAPE
IN NORTH-EAST BOSNIA AND HERZEGOVINA

AMNESTY
INTERNATIONAL



CAMPAIGN FOR
INTERNATIONAL
JUSTICE



Throughout the 1992-1995 conflict in Bosnia and Herzegovina (BiH), thousands of women and girls were raped, many of them systematically and repeatedly. In spite of international outrage and widespread media attention, very little has been done in BiH to ensure the survivors' right to justice, truth and reparation. While most perpetrators have never been brought to justice, the survivors of these crimes are still struggling to rebuild their shattered lives.



Amnesty International is just one of many organizations and institutions that have documented hundreds of cases of women and girls who were raped during the conflict. For years, the organization has been calling on the BiH authorities to bring those responsible to justice, and to provide survivors with reparation for the crimes committed against them.

“They [politicians] do not care about us. They are too busy playing their political games. What about us?”

S.

STATE INACTION

In 2010, the government of BiH made a series of commitments to ensure access to justice, truth and reparation for survivors of crimes of sexual violence. One of these was to adopt a programme for women victims of sexual violence in conflict and beyond, an initiative aimed at improving survivors' health, social and economic situation and reducing the stigma they face. According to the BiH Ministry for Human Rights and Refugees, this programme, when adopted, should improve access to, and the quality of, services for wartime rape survivors in those municipalities where most of the victims now live.

Amnesty International welcomes the commitments the BiH government has made, but remains deeply concerned that none of them have been finalized or implemented to date.

Under international law the state is responsible for guaranteeing rights to justice, truth and reparation. In practice in BiH, local authorities have an obligation to deliver many of the services needed to ensure enjoyment of those rights, including healthcare services and access to the criminal justice system.



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ACTING LOCALLY

In light of this lack of progress, Amnesty International examined the situation in one area of the country where many survivors live and attempt to access justice and reparation through the local authorities.

This briefing focuses on the Tuzla Canton and the problems of survivors living there. Amnesty International chose Tuzla as the focus for its research because of its long-term relationship with highly experienced local women's rights groups who, for many years, have worked with the survivors. For this reason, many women were willing to talk to Amnesty International.

Their testimonies make clear that the denial of their right to justice, truth and reparation adversely affects every aspect of their lives.

