



REGIONALNI CENTAR ZA MANJINE  
REGIONAL CENTRE FOR MINORITIES



# 10<sup>th</sup> of December

# INTERNATIONAL

# HUMAN RIGHTS DAY



# 10<sup>th</sup> of December - International Human Rights Day

## *Helsinki Committee for Human Rights in Serbia*

*Sonja Biserko*

Serbia is a country in progress, with the weak and dysfunctional institutions, which has not yet made a step towards changing the system. There is no a step forward towards resolving internal issues, as there are still bills to resolve the issue of state borders. Therefore, it is constantly seeking ethnic homogenization, which favors the rise of conservatism and authoritarianism. Nationalism is still dominant, preventing the pluralism of society.

What is dominating is the resistance of the ideas of multiculturalism and cosmopolitanism, as well as hostility towards the "new" (LGBT population) and traditional minorities (Roma). It strengthens the radicalism that is directed against all non-Serb communities. This is an important warning signal that is the result of incompetence of *mainstream policy* to respond to new challenges; at the same time, it undermines its legitimacy. In the background is definitely a structural problem, resulting from the economic, social and cultural change.

Serbia is a country of the majority community, it lacks serious state policy of inclusiveness, so it can be concluded that Serbia is divided society, primarily on ethnic grounds. Particularly lacking understanding for the new minority emerged from the break of Yugoslavia - as Bosnians and Croats. There is no understanding for their specific fears.

The unwillingness of Serbia to overcome the legacy of the recent past and her distancing itself creates tensions in regional affairs, as it was recently the case with the return Vojislav Seselj. What is lacking is ethics and responsibility in relation to the past. It mostly affects the young generation that grew up on myths and falsified processing of the past. The relativization and denial led to normalization of crime and moral insensitivity.

The concept of human rights is perceived to be imposed. Increasingly campaign of public hearings aimed at belittling the part of civil sector that stood up against crime and war and intolerance and discrimination. Regardless of the legal framework regulating the sphere of human rights, it has not yet become part of the value system.

Freedom of expression and critical opinions is constantly under attack leading to atrophy of the opposition action, but also critical public at large. The economic and social situation is in constant regression and can result in social radicalization as objectively goes into the hands of populism.

# THE RIGHT TO LIFE WITHOUT VIOLENCE

## *Autonomous Women's Center*

*Bobana Macanović*

*Violence against women is one of the most serious violations of human rights and freedoms, which endangered the right to life, liberty, and psychological and physical integrity of the victim.*

Although the Republic of Serbia does show interest in solving the problem of violence against women, the reality testifies on the lack of a clear political and systemic response to this problem.

Every second woman in Serbia has been exposed to some form of domestic violence in her life, and nearly 22% have been exposed to physical violence. As much as 32% of women in Serbia were exposed to psychological violence in the last year.

Femicide is the most drastic form of violence against women, which is based on gender inequality and violence – murder of a woman because she is a woman, but it includes tolerating crime, inability to prevent it and protect women and impunity – the institutional aspects of violence. According to the Network Women against Violence, 43 women were killed in 2013 and in 2014 (till December) 22 women were killed in domestic violence. Almost a third of women (27%) had reported violence to relevant institutions (police, CSW, healthcare centres), seeking protection and assistance shortly before they were killed. These figures do not include those women who have died as a consequence of many years of suffering violence.

Court proceedings for protection from domestic violence were initiated in a very small percentage by relevant state bodies – prosecution offices and centres for social welfare (less than 10%). Although these measures should be imposed by the particular urgent procedure, only in 20% of cases the first instance judgment is reached within one month after filling civil suit. Court order for removal of a perpetrator from family apartment or house is rarely imposed, and woman and her children are found an alternative accommodation, whilst the perpetrator remains in the home. The court has no legal obligation to submit judgments on the imposed protection measures to the police, although it is the police who intervenes in the cases of repeated violence.

Definition of members of the family, whom should be granted protection from domestic violence, is much narrowed in Criminal Code than the Family Law, which reduces the possibility of criminal law protection of the victims. In the Criminal Code there are no criminal offences of harassment or stalking, despite the fact that this phenomenon is very widespread, and sometimes it ends up by a murder of woman by the stalker.

There is a great disparity between total number of police interventions, number of filed criminal charges and

number of convicted persons. In 63% of interventions cases police issued verbal warnings.

Criminal sanctions imposed in the first instance show a tendency of mild penal policy – 67% of sanctions are suspended sentences. We still do not have Law on Free Legal Aid.

