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## SOME REMARKS ON THE ISSUES OF THE CONSEQUENCES OF WAR RAPE ON THE EXAMPLE OF BOSNIA AND HERZEGOVINA<sup>1</sup>

### Abstract

The civil war in Bosnia and Herzegovina<sup>2</sup> was one of the bloodiest armed conflicts after the end of the Second World War. Despite the passage of years, it is still a painful part of reality for a large group of the country's population. During the war, human rights were violated in the form of ethnic cleansing, murders, and so-called genocidal rapes. Women who were raped face social stigma to this day. According to conservative estimates, approx. 4000 children were born as a result of rapes. Today, the adult generation of "children of shame" experiences social ostracism in almost all spheres of life. Their situation is affected by the fact that they are not recognized as "victims of war" under the current regulations. This situation is slowly beginning to change, but it is a long-term process that requires intensified efforts not only in Bosnia and Herzegovina, but also in the international arena.

**Keywords:** Bosnia and Herzegovina, rapes, crimes against humanity, ICTY.

### Introduction

After the death of the President of the Socialist Federal Republic of Yugoslavia, Josip Broz Tito, the republics forming Yugoslavia began to show strong nationalist tendencies. This resulted in the bloodiest armed conflict in Europe after World War II. Situation of Bosnia and Herze-

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<sup>1</sup> The issues surrounding children of war rape are portrayed in Jasmila Zbanic's 2006 film *Grbavica*, which tells the story of a woman raising a daughter born of rape. Sara lives in the belief that her father is a war hero, but eventually discovers an uncomfortable truth that changes her life forever.

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govina<sup>3</sup> was particularly difficult because of the great ethnic diversity, as Serbian, Croatian and Muslim interests clashed there<sup>4</sup>. Because of this, Bosnia and Herzegovina faced with “the need to define its future”<sup>5</sup>. It paid a very high price for it, and its symbol became the Srebrenica massacre<sup>6</sup>.

Twenty-six years have passed since the war, but its effects are still visible today<sup>7</sup>. During these events there was ethnic cleansing, mass murder, torture, but also systematic rape. The perpetrators of these crimes were representatives of each side, but the Serbs committed them on a larger scale and with greater brutality<sup>8</sup>.

The subject of the article is the problem of the consequences of war rape on the example of the civil war in BiH, with particular emphasis on the situation of women and children. The purpose of this study is to point out that although many years have passed since the end of the warfare, the women who experienced sexual violence during the course of it, have to face the discrimination until these days. The legal situation of children that were born as a result of war rapes is not regulated, which is why they must assert their rights in all aspects of social life. The study used theoretical-legal and empirical method. For this purpose, available scientific publications and sources of law were analyzed, but also empirical research was conducted in Sarajevo, during which the necessary materials were collected.

### Issues of sexual violence

Sexual violence has always remained an imminent part of war, with rape being a kind of by-product of it. During the civil war in Yugoslavia, sexual violence reached unimaginable proportions hitherto, forcing to

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<sup>3</sup> In short BiH.

<sup>4</sup> K. Krysieniel, *In the shadow of Dayton*, Warsaw 2012, p. 151.

<sup>5</sup> *Ibidem*.

<sup>6</sup> From July 11-25, 1995, there was an extermination of more than 7,000 Muslim men and boys from the liquidated enclave of Srebrenica.

<sup>7</sup> M. Sarsilmaz, *The pain of systematic rape victims in Bosnia never ends*, Daily Sabah, <https://www.dailysabah.com>, 02.11.2021 (02.11.2021).

<sup>8</sup> It should be added that the sexual abuse of women by peacekeepers is an unspeakable problem; it is estimated that in Kosovo this problem has affected about 2,000 women who were used as sex slaves, see: E. Bexheti, *ICTY and Conflict – Related Sexual Crimes: Barriers of successful outcomes – Kosovo case*, [in:] *Mechanism Information Programme for Affected Communities 2020 Essay Volume. Student's reflection on the ICTY'S legacy*, ed. United Nations International Residual Mechanism for Criminal Tribunals, Bosnia–Herzegovina 2020, p. 21-36.

take different perspective on this type of crime<sup>9</sup>. According to various estimates, between 20,000 and 50,000 women experienced it, primarily Muslim women<sup>10</sup>. The events in the Balkans made it clear to the international community that rape was no longer an act of an individual nature, but was a tactic of war, linked to ethnic cleansing as a mechanism of broad policy. For the Muslim people, this meant the disintegration of tradition and culture<sup>11</sup>. The deliberate, genocidal plan was to disgrace and exclude the raped women from the local community.