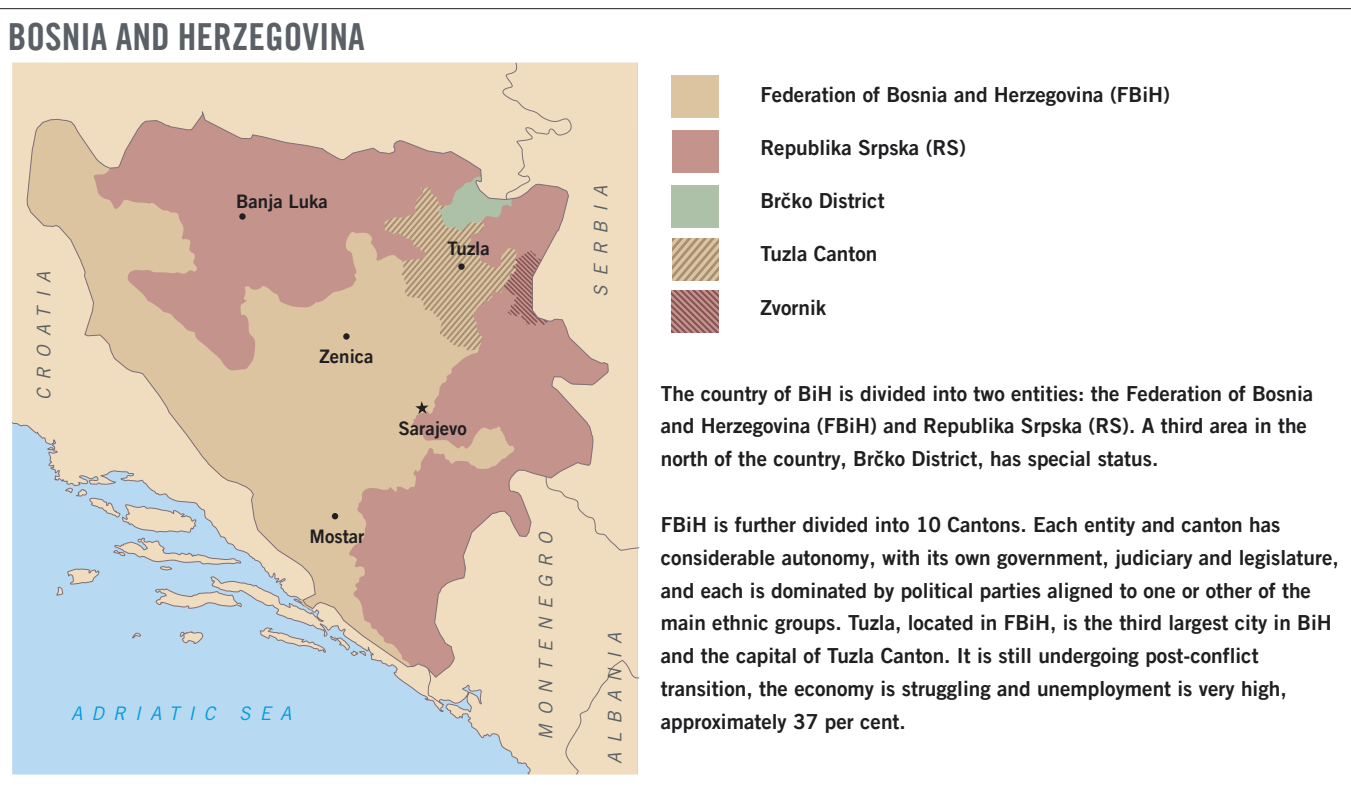
The women spoke to Amnesty International about their experiences: how they have tried to get justice in the courts, to exercise their basic rights, especially accessing health care, and to get official recognition as civilian victims of war.

During the war, the survivors interviewed in Tuzla were subjected to numerous crimes under international law, such as rape and other forms of torture. They suffered sexual slavery, enforced disappearance and

above: Children take part in an action in Tuzla, BiH, hosted by the women's organization Vive Žene for the International Day Against Torture. Vive Žene provides psycho-social support to survivors in north-eastern BiH.

cover: A nurse treats an 18-year-old Muslim girl in Tuzla hospital, following her escape from imprisonment, torture and multiple rape in 1992. © Nina Berman / NOOR

arbitrary detention. On top of this, they experienced the trauma of crimes being committed against their loved ones. Many of the women are still grieving for family members who were killed or went missing



during the conflict. The fate of many of the missing is still unknown. Most of the women are now single heads of household, having lost their partners in the war, and they bear the responsibility of caring for their remaining family members. They are often the only ones in the family with any income, usually from a social welfare payment or state pension.

Throughout the war, thousands of Bosnian Muslims were expelled from, or were forced to leave Serb-controlled territory. Many found refuge in Tuzla, the nearest “safe haven”. Many remained there after the conflict as they were unable to return to their homes.

SCOPE OF THESE FINDINGS

In November 2011, Amnesty International visited Tuzla and spoke to survivors, representatives of the judiciary and local police, social welfare and mental health care centres and the cantonal Gender Commission. We also spoke to women’s organizations, associations of survivors and human rights organizations.

Amnesty International interviewed 24 women in Tuzla. Many of them had been interviewed by the organization in 2009 (as described in the report *Whose Justice? The women of Bosnia and Herzegovina are still waiting*, Index: EUR 63/06/2009). They had survived rape, other crimes of sexual violence and torture in the eastern Republic Srpska towns of Zvornik, Liplje/ Salihovići, Bijeljina, Vlasenica, Bosanski Šamac, Bratunac, Srebrenica and Potočari. The youngest was 14 years old when she was raped, the oldest in her late 60s. Most of these women now live in Tuzla Canton.

Although both men and women were subjected to sexual violence during the war, this briefing does not address the experiences of male survivors, as Amnesty International’s research is currently focused on following up the situation of the women interviewed in 2009. The organization believes, however, that research focusing on male survivors would be of significant value.