According to the Network *Women Against Violence*, women's nongovernmental organizations have had 22 SOS hotlines for women victims of violence, very experienced, including 2 SOS hotlines for victims of trafficking, 4 specialized for women with disabilities, and 3 available in languages of national minorities. SOS hotlines of women's NGOs receive no (or occasional and insufficient) financial support from the local governments. Shelters for women victims of violence are not easily available and accessible to women with disabilities.

Sexual violence against women is still a taboo – only 6% of women reports rape. A criminal offence is categorized as rape only if it included a use of force or a threat of use of force, and not as an absence of consent. The Criminal Code states that marital rape will be prosecuted only if the victim joins the legal prosecution, and not *ex officio*. There is no multi-sectoral protocol on the treatment of rape victims, neither there are specialized, free of charge services for victims of rape and other sexual offences.

Therefore, it is necessary to:

1. Harmonize legislation and practice with the standards of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.
2. Provide consistent implementation of laws and efficient court proceedings with a systematic support for victims of violence and free of charge legal assistance.
3. *Develop policy against discrimination* toward marginalized groups of women: Roma women, women with disabilities, lesbians and others, within the procedures of reporting, assessment and legally processing gender based violence. Ensure physical accessibility of institutions in charge of protection of victims of violence to persons with disabilities, including accessibility of shelters.
4. Punish the perpetrators with sanctions proportionate to the severity of crime. Ensure that vulnerable groups of victims (women and children) get guaranteed greater protection rights within criminal proceedings. Introduce emergency protection measures for women victims of violence. Change the definition of rape to unconsensual act and delete monetary fine for all criminal acts against sexual freedoms and increase prescribed minimal sanctions.
5. Provide long term financing within the budget of the Republic of Serbia for the work of women's nongovernmental organizations specialized for the problem of gender base violence against women.

# Stop enslaved laborers!

On the 10<sup>th</sup> of December - International Human Rights Day

## ***Women's Section of UG Equality***

*Milica Lupšor*

### **Economic and social environment in the town Zrenjanin**

City of Zrenjanin in 1989 - 1990 had about 150 000 inhabitants and 90 000 employees. Now the number of employed is about 29 500 of 130 000 inhabitants. The National Employment Service in Zrenjanin on their website publishes data on the number of only 8 506 unemployed. What happened to the difference of about 52 000?

I live in a city with the most expensive consumer basket in Serbia, where citizens in past 10 were buying bottled water for drinking, because the tap water is full of arsenic and heavy metals. Zrenjanin is the town where the entire industry was destroyed. Strikes and protests, as in other places in Serbia, are unavoidable and they occurrence on everyday bases, and the last one is the several months strike of workers of „Agroziva“from Zitiste, which is still going on, and where one worker died during the strike.

### **Some facts about the enslaved workers in Zrenjanin** - a report from the field

- Due to the growing unemployment, the number of workers who work on „black“ usually in seasonal jobs (especially in agriculture) has grown. The working rights are totally threatened: not entitled to health insurance and pension benefits, the cost of labor is lower than the statutory, many people work more than 12 hours a day, without a day off during the week and even month. Particularly vulnerable are the women, especially those with disabilities, and members of the Roma population.
- In an one orchard near Zrenjanin, workers have tried to rebel against the daily allowance which is the same for 4 years, 720 dinars per day. However there were workers who didn't want to argue, because it is their only income and they stated that they will agree on lower wages, since it is the only way for their families to survive, and the protest dropped.
- The owner of a textile factory, „Fashion Star“ was locking his workers while they were working, also didn't allow the inclusion of cooling devices during summer or heating during the cold months. The workers were silent and they just operated. When they asked for two unpaid wages, he dismissed them, and when they did press charges against him, he liquidated the company, and then in another space opened up new one, with new workers.

- The workers were told us that employers asked them for a medical certificate if they repeatedly go to the bathroom, or they had to wear red armbands during the menstrual cycle, in order to know that they will at that time be less productive so they can be payed less in those days.
- Employer to his workers who are legally logged paid minimum wage legislation foreseen by the law, so it would not come into conflict with labor inspection, and then the next day after payment asks them to return 5 000 dinars, and they agree to it, because again,, better something than nothing.“
- In „Drekslmajer“ workers (about 2 670 of them) were exposed to the ruthless exploitation, but the one that were talkig about it publicly are the one that were fired. As redundancies were discharged 41 people, and as an explanation it was told that workers didn't achieve the required performance in the workplace, although among them there were a few who are due to several years of heavy working conditions in the factory became disabled.

### **Fear marks the lives of workers...**

- fear of losing their jobs, which is why workers accept all the terms of employers,
- Workers do not want to speak about these issues, because they fear failure, and consequently the loss of income and inability to feed their families.
- Fear is the biggest problem that prevents a greater number of workers to speak up and try to fight against slavery that is currently present in Serbia.