The aim of the Serbs was to create “little Chetniks”<sup>12</sup>, who will exterminate Muslims<sup>13</sup> in the future<sup>14</sup>. To prevent pregnant Bosnian women from having abortions, they were held in solitary confinement until about the seventh week of pregnancy<sup>15</sup>. As a result of the trauma experienced, some women murdered their offspring. Others often abandoned their infants in hospitals or shelters. Initially, these newborns were described in documents as “no names” (NN), but there was a problem of their statelessness. To remedy this, in 1996, the BiH authorities introduced legislation under which children of war rape were granted citizenship of the country if one parent was a resident of the country or one of the republics of the former Yugoslavia<sup>16</sup>.

However, some women have even shown heroism by choosing to raise unwanted offspring. The sad fact remains that more than twenty-six years after the war, women who were victims of sexual crimes face social ostracism. There is often a general belief that victims voluntarily

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<sup>9</sup> A. Szpak, *Sexual slavery in the jurisprudence of ad hoc international criminal tribunals*, [in:] *Human exploitation in the twentieth and twenty-first centuries*, ed. B. Sitek, G. Dammacco, D. Barańska, K. Naumowicz, K. Zaworska, Olsztyn 2012, p. 265.

<sup>10</sup> I.C. Mochmann, C. Ingvill, S. Lee, *The Human Rights of Children Born of War: Case Analyses of Past and Present Conflicts*, “Historical Social Research”, 2010, Vol. 35, No. 3 (133), Focus: Integration or Exclusion: Former National Socialists in the GD, s. 269.

<sup>11</sup> Committee on the Elimination of Discrimination against Women, <https://www.ohchr.org>, 20.11.2021 (20.11.2021).

<sup>12</sup> I.C. Mochmann, C. Ingvill, S. Lee, *op.cit.*, p. 283; H. Pehlivan, *Genocidal rape and the invisible children of Bosnia*, TrtWorld, <https://www.trtworld.com>, 24.10.2021 (24.10.2021).

<sup>13</sup> H. Ghesquière, *Sarajevo. The wounds are still too deep*, Kraków 2017, p. 19; According to the 1974 SFRY Constitution, Muslims were given the status of a separate nation, which is why they are written about with a capital letter.

<sup>14</sup> H. Pehlivan, *op.cit.*

<sup>15</sup> K. Schmitz, *Bosnia's Invisible Children. Survivors of Sexualised Violence and Children Born of War in Post-conflict Societies - the Case of Post-conflict Bosnia- Herzegovina*, s. 2, Global Campus Open Knowledge Repository, <https://repository.gchumanrights.org>, 02.11.2021 (02.11.2021); I.C. Mochmann, C. Ingvill, S. Lee, *op.cit.*, p. 282.

<sup>16</sup> *Ibidem*, p. 284.

agreed to provide sexual services, in exchange for food or money. Victims' associations stress that wartime sexual violence is too often ignored in political discourse about the wartime past.

In order to counteract such undesirable phenomena, the Government of BiH has taken steps to protect the rights of the victimized women by, among other things, providing financial, medical, and psychotherapeutic assistance and preventing all forms of discrimination, as well as providing support for their reintegration into society. To this end, campaigns against stigmatization are conducted and interventions are made in individual cases<sup>17</sup>. Due to the predominating Muslim population in BiH, Islamic organizations are very active in this regard. In order to counteract the exclusion, a document *Fatwa*<sup>18</sup> *on children born by raped women in Bosnia and Herzegovina*<sup>19</sup> where it was ordered to show respect to women who had experienced sexual assault during the war was adopted. This document recognized rape victims as martyrs of Islam (*shahida*) and called on all Muslims to respect and support these women and their children during the reconciliation process<sup>20</sup>.