Amnesty International did not speak to Bosnian Serb survivors of rape and other crimes of sexual violence. It is very difficult

for Bosnian Serb women to come forward and reveal that they too are survivors of wartime rape as this fact is largely denied. This makes it even more difficult for them to claim their rights or have their experiences acknowledged.

DENIED ACCESS TO JUSTICE

Not one of the direct perpetrators of the crimes against the women Amnesty International interviewed has been brought to justice.

There are several reasons for this, including persistent denials by politicians, especially in the RS, that these crimes occurred, and an underlying lack of political will to act. In addition, BiH has a complex and under-resourced judicial system. This has caused extensive delays in bringing those responsible for crimes under international law to justice.

Out of the tens of thousands of alleged crimes of sexual violence against women, fewer than 40 cases have been prosecuted by either the International Criminal Tribunal



for the former Yugoslavia in The Hague (Tribunal) or by state and entity courts in BiH since 1995.

AT STATE AND ENTITY LEVELS

According to the 2008 National Strategy on War Crimes Processing, the War Crimes Chamber of the State Court of BiH in Sarajevo is responsible for prosecuting the most “complex” cases of crimes under international law committed during the conflict. Cases of multiple or systematic rape, or the establishment of sexual slavery detention centres are, by their very nature, “complex”. There are only around 130 such cases currently under active investigation by the State Prosecutor’s Office. Entity courts are responsible for prosecuting “less complex” cases, such as single incidences of rape. There is no publicly available information about the number of such cases being investigated by entity prosecutors.

In 2010, war crimes cases at the entity level were redistributed according to where the crimes were committed as

part of an initiative to bring coherence to the management of the war crimes caseload throughout BiH. At the same time, re-allocation of cases between the state and the entity level according to their complexity began. While these initiatives aim at resolving war crimes caseload, survivors of wartime rape in Tuzla have yet to see new progress in the handling of their cases.

IN TUZLA CANTON

Until June 2010, there were six pending cases of crimes of sexual violence allegedly committed in north-eastern BiH registered with the Tuzla Prosecutor’s Office. As a result of the redistribution of cases in 2010, some of these cases where the crimes were not committed on the territory of Tuzla Canton were transferred to prosecutors in Sarajevo and Eastern Sarajevo. In addition, four “complex” cases were sent to the State Prosecutor’s Office.

As of March 2012, the Tuzla Prosecutor’s Office is investigating one case involving crimes of sexual violence.



top: A memorial in Kalesija, near Tuzla, commemorating the Bosnian Muslim victims of war.

above: This former brick factory in Zvornik housed the “Ciglana” detention camp in 1992. Bosnian Muslims were detained there by the Bosnian Serb military forces and paramilitary groups and subjected to various crimes under international law, including to crimes of sexual violence.

GIVING TESTIMONY

Impunity for wartime sexual violence in BiH is exacerbated by a lack of resources and inadequate facilities in the courts. Some survivors do not want to testify publicly but, for those who do, local courts lack basic facilities to prevent further trauma.

Amnesty International visited the Cantonal Court in Tuzla, which was not equipped with the necessary facilities such as video-link technology, separate rooms for examining witnesses or separate entrances for witnesses and defendants.

Amnesty International notes that some witnesses need increased psychosocial support, a fact also recognised by the Tuzla Prosecutor.

“It is important to develop a relationship of trust with the victim. They have to participate in the proceedings and they have to be informed, otherwise they feel used. Witness support services, including psychological counselling are extremely valuable”.

Tuzla Prosecutor

In Tuzla, this support is formally provided by the NGO Vive Žene, because the local Centre for Social Welfare, whose responsibility it is, lacks the capacity and necessary expertise.

Amnesty International is concerned that the low number of cases of crimes of sexual violence from north-eastern BiH prosecuted by BiH courts stems from a combination of factors. The lack of infrastructure and resources available to investigate and prosecute cases at the entity level discourages survivors from testifying

and makes it difficult for prosecutors to complete investigations. Survivors’ testimonies are often the only evidence available in the prosecution of individuals charged with wartime rape. But many of the victims who are willing to testify are unable to identify the perpetrator by name. As a result, it can be difficult for the authorities to apprehend suspected perpetrators.