### **Unionized workers responses against the enslavement and exploitation of workers**

UG **Ravnopravnost** from Zrenjanin was founded seven years ago as the needs of workers of Jugore-medija, BEK, Sinvoz and brewerie to jointly fight for the rights of small shareholders

### **Women's Section of the Association of equality fight against the growing exploitation of workers:**

- We launched the Support Group in a safe environment that gives workers space to talk about the problems they face, and provides the opportunity to receive advice on how to fight against discrimination, mobbing and inhumane conditions in the workplace.
- We organize forums and workshops to empower women in the fight for better conditions of work and life, the right to access to health care and care for all, especially women with disabilities.

*Zrenjanin, 8. decembar 2014.*

## 10<sup>th</sup> of December - International Human Rights Day

### *The Regional Centre for Minorities*

*Jovana Vuković*

On this occasion too, on the International Human Rights Day, we are obliged, in the first place, to critically assess the situation of Roma in Serbia which is still marked by discrimination, violation of fundamental rights and extreme poverty. While a modest progress has been noted in certain areas, especially in regard to the advancement of legislative framework and the adoption of strategic documents, continuous violations of rights as well as an unprecedented prevalence of hate speech in media and increasing number of physical attacks on Roma, demands undivided attention and engagement of all stakeholders, especially the state institutions.

Advancement of the legislative framework and the adoption of strategic documents surely is an important step towards the improvement of the general situation of Roma. However, the severe discrepancy between progress made in that regard including a declarative support by authorities on the one hand, and their implementation and tangible changes in lives of Roma, is rather disturbing. We are afraid that lack of funds, is not and can not be an excuse for the existence of this problem. Namely, instead of spending the earmarked funds on administering projects, astronomic experts' fees and rewarding political support, more efficient and transparent spending which assesses and acknowledges needs of the most vulnerable ones without indefinite involvement of numerous intermediaries is necessary. Strategic documents and corresponding action plans should not only aim to conform to formal requirements of the European Union, but to express a government's firm commitment and provide with a concrete and responsible plan to display this commitment. Unfortunately, the very European Union tolerates this practice, since it too suffers from the discrepancy between the proclaimed equality policies and their efficient implementation and concrete advancement of situation of minority groups' members.

In the same time, further erosion of economic and social rights is being continued, especially affecting Roma as Serbia's most poor. Among these rights, right to housing remains the burning issue for Roma. Significant number of Roma still lives in informal settlements in conditions far beyond any decent living standard and ability to live a dignified life. Though the previous action plan for housing included advancement not only of a legal framework but specifically living conditions in Roma settlements, it remained almost solely unimplemented. Besides, Law on legalization which had recently been adopted failed to recognize the specific situation of Roma living in informal settlements, therefore resulting in lack of their response to legalization calls. This makes their housing situation ever more uncertain bearing in mind that Serbia postpones to legally regulate forced evictions. Considering that 19 forced evictions have been identified in last several years, out of which some affected tens and even hundreds of people, it is clear why many Roma living in informal settlements fears new evictions. There is, of course, no doubt



that housing requires significant financial resources. But, we are seizing this opportunity to stress that even when financial resources are secured, an inertia and inefficiency of state's institutions threatens to halt the assistance and result in the return of already transferred funds. In addition, the existing system of social housing, who's among many beneficiaries are Roma, is unsustainable and mocks the very concept of social housing. Namely, tenants of social apartments have acquired the right to use these apartments exactly based on their social status, are now losing this right as they are unable to pay the rent and other bills that greatly exceed the social support they are obtaining.

When it comes to other rights, situation is slightly better. While there is a certain progress being noted in education and health, there are still many difficulties in these areas as well. Especially worrisome is an enduring segregation in education and indecisiveness of authorities to terminate it. An access to health and social support is often blurred with discrimination and more frequent are complaints of Roma relating to these matters. In the same time, unemployment unreciprocally affects Roma both due to their lack of education but also due to prejudices of the employers. We would like also to stress that employment opportunities should not result in further homogenization of Roma in one place as it is the case with recycling centres being opened near to Roma settlements and which ends with triple segregation – in employment, housing and education.

However, of the gravest concern is the increase of hate crimes towards Roma recorded in the last year. Unfortunately, state did not collect data about the exact number of victims, and human rights organizations based on the cases they recorded can only analyse trends and alarm the public. A significant number of Roma is still afraid to report their cases to the institutions having doubts due to impunity of these crimes but also the possibility of secondary victimization many have experienced with the police. Even, when alleged perpetrators are identified, hateful bias is rarely taken into consideration when bringing an indictment and sentences around or under legal minimum are not preventing, but actually encouraging the perpetrators.