### „Invisible children”.

According to the BiH government, approximately 4,000 children were born as a result of war rapes<sup>21</sup>. However, these are estimated data, resulting from the lack of official statistics in this area. Until recently, it was a taboo subject. Although children are not responsible for the guilt of their fathers, they are often treated as children of the enemy. They are referred to as “children of shame”, “forgotten children” or even “invisible children”. H. Pehlivan rightly asks the question: “How should we call them when rape itself has been recognized as a war crime only in the 21st century?<sup>22</sup>” In a world where the definition of sexual assault is still being debated, the burden on those who have been victimized is still

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<sup>17</sup> The authorities of BiH take measures to support the victims in the form of financial assistance for the victims of war rape in the amount of 514 KM, which is about 1217, 59 PLN.

<sup>18</sup> A Fatwa is a special document an official instruction on the application of Islamic law, given by the mufti in religious and legal matters.

<sup>19</sup> B. Rohwerder, *Reintegration of children born of wartime rape*, reliefweb, <https://reliefweb.int>, p.12, 03.12.2021 (03.12.2021).

<sup>20</sup> In the Muslim and Croatian parts of BiH, it is 300 Euro, while in the Republika Srpska the amount is higher. This is due to the specific division of BiH, which was created under the Dayton Agreement in 1995. <https://reliefweb.int> (04.11.2021 r.), p. 5.

<sup>21</sup> H. Pehlivan, *op.cit.*

<sup>22</sup> *Ibidem.*

woefully underestimated<sup>23</sup>. Children who are the result of war rape are neither Serbs nor Bosnians, they are invisible<sup>24</sup>. They are often affected by discrimination and social exclusion. They are often accompanied by depressive states, feelings of stigma and loneliness. Some of them talk about themselves as a cancer, which is being carried by the bad Serbian blood<sup>25</sup>. Others see themselves as “warriors” whose background predestines them to unite divided nations<sup>26</sup>. However, the rights of these people are being overlooked<sup>27</sup>. From time to time they are courted by nongovernmental organizations such as *Forgotten children of war*<sup>28</sup>, who believe that “invisible children” are deprived of basic human rights<sup>29</sup>. Z. Volčič and Erjavec note that the violations of fundamental rights suffered by most children of wartime rape are a consequence of the actions and omissions of the environments in which they were born and experienced psychological violence<sup>30</sup>. The organization calls for the recognition of children of wartime rape as “secondary victims of war.” Indeed, as J. Neenan notes, this omission is symptomatic of the broader marginalization of children born of rape in transitional justice mechanisms<sup>31</sup>. Obtaining the status of “war victims” is of great importance, because people with this status can count on a number of privileges in BiH. War victims are entitled to discounts on education, as well as monetary compensation. In addition, they are entitled to professional training to improve their skills, priority in employment, priority in housing, as well as psychological and legal assistance<sup>32</sup>. Today adult “invisible children” are deprived of all these privileges. Discrimination affects them even after

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<sup>23</sup> *Ibidem*.

<sup>24</sup> *Ibidem*.

<sup>25</sup> K. Schmitz, *op.cit*.

<sup>26</sup> *Ibidem*.

<sup>27</sup> I.C. Mochmann, C. Ingvill, S. Lee, *op. cit.*, p. 284.

<sup>28</sup> *Youth makes change happen. Children born of war*, SAME, <https://www.same-network.org>, 14.11.2021 (14.11.2021).

<sup>29</sup> Its president is Anja Jusic. Today she is an adult woman who has officially been registered as the first child of a wartime rape. From an early age the girl faced discrimination, her mother was looked upon as a woman of easy virtue in a deeply patriarchal society.

<sup>30</sup> Z. Volčič, K. Erjavec, ‘Target’, ‘cancer’ and ‘warrior’: exploring painful metaphors of self-presentation used by girls born of war rape, “Discourse and Society”, 2010, Vol. 20 No 5, p. 3.