These problems are compounded by the fact that there is little guidance and training for investigators and prosecutors dealing with cases of wartime sexual violence at

the entity level. Amnesty International is also concerned that the low number of cases brought to trial cannot be remedied without official guidelines on how sexual violence cases should be selected and prioritized for investigation and prosecution.

For the women interviewed by Amnesty International these failures are exacerbated by the lack of information from the authorities about the progress in prosecution of their cases. The continuing impunity for the perpetrators denies the survivors their right to justice.

VILLAGERS DETAINED AND TORTURED IN THEIR OWN HOMES

In 2003, a local women’s organization, Vive Žene, documented the testimonies of 35 women from a village near the town of Zvornik. According to these women, in 1992 paramilitary groups from Serbia and local Bosnian Serb villagers detained them together with more than 400 other Bosnian Muslims in several houses in the village. The survivors said that about 120 women and girls were kept in these houses, where they were raped, often repeatedly, subjected to other acts of torture, and denied food; 27 people were killed. After two weeks they were liberated by men from the village who had been hiding in nearby woods.

Survivors told Amnesty International that they gave statements about their experiences to investigators from the Tribunal in 1995. For many of the women, this was a very difficult process, yet they never heard from the Tribunal again.

Their statements were then given to the Tuzla Court by the Tribunal. The Prosecutor in Tuzla told Amnesty International that she had not investigated the complaint, but in 2007 she was required to send it to the War Crimes Chamber in Sarajevo as it was a “highly sensitive” case with multiple victims and perpetrators.

In 2009, many of the women survivors repeated their statements to the BiH Prosecutor’s Office. However, as of November 2011, none had received any information about developments in this case. They have no idea what, if any, progress has been made by these three different courts in bringing the perpetrators to justice.

below: A monument made by the inhabitants of one of the villages near Zvornik, in memory of 120 women who were held in houses in the village during the war, where they were raped and subjected to other acts of torture.

L.'S STORY



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“I did survive. But only I know how. It’s very hard to live, but I have to live and I am doing my best. But we have to fight for our rights. We can’t wait for someone to help us. That’s just how it is.”

L. lived in a village near Zvornik. She was pregnant and had a one-year-old son when the war began. Her husband was in Croatia working. When the village was occupied by Serb paramilitaries she escaped and hid in the woods for almost a year with other villagers.

However, in January 1993 they were exhausted and cold, so started walking towards Tuzla in search of food and shelter. L. was carrying her son, but became separated from the group and collapsed. She woke up in a hospital in Zvornik surrounded by Serb soldiers. She cannot recall how she came to be in that hospital. She was told that her son was dead, but she never saw him and, still does not know how he died. At this time she was eight months’ pregnant. She told Amnesty International that the soldiers in the hospital tortured her and, as a result of severe beatings, she lost the baby. Later, she was held in secret detention in three separate camps in Zvornik and Bijeljina, where she was raped repeatedly. She was finally freed as part of a prisoner

exchange. She went to Tuzla, where she was later reunited with her husband. L. had two children after the war. They are now teenagers. As a result of her wartime experiences, including torture, she has many chronic health problems, but continues to be the main carer for her children, husband and parents-in-law. She has to work hard on their small plot of land to provide for her family. She tried to go back to her village, but it was too traumatic, so she returned to Tuzla. She says she never wants to go back there: “I couldn’t hand my children over to them again. I want to make sure my children have better lives than I had. I want them to choose for themselves how to live.”

“Many of the survivors ... are locked in the past ... We are trying to support them to find their way to the present and come up with positive thoughts about the future.”

Teufika Ibrahimfendić, psychiatrist working with Vive Žene

REPARATION

BiH has an obligation under international law to provide reparation for the harm caused by crimes committed during the war, alongside providing justice in the courts.