This does not come as a surprise having in mind more worrisome increase in prejudice towards Roma among majority population which is clearly evident in growing ethnic distance towards them. Tired from prejudice against neighbouring nations, xenophobic and nationalistic part of majority population has put Roma at the top of the hate list. Commentaries at the media and social networking sites, which are the genuine vox populi of today's Serbia, are filled with calls for lynchings, physical attacks, limitation of rights and discrimination of Roma. Media also have an important role in blooming of anti-Roma attitudes. They continue to take a sensationalist and tendentious approach in reporting about Roma which often results in increasing, not decreasing of prejudices.

Therefore, we invite you to express our solidaritz today with all minority groups that are excluded, discriminated against, whose rights are violated, and who are sometimes victims of violent attacks. Just all for all!

## 10<sup>th</sup> of December - Human Rights Day

### *Rekonstrukcija ženski fond i romski centar Dae*

*Nada Đuričković*

The violence is widespread and has become an integral part of behavior, conduct and communication. We are witnesses that reaction is always too late and that violence passes unpunished.

We have a situation of flooding that has left lasting consequences for many families. Nothing was done to prevent as much damage, nor continue to work at the speed with which this country promises to people - that they will repair the damage and that the people will live normally before the winter cold.

Due to the floods which occurred in Serbia in many places, people have lost their homes, houses where they can come back. A lot of people have lost documents due to rapid evacuation.

The most vulnerable are always excluded from any kind of help, so this rule was confirmed again.

In May I was with Roma women in housing at the Belgrade Fair. Great heat and a lot of space, without the possibility of personal hygiene and a little peace and solitude. I talked with women and pretended not to see sorrow and pain in their eyes. What gave me the strength is that I believed that humanity which we show will be given the same way by those who are able to help these people so they can go back to their homes as soon as possible. The money was coming, everyday we were informed how much money arrived. The promises that by the winter they will all go back to their houses. None of that is true, now we see it on the field. Unforeseeable consequences for the family are not even slightly reversed.

Thanks to the Reconstruction Women's Fund we were organized, not only as a psychological support, but we were able to specifically help people. The state skipped the most vulnerable and most discriminated in the provision of assistance for reconstruction of flooded house. We found women who are struggling through life alone and are strong and do not give up despite the illness. The state has asked for the reasons for the refusal and skipped the most vulnerable, those who do not have documents as a basis of living in those homes or do not have the documents at all. We found these people and we gave assistance that was generously allowed by Reconstruction Women's Fund.

**On behalf of the Reconstruction Women's Fund** I want to thank all those who in their own way endorsed action **Sisters to that in the best way**

## 10<sup>th</sup> of December - Human Rights Day

*Labris*

*Dragoslava Barzut*

Much evidence suggests that LGBT people in Serbia are living in a society in which homophobia, violence and discrimination are widespread. In such circumstances LGBT people are living in fear, anxiety and invisibility, both within the private and public spheres, making them by far one of the most marginalized social groups in Serbia.

There is a lack of systemic approach towards examining the effectiveness and enforcement of the provisions in the valid antidiscrimination laws, strategies and by-laws, as well as towards analysis of what could be done in other spheres which are not directly covered by existing laws. Although there is evidence to suggest that sporadic initiatives exist and that things are moving forward, these initiatives are rare, small scale and inconsistent.

State statistics on cases of discrimination and violence based on sexual orientation and gender identity do not exist, meaning that nongovernmental reports are the only source of such information.

Laws that explicitly mention sexual orientation and/or gender identity are the comprehensive Antidiscrimination Law, Labour Law, Law on Higher Education, Law on Public Information, Law on Broadcasting, Law on Youth, Amendments and Addendums to the Law on Health Insurance Social Security Law and Law on Amendments and Addendums of the Criminal Code, Law on education of elder population.

However, these laws are not adequately implemented and this remains the biggest issue.

Even though standard legal remedies for victims of hate crime incidents formally do exist, in practice such remedies and procedures are often not easily and effectively accessible by LGBT persons and are characterized by further victimization and discrimination of LGBT persons.

Hate crime is recognized by Serbian legislation within the adopted Law on Amendments and Addendums of the Criminal Code. While hate speech is forbidden by several existing laws, it is still widespread as evidenced by numerous unsanctioned instances of hate speech found in media and statements made by public figures, most notably politicians or church leaders.