<sup>31</sup> J. Neenan, *The Role of the ICC in Protecting the Rights of Children Born of Rape in War*, EJIL:Talk, <https://www.ejiltalk.org>, 07.11.2021 (07.11.2021).

<sup>32</sup> International Commission on Missing Persons, *Guide FOR CIVILIAN VICTIMS OF WAR MPI How to enjoy the right to protection as a civilian victim of war in the Federation of Bosnia and Herzegovina*, Sarajevo 2007, p. 9.

coming of age, e.g. in the public sphere when filling out official state documents in which it is required to enter father's data<sup>33</sup>. This seemingly triviality remains a big problem for them, as the place usually remains empty. The organization *Forgotten children of war* poses a rhetorical question here: why do children of war rape have to explain their situation every time? Therefore they fight for the right to choose to enter the data of one parent - father or mother, for the right to respect for their private and family life<sup>34</sup>.

The problem of children from war rape is not only related to the Balkan conflict. It is present in almost every war and therefore sometimes reaches a global dimension. As J. Neenan rightly points out: from birth all children are guaranteed a number of rights, both on national and international levels including the right to life, health, education, development and non-discrimination<sup>35</sup>. It is also impossible not to agree with M. Judycka, who notes that "the child as a subject of human rights and fundamental freedoms clearly benefits from the guarantees granted to every human being in the event of an emergency situation"<sup>36</sup>. The Convention on the Rights of the Child has a special place in the protection of children's rights<sup>37</sup>, guaranteeing every child civil, social, cultural and political rights. This document imposes obligations on States parties to respect the provisions of international humanitarian law<sup>38</sup>. However, it should be noted that in situations of armed conflict, the provisions of the Convention are not respected and "children bear a disproportionate burden of suffering, which takes many forms and has long-lasting effects"<sup>39</sup>. I.C. Mochmann and S. Lee state that in such situations the Convention on the Rights of the Child is often unexplored territory<sup>40</sup>. The case of the "children of shame" is an excellent example of this. To cite here the provision of article 2 of the Convention according to which States Parties shall take appropriate measures to ensure the protection of the child

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<sup>33</sup> A. Delić, P. Kuwert, H. Glaesmer, *Should the definition of the term "children born of war" and vulnerabilities of children from recent conflict and post-conflict settings be broadened?*, "Acta Medica Academica", 2017, No. 46 (1), p. 67.

<sup>34</sup> *Youth makes change happen. Children born of war...*

<sup>35</sup> J. Neenan, *op. cit.*, p. 30

<sup>36</sup> M. Judycka, *Child Protection in context of armed conflict in the former Yugoslavia*, "Polski Rocznik Praw Człowieka i Prawa Humanitarnego", 2010, No 1, p. 186.

<sup>37</sup> Konwencja o prawach dziecka, przyjęta przez Zgromadzenie Ogólne Narodów Zjednoczonych dnia 20 listopada 1989 r. (Dz.U. 1991, nr 120, poz. 526).

<sup>38</sup> M. Judycka, *op. cit.*, p. 187.

<sup>39</sup> *Wytyczne UE w sprawie dzieci w konfliktach zbrojnych*, Parlament Europejski, [https://www.europarl.europa.eu, 02.12.2021 \(02.12.2021\).](https://www.europarl.europa.eu, 02.12.2021 (02.12.2021).)

<sup>40</sup> Konwencja o prawach...; I.C. Mochmann, C. Ingvill, S. Lee, *op.cit.*, p. 273.

against all forms of discrimination or punishment based on the legal status, activities, expressed views or religious beliefs of the child's parents, legal guardians or family members<sup>41</sup>. According to this provision, children should be free from any discrimination, therefore, it can be considered that if they are abandoned by their mothers, they should have the right to foreign adoptions. However, the BiH government and the Muslim community have repeatedly opposed this type of practice. The reason for this was said to be the hermetic nature of the Muslim community and the fact that the intention was to rebuild social structures that had been violated as a result of the war. Another example of non-compliance with the provisions of the Convention is Article 5, which stipulates the Right to know the data of the parent. Here again, it was often pointed out that due to the sensitive nature of the act, this right should be limited. For this reason, documents containing information on the origins of children from wartime rapes were often destroyed<sup>42</sup>. While respecting the importance of the provisions of the Convention on the Rights of the Child, which is considered to be a kind of constitution protecting children around the world, it should be noted that each conflict requires a holistic approach to the problem. In the case of children of war rape, each case must be considered individually and whether the individual will be able to face the cruel truth about his or her origin<sup>43</sup>.