The justice system in BiH has largely failed to deliver justice for victims of wartime rape. The state has also largely failed to provide them with adequate reparation including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

There is no comprehensive programme of reparation in BiH. In the RS and in Brčko District survivors of wartime rape are effectively denied access to meaningful reparation, but in the Federation of Bosnia and Herzegovina (FBiH) there are some measures of reparation available.

In FBiH, survivors of rape may apply to be recognized as civilian victims of war under The Law on the Basis of the Social Protection, Protection of Civilian Victims of War and Families with Children (the Law on Civilians Victims of War). Being granted the status of civilian victim of war is a form of official recognition for crimes committed against the survivors and the ongoing impact of those crimes on their lives.

This status brings with it a number of benefits, including entitlement to a monthly pension. (However, there is always a fear of losing it as the International Monetary Fund and World Bank, which support the BiH economy, have said the government must cut its social welfare budget to be eligible for future loans.) Survivors of rape living in Tuzla who have the status of

civilian victims of war currently receive approximately 500 Bosnian convertible marks (€255) per month. For most, this is their only source of income.

Civilian victims of war are entitled to other benefits, such as health care, housing, vocational training and legal aid. Cantonal centres for social welfare are responsible for administering these services.

However, there are serious gaps and inconsistencies in how the Law on Civilian Victims of War is implemented in Tuzla. There are a number of reasons for this, including the country's poor economic situation, inadequate resources for public services, lack of proper training, lack of clarity about the applicable laws, and the deadlocked political situation. The extent of these gaps is unclear: the BiH authorities have not gathered information on whether local institutions have the capacity to provide the services, and have not given them guidance on how to implement existing legislation.

Recognition as a civilian victim of war is very important for survivors as a form of symbolic acknowledgement of the crimes committed against them. However, their overriding concern is that even with this status, they are unable to access the benefits that come with it – in particular health services and prescribed medications.

Reparation refers to the concrete measures that should be taken to address the suffering of survivors and victims of gross violations of international human rights law. Reparation is intended to assist victims to rebuild their lives and access justice.



top: Teufika Ibrahimfendić is a psychiatrist and psychotherapist who works with Vive Žene. She is one of the most respected and experienced psychotherapists in BiH. She has helped many survivors to rebuild their lives.
above: Snaga Žene provides survivors of wartime rape with psychosocial and economic support. “Flower Valley”, implemented in the Srebrenica area, is an income-generating and therapeutic project, which provides survivors with flower seeds (in this picture echinacea) and helps them sell the flowers.



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struggle to get the medical treatment they need. They must have health insurance to access the necessary services and medicines. Most of the women Amnesty International spoke to do not have health insurance on the basis of their status as civilian victim of war. Some of the women have health insurance through their husbands or as part of other welfare entitlements. Others have none at all, leaving them with only very limited and inadequate access to health care.

Rehabilitation is one of the five recognized forms of reparation to which survivors are entitled under international law, and includes access to medical and psychological care.

Survivors continue to suffer serious physical and psychological symptoms because they were raped during the conflict. These include post-traumatic stress, high levels of anxiety, sexually transmitted diseases, chronic anaemia, colitis, hypertension, diabetes, severe joint pain, headaches and insomnia.

International that they refer patients without health insurance to NGOs, such as Vive Žene, as the Centre cannot treat them without insurance either. The Director of the Centre was unable to provide information about the number of survivors the centre treats and the number referred to NGOs on this basis, as they do not collect this kind of data. Amnesty International considers that collection of such data is crucial for the authorities to assess and respond to survivors' needs.

“This is our biggest problem [lack of health insurance]. We try to assist ... but in many cases we have to refuse long-term treatment to patients who have no insurance. It is so difficult for us to refuse help. We have a person and we know how to help them, but we cannot.”

A psychiatrist at the Tuzla Mental Health Centre.

Most of the women to whom Amnesty International spoke cannot afford to pay for all the medications prescribed for them, whether they have health insurance or not.

“When I have money I can buy my medicines. When I don't have any money, I have to go without.”

H.

Basic health insurance entitles patients to a refund on their two cheapest prescription drugs. On average, the women take at least five prescription drugs per day. They typically pay between 100 -150 Bosnian convertible marks for their drugs, approximately 25 per cent of their monthly income.