Freedom of assembly is guaranteed by Serbian legislation. However, this right has been violated 4 times so far. With the exception of the Pride Parade in 2010 and 2014 which was allowed, Pride Parades in 2009, 2011, 2012 and 2013 were banned by state authorities, on grounds of high security risks, which the Constitutional Court has deemed to be unconstitutional. This remains as one of the most blatant instances of rights violation against LGBT persons made by the state. Although Pride parade took place this year in the center of Belgrade, that still doesn't mean the amelioration of the social or legal status of LGBT

people as it was held under heavy police protection.

Further, same-sex couples are completely invisible in Serbian legislation and other measures. Problems and situations faced by same-sex couples are ignored by the state as though same-sex couples do not exist, leaving such couples in a discriminatory position compared to different-sex couples (both married and unmarried) in respect to social security, health insurance, pension, inheritance, parenting, etc.

Even though gender reassignment is allowed, it is completely unregulated by law, making legal recognition of the change highly variable, uncertain, depending on arbitrary decisions and variable procedures by relevant officials, which often take a great deal of time and involve different kinds of humiliation and abuse.

The new draft version of the Law on Amendments and Addendums of the Law on Extrajudicial Proceedings according to which a transgender person needs a court's permission to undergo gender reassignment is an alarming step backwards, and if adopted would bring additional problems to already difficult, lengthy and painful procedures.

Even though comprehensive Antidiscrimination Law and Labour Law forbid discrimination based on sexual orientation in employment, discrimination and harassment of LGBT people is still widespread. The situation is particularly difficult for transgender people, as there are no state measures to protect them, coupled with extremely inefficient processes of legal recognition and change of documents, which can last up to a year, during which time the person cannot find employment and is at high risk of poverty and homelessness.

Education is one of the most neglected areas by the state, when it comes to sexual orientation and gender identity. There are no efficient programs and policies for struggling against bullying. There are no training and awareness raising programs for educational staff in primary, secondary and higher education conducted or initiated by state authorities. Discriminatory content from textbooks has not been eliminated nor has new content about sexual orientation and gender identity been introduced.

LGBT people do not have access to the same level of health protection. There are no trainings for health professionals, and relevant materials about sexual orientation and gender identity have been included in medical text books and manuals to a very limited extent. Some medical textbooks still regard homosexuality as an illness. Labris had done a research on how homosexuality is presented in the high-school textbooks and underlined the discriminatory content while giving the suggestions for non-discriminatory presentation of homosexuality.

Neither laws nor by-laws, policies and other measures pay attention to sexual orientation in sports, sport events and venues. Even though homophobia and transphobia, including violence and harassment, are present in sports, no measures have been undertaken by the state to tackle this situation. Homophobic and transphobic chanting at sport events remain to be one of the most frequent forms and manifestations of hate speech, which always go unpunished.

What needs to be done:

- To adopt legislation that would regulate same-sex partnerships
- To adopt legislation that would regulate gender reassignment processes and legal recognition, as well as legal regulation of medical aspects of the gender reassignment processes
- To continue to assure freedom of peaceful assembly for LGBT people
- To create a comprehensive statistical system that would include data on prevalence and nature of discrimination and violence based on sexual orientation and gender identity

## Combating Human Trafficking

### ASTRA

*Olivera Otašević*

Even though human trafficking is penalized in national Criminal Code, Serbian legislation and its implementation remain flawed when it comes to protection of victims of THB and their rights. Serbian judiciary has not improved with regard to its efficiency in prosecuting trafficking cases. Court proceedings are still very long, victims' testimonies remain the main piece of evidence, and little is done to prevent secondary victimization and protect victims' safety during and after trials.

**Non-detention, non-prosecution and non-punishment clauses protected by relevant international documents were not fully implemented in practice.** A certain number of trafficking cases are still prosecuted as facilitation of prostitution, even when alleged "prostitutes" are minors; also, there are cases of victims being convicted of crimes which are direct consequence of their being trafficked. The following case illustrates gravid consequences and further suffering such a system inflicts on trafficking survivors.

For seven years, human trafficking victim was brutally violated and exploited by a man who had committed a murder in front of her and forced her to confess the crime. Consequently, she was sentenced, by the Pančevo Higher Court (judgment 1K no. 95/11 issued in 2012) and by the Novi Sad Court of Appeal (judgment Kž 1 no. 3234/2013 issued in 2014) to 18 years imprisonment for first degree murder committed by her trafficker. This case of trafficking was never prosecuted because her exploitation started in 1995, years before THB was criminalized in Serbian legislation. Although she was officially identified as a THB victim in Serbia, both courts explicitly refused to establish the fact that the accused is THB victim, because of which it was not possible to apply the non-punishment provision (Article 26) of the CoE Convention on Action against Trafficking in Human Beings which Republic of Serbia signed and ratified in 2009.

ASTRA database, ID number 2849

Insufficient efforts were put in meeting international standards in relation to **protection of rights of victims of human trafficking**. There is still an absence of a document that would define minimum standards for assistance provision, which makes monitoring and quality control of this process. Although international legislation guarantees rights of crime victims, including those of THB (right to timely information, translation and understanding; the rights related to participation in court proceedings which include the right to a hearing, compensation, protection, etc), the national legislation only recognizes the right to compensation that is poorly exercised in practice. Although Serbia signed the European Convention on the Compensation of Victims of Violent Crimes CETS No. 116 in 2010, it is still not ratified. Compensation Fund does not exist and eleven years after trafficking in human beings was criminalized in national legislation only one victim was compensated for the damages suffered after a lengthily and costly litigation.

State's readiness to effectively cooperate and use capacities of CSOs in order to secure better functioning of national anti-trafficking mechanism has not improved. Serbian authorities did not ensure **civil society involvement** in the implementation of national policy for victim assistance, and victims were seldom referred to NGO assistance providers. Of 86 victims identified by the Center for the Protection of Trafficked Persons in the first six months of 2014 not even one was referred to ASTRA for assistance; out of 92 persons identified in 2013, only three were referred to ASTRA for support and assistance.

More than a year after the beginning of public hearing, the **Anti-Trafficking Strategy and the National Action Plan** have not yet come on the agenda for adoption, although these two documents were initially drafted to cover the period starting from 2013 (the last NAP expired in 2011).

## Human Rights Day

### *NGO Atina*

*Marijana Savić*

Human Rights Day, December 10, is an opportunity to remind ourselves of those who are, at this moment, the most vulnerable population of people living among us. Persons with whom NGO Atina works survived the situation of human trafficking - they are victims of sexual exploitation, forced labour, and of the worst forms of child labour and exploitation. Our country is facing difficult challenges in key aspects of support to the victims of human trafficking. Outdated institutional mechanisms in Serbia allow the victims to remain excluded from society, vulnerable, and at risk of re-victimisation. In this way, families of the victims

are also affected, and traumas they survived have a negative impact on their children as well. It creates wider impact on society, and contributes to the increase of poverty, social alienation and violence.

We are witnesses of hundreds of children who are daily forced to beg in Serbia, of a large number of forced "marriages", in which children are the victims, and the system still does not have built mechanisms for prevention and protection of children; we are witnesses of an increase in the number of asylum seekers, refugees and irregular migrants who flee their countries in search for peace and happiness, who think of Europe as their desired shelter, who are travelling and living in extremely difficult conditions, disempowered and without any kind of protection, we are witnesses of poverty and discrimination against certain groups, of violence that has not been responded to adequately and effectively... These are all risks of human trafficking, and it is responsibility of our society, and us as its citizens, to raise awareness of the risks and become involved in the fight against human trafficking.

Serbia has not yet developed adequate mechanisms for identification of victims of human trafficking, which is particularly difficult in the cases of labour exploitation. Also, the capacities to provide direct assistance to victims are largely limited, and do not correspond to real needs of this vulnerable group. In addition, Serbia has not yet developed models of support for the most important aspect of working with victims: their reintegration into society, and enabling the victims to begin an independent life. This is corroborated by the fact that the only Shelter for the victims of human trafficking in our country, run by NGO Atina, in 10 years of its existence received support and funds from the state only once, for a period of six months, and that civil society organisations are left to their own devices in providing help and support to these vulnerable groups.

In the past decade, a lot of work has been put into creating support system for the victims of human trafficking in our country, by CSOs and government institutions, but the data we now have do not suggest that a substantial progress has been made in this area. Out of all the beneficiaries of our support programme, 90% had already been registered with social welfare centres prior to becoming victims of human trafficking, which supports the fact that they were not recognised as persons in need; 75% of them had previously experienced violence which the system did not respond to adequately; 50% are children, 14 years old on average, which suggests that there are no specific programmes for prevention of violence and human trafficking; and all of our beneficiaries, on average, spend four years in a situation of forced labour, abuse, and captivity - an eternity in that kind of situation - before being referred to our programmes.

Since last year, there has been an increase in the number of identified victims of human trafficking among the population of asylum seekers and migrants, and in this regard it is necessary to develop an effective mechanism for identification and protection of victims of human trafficking, especially women and children, within the migrant population. In asylum system, there is a number of challenges that need to be solved in order to appropriately respond to the needs which the phenomenon of migration brings: the length of asylum procedure, insufficient accommodation facilities, inadequate assistance mechanisms,

lack of coordination and inter-sectoral cooperation, lack of financial, human and technical resources, mistrust and prejudice among migrants, as well as the prejudice of local population. According to the official data, from January to November 2014, 10.851 person expressed intention to seek asylum in Serbia, which represents an increase of over 100% compared to 2013, when there was a total of 5.066 expressed intentions. We have also noted an increase in the number of women and children among asylum seekers, as well as unaccompanied minors, who require special attention and creation of a support system that will respond to their needs.