REHABILITATION

“We know that the law says we are entitled to health care, but in reality the centres for social welfare do not recognize this right. I have civilian victim of war status but nobody recognized it. I only got health insurance when I received the disability pension.”

Z.

The Law on Civilian Victims of War states that civilian victims of war are entitled to support in accessing healthcare, yet all the women Amnesty International spoke to

“I remember everything and I wish I didn't. I remember the torture. They beat me until I couldn't get up. They [the soldiers detaining her] would come and take me to a room] on my own and leave me there alone with [the perpetrator]. I was there for three months. I had no idea where my children were. I dream every night about what happened. Even with those pills I have those dreams.”

M., now living in Zvornik

The medical staff of the Centre for Mental Healthcare in Tuzla told Amnesty



LIVING IN LIMBO

"I had to return [to Zvornik]. I had nowhere to stay and I did not know how to find my way around the bureaucracy. I returned to my son's house. I live with him, his wife and their five-year-old daughter. We can barely survive. We live off my pension [payments she receives on the basis of her status as a civilian victim of war]. My son and his wife have no income and no possibility to find a job. But I have no health insurance here, so I travel 100 km to Tuzla to see a doctor and attend therapy at Vive Žene."

M., who returned to Zvornik from Tuzla, where she had been registered as an Internally Displaced Person.

The conflict created more than 2 million refugees and internally displaced people. According to the entity laws, internally displaced people are entitled to special status and certain benefits as long as a "safe and dignified" return to their pre-war homes is not possible. When there are no more obstacles to their return, they are expected to go back to their town or village. At that point they cease to be displaced and lose all related benefits, including health insurance. They are expected to register in the place of return and are then dependent on local services. Whether they get health insurance depends on their employment status or being recognized as socially vulnerable.

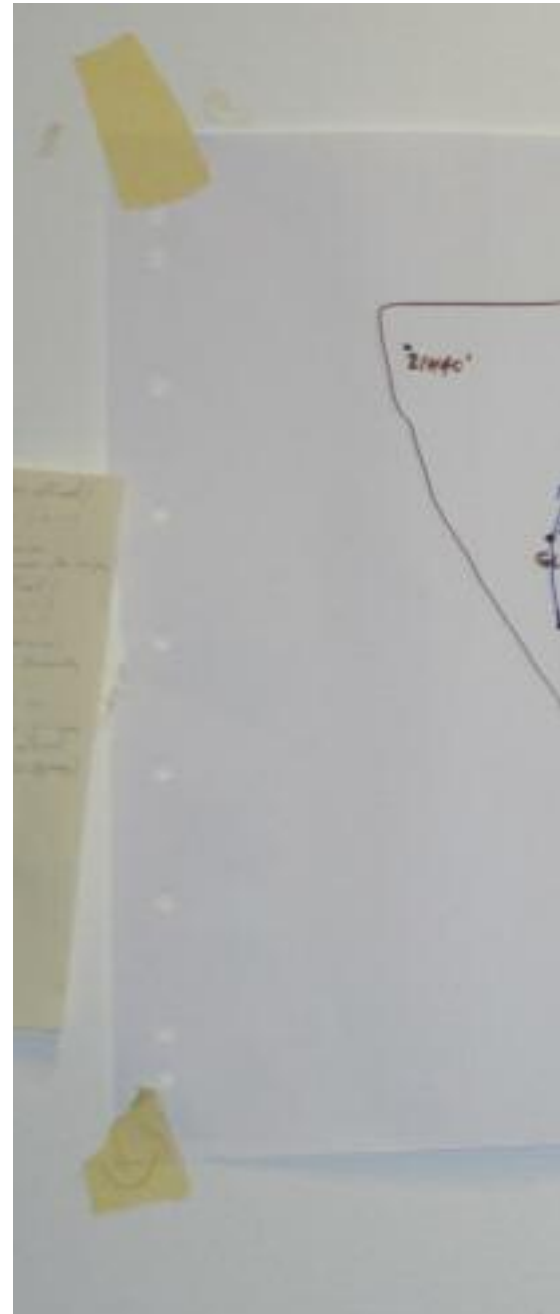
None of the social welfare benefits they enjoyed in the FBiH, including those attached to the status of a civilian victim of war are honoured by the RS authorities.