On this day, we want to remind the public of the victims of human trafficking, as well as of those who are at risk of human trafficking and other forms of exploitation. We would also like to remind the authorities in the Republic of Serbia that it is an obligation of our country to invest extra effort in providing funds for the work of programmes that help victims to begin a safe, dignified life, as well as in strengthening mechanisms for identification of victims and prevention of human trafficking.

## **Accountability for War Crimes Committed during Wars in 1990s**

### ***The Humanitarian Law Center***

*Marijana Toma*

#### **General overview:**

- The process of transitional justice was never established in post-war Serbia due to the lack of will of all governments established after transition in October 2000 to approach to the process in a comprehensive manner, especially with regards to the war crimes and other serious violations of human rights committed during the armed conflicts in 1990s. Attempts and slow progress were identified only within victims' rights to justice, while all other mechanisms – mechanisms to establish truth, mechanism to establish just remedy for victims and rights to non-reoccurrence were completely or partially neglected.

#### **Right to justice:**

- Small number of indictments: The number of prosecutions brought by the Office of the War Crimes Prosecutor (OWCP) to date remains extremely low in relation to the number, scale and intensity of the crimes under international law which were committed by Serbian forces during the armed conflicts of the 1990s.



- Avoiding politically sensitive cases: Several cases of war crimes committed by Serbian forces have been in the pre-trial phase for more than 10 years. This is the case with the mass graves exhumed in Serbia (Batajnica, Perućac and Petrovo selo) for example.
- Avoiding prosecution of officers and generals: the OWCP has so far prosecuted mainly low-level perpetrators, while the responsibility of mid- and high- ranking police and army officials is almost completely neglected.
- Mild sentencing policy: In a significant number of cases, the war crimes departments have rendered sentences around, on the border, or even below the statutory minimum. This lenient practice is often the result of the court considering mitigating circumstances relating to the character of the defendant, which, due to the severity of the crime, should not be given such significance.
- Protection of victims and witnesses: Existing mechanisms for the protection of victims and witnesses from intimidation and assaults on their integrity, along with the support system for victims and witnesses, only partially fulfill this function. The most serious deficiencies have been recorded in the protection program designed to provide protection to former members of the military and police, as well as the psychological support for victims.
- The regional cooperation is established between the OWCP and its counterparts in Croatia, Montenegro and Bosnia and Herzegovina, but not with the Kosovo Public Prosecutor's Office which is crucial for prosecuting the crimes committed during and in the context of the war in Kosovo 1998-1999.
- In 2012 and 2013 the Higher Court Department delivered anonymizing rulings in war crimes cases, denying victims and society the right to learn the facts about the war crimes committed.

### **Right to non-reoccurrence:**

Reform of institutions was never conducted in Serbia based on criteria of accountability for abuses committed by members of Serbian institutions during the armed conflicts. Law on lustration which was adopted in 2003 ceased to exist after ten years period without ever being implemented or applied to any case of responsibility for human rights violations. There are no existing criteria and conditions based on which persons who participated in the conflicts of the 1990s, including in units that committed crimes can be disband from institutions or prevent them from being employed/named on commanding positions.

### **Right to truth:**

Serbia has not made any significant steps in establishing truth and facts about past conflicts. Unsuccessful experiment with the Truth and Reconciliation Commission in former Yugoslavia proved that political leadership of the country was fully committed to blur the picture on the accountability of Serbian institutions for their commitment of, and participation in war crimes.

The only comprehensive truth seeking experiment in the region of former Yugoslavia was proposed by the civil society in the region, around Coalition for RECOM (Regional Commission for establishing Facts about War Crimes and other Serious Violations of Human Rights committed on the territory of former Yugoslavia between 1991 and 2001). While current Government of Serbia did name an expert envoy within Expert group of Presidentials Envoys, it is necessary that Serbia remains committed to the idea of establishment of RECOM.

Although Serbia is a signatory of the Declaration on Missing Persons, it still fails to show political commitment and put the additional efforts towards identifying gravesites and clarifying the fate and whereabouts of people still unaccounted for.

Interpretation of the past from the 1990s and Serbia's role in past wars in former Yugoslavia within history textbooks are still based on official version of the past from the 1990s, completely or partially ignoring the facts about past crimes established by the ICTY, or offering alternative interpretation based on this facts. New generations in Serbia are thus completely prevented from obtaining truthful version of the past crimes by formal educational system, and only few, that attend programmes of informal education have a chance to be introduced to the interpretation of the past based on established facts.

### **Rights of victims of human rights violations committed during 90's**

According to the HLCs analysis "Administrative reparations in Serbia - an existing legal framework" as well as the findings of the Council of Europe (Point 2.b) and the UN Committee Against Torture (Point 18), the Serbia is violating the victims' right to compensation and other types of reparation. The system of administrative reparations in Serbia is based on the Law on Civilian Invalids of War, adopted in 1996. The Law is very discriminative, since it doesn't recognize the right to administrative reparations to all victims of war crimes. Instead, only around 10% of victims of war crimes can fulfill their right to reparations. Among the categories excluded are victims of sexual violence, missing persons, family members, victims of Serbian forces, etc. Victims of crimes committed by Serbian forces who reside in other post-Yugoslav countries face different systemic obstruction when trying to obtain material compensation from Republic of Serbia in courts.

### **Recommendations:**

- Provide continuous political and public support for the comprehensive prosecution of war crimes in Serbia;
- Adopt a strategy to prosecute war crimes for period 2015-2025 with clear objectives, directions, the resources needed and the action plan for implementation of that strategy;
- Apply the principles of command responsibility and crimes against humanity when indicting persons for the crimes committed in the 1990s;

- Improve the system of support and protection of victims and witnesses, including engagement of psychologists for the help and support of the witnesses and affected individuals;
- When deciding on sentences and the application of mitigating and aggravating circumstances, give greater attention to the specific nature and severity of war crimes;
- Initiate the signing of a formal agreement between the OWCP and the Kosovo Public Prosecutor's Office;
- Provide political public support for the comprehensive approach towards discovering the fates of the missing persons. Improve the capacities of the national Commission for Missing Persons. Adopt the Law on Missing persons.
- Improve existing legal framework for the protection of civilian victims of war in Serbia by taking into consideration international standards in this field as well as the observations and recommendations of the international bodies that monitor the implementation of international conventions for the protection of human rights;
- Introduce specific criteria for employment in the specialized institutions for the prosecution of war crimes, which ensure that these institutions do not employ persons who participated in armed conflicts, in any capacity.
- Participate in regional initiative to establish RECOM
- Open the public debate to reform the content of the history textbooks.

## **Stop the repression of women human rights defenders**

On the occasion of December 10th - International Day of human rights

### ***Women in Black***

*Stasa Zajović*

Under the provisions of the numerous international conventions signed by the Republic of Serbia, which were brought by the United Nations and the European Union, the state of Serbia has undertaken the obligation to protect all the individuals, and all the organizations and groups pledging for recognition and protection of human rights worldwide. Furthermore, the state has thus committed to ensure safe and unimpeded activities of these courageous and conscientious citizens.

We demand that the state of Serbia:

- **Process accountable individuals, government and non-government actors calling for violence and committing acts of violence against Women in Black and similar civil society organization???**
- **Sanction hate speech as well as fascist groups' hate crimes.**
- **Ensure uninterrupted work and activities of Women in Black and other women human rights defenders on promotion of human rights, peace and justice.**

Since the beginning of their work (1991), Women in Black have been confronted with various forms of repression, by both state and non-state actors.

Let us remind that from the beginning of our work, we were very often and we still are the targets of attacks, because we advocate human rights of others and of different (in ethnical, political, sexual aspects). Nevertheless, as a women's peace group, we have had most problems because of our insisting on all levels of responsibilities for war and war crimes committed in our name.

This repression has been particularly intensive after the Women in Black protest rally "We remember the Kosovo crimes", held on 26th March 2014. It was followed by a call for lynch by the spokesperson of the Ministry of the Interior of Serbia Radomir Počuča, a protest rally of the fascist organization 'Srpski sabor Zavetnici' ('Serbian Assembly the Pledgers') in front of the building where Women in Black premises are located, calling for the eviction, murder and extermination of Women in Black, the attack against Women in Black in Valjevo, the verbal assault at Staša Zajović, and permanent threats launched through social networks.

These attacks against Women in Black are not merely sporadic episodes or incidents. They constitute a source of insecurity for the activists and are aimed at targeting these women human rights defenders and obstructing their engagement in the protection of human rights. Also, the objective of the repression is to silence voices of criticism in Serbia, to vilify the activists and to isolate women human rights defenders from the rest of the population.

The representatives of the competent state institutions of Serbia have failed to undertake any measures so as to protect Women in Black activists from the attacks of fascist organizations, groups and individuals. Therefore, we demand once again that the state of Serbia uphold its proper laws, as well as the international conventions it has joined.

*Belgrade*

*8<sup>th</sup> December 2014*