The failure of the BiH authorities to prosecute these crimes and end impunity prevents many survivors from going back. Return means the possibility of walking down the street and seeing the people they believe committed the crimes against them. Survivors are also fearful that return will put them at risk of additional trauma and worsen their already poor psychological health. Some survivors who returned to the RS told Amnesty International that the return had exacerbated their symptoms of post-traumatic stress disorder.

"I live in fear of my life and feel worse every day. I cannot sleep. When it is dark, I look out of the window. I am afraid they will come back for us. I can only calm down and survive the day if I take my medicine. I try not to leave the house, so I do not have to see them [the perpetrators living in her village.] My psychiatrist told me it would be better for me if I could go back to Tuzla, but I can't."

M.

It is for these reasons that many women would rather stay in Tuzla as displaced



people than return to their communities in the RS, even though their status is not permanent and they fear that they will soon be forced to return anyway.

Existing legislation does not provide any alternative for people who cannot, or choose not to, return. The BiH Ministry for Human Rights and Refugees is trying to address this issue through The Revised Strategy of BiH for the Implementation of Annex VII of the Dayton Peace Agreement, which was



adopted in 2010. However, there is no genuine political will to implement the Ministry's initiative or to find another sustainable solution.

As a result, many survivors of wartime rape, whether they returned to their place of origin or remain in Tuzla, live in limbo – unable to rebuild their lives because they lack access to their basic social and economic rights. At the same time, they all live in fear and insecurity.

above left: Displaced people from Srebrenica found themselves in this camp at Tuzla airbase in 1995. Many remained in Tuzla after the war as they were unable to return to their homes, now in Serb-controlled territory.

above: A map drawn by participants of a workshop organized by Vive Žene. It shows the routes that participants followed during the war. They were displaced from their villages by the war, then moved to places of detention and “safe havens”.

CONCLUSION

Successive governments in BiH have failed to acknowledge the rights of civilian victims of wartime sexual violence and provide them with access to justice, truth and reparation. Consequently, those local authorities responsible for providing services, even to a limited extent, are woefully under-resourced and ill-equipped to address these women's needs. In some cases, service providers are also insufficiently trained or lack the political will to do the jobs they are required by law to do.

Almost two decades after the end of the conflict, Amnesty International finds itself once again having to call on the state and entity authorities in BiH to fulfil their international legal obligations to address the survivors' suffering and guarantee them access to swift justice and full reparation.



© Snaga Žene

RECOMMENDATIONS

Amnesty International recommends that the Tuzla cantonal and municipal authorities:

- Ensure that survivors have access to health insurance and to the highest standards of medical treatment, including medication.
- Increase the resources and capacity of social welfare centres and mental health care centres, so they can fully meet the needs of the survivors of sexual violence.
- Ensure that disaggregated data on the number of survivors, their social and economic situation and their needs is collected.

Amnesty International recommends that the state and entity authorities:

- Immediately develop and implement the programme for women victims of sexual violence in conflict and beyond, which should identify and respond to the needs of the survivors, and provide them with full and effective reparation.
- Ensure that the justice system prioritizes the investigation and prosecution of cases of wartime sexual violence and has the full capacity and resources to promptly, impartially and effectively do so.
- Ensure equal access to rehabilitation and other measures of reparation for all civilian

victims of war, as required under international law, without discrimination on any ground and regardless of where they may live.

- Implement The Revised Strategy of BiH for the Implementation of Annex VII of the Dayton Peace Agreement, to ensure that those who cannot or choose not to return to their pre-war homes are given suitable alternatives.
- Allocate adequate resources to NGOs providing psychological support to the survivors of sexual violence.

above: Women hold flowers, which they grow as part of the “Flower Valley” initiative, a psychosocial assistance project by the NGO Snaga Žene.

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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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