### **Rape in ICTY.**

Despite the fact that rape was criminalized in the criminal law of the republics comprising Yugoslavia, the ICTY faced a major interpretative challenge related to the concept of rape, which did not have its legal definition at the international level<sup>44</sup>. The issue of sexual violence has been the subject of many cases handled by the ICTY e.g.: *Anto Furundzija*<sup>45</sup>, *Hazim Delic*<sup>46</sup>,

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<sup>41</sup> Art. 2 Konwencja o prawach...

<sup>42</sup> I.C. Mohmann, C. Ingvill, S. Lee, *op.cit.*, p. 291.

<sup>43</sup> B. Rohwerder, *op.cit.*.

<sup>44</sup> *United Nations Security Council, Letter dated 24 May 1994 from the secretary-general to the President of the Security Council*, United Nations Security Council, 27 May 1994, <https://www.icty.org>, 6.12.2021 (06.12.2021).

<sup>45</sup> The Prosecutor of the Tribunal against Anto Furundzija, case no. IT- 95-17/1, United Nations Security Council, <https://www.icty.org>, 14.11.2021 (14.11.2021).

<sup>46</sup> The Prosecutor of the Tribunal against Zejnir Delalic, Zdravko Mucic also known as "Pavo" Hazim Delic, Esad Landzo, also known as "Zenga", case no.: IT-96 - 21, United Nations Security Council, <https://www.icty.org>, 14.11.2021 (14.11.2021).

*Kunurac*<sup>47</sup>, or *Dusko Tadic*<sup>48</sup>. The scale of the problem was so large that one in three accused had a sexual assault charge<sup>49</sup>. In the Funundzija case, the tribunal noted that in common and treaty law, there was no definition of the circumstances in which a sexual act bore the hallmarks of rape, leading it to be extracted from the rules of national systems, which were recognized by all systems in the world<sup>50</sup>. In the context of this case, the elements that were necessary to determine whether the victim's sexual autonomy had been violated were clarified. These include components such as the use of force, coercion, intimidation, or taking action without the consent of the victim in the broad sense of that term<sup>51</sup>. The ICTY has held that violence, the threat of violence, and the use of a person when the person is unable to object are circumstances indicating that sexual activity has occurred without the victim's consent<sup>52</sup>. The ICTY noted that the concept of consent cannot be interpreted narrowly and must be understood as an act of one's own free will, assessed in the context of the circumstances<sup>53</sup>. The *Kunurac* case, on the other hand, stated that under national law, for a sexual act to qualify as rape, the sexual activity must be accompanied by force or a series of other specified circumstances that render the victim particularly vulnerable or negate her ability to consciously refuse, or the sexual activity takes place without her consent<sup>54</sup>. It is important to note that a major success of the ICTY is that provides special care for victims of sexual violence and allows them to testify without fear for their safety<sup>55</sup>.

<sup>47</sup> The Prosecutor of the Tribunal against Dragan Gagović, Gojko Janković, Janko Janjić, Radimir Kovać, Zoran Vuković, Dragan Zelenović, Dragoljub Kunurac, Radovan Stanković, case no.: IT-96-23-I, United Nations Security Council, <https://www.icty.org>, 14.11.2021 (14.11.2021).

<sup>48</sup> The Prosecutor of the Tribunal against Dusan Tadic a/k/a "Dule" Goran Borovnica, case no.: IT-94-1-I, United Nations Security Council, <https://www.icty.org>, 14.11.2021 (14.11.2021).

<sup>49</sup> E. Bexheti, *ICTY and Conflict – Related Sexual Crimes: Barriers of successful outcomes – Kosovo case* (in:) *Mechanism Information Programme for Affected Communities 2020 Essay Volume. Student's reflection on the ICTY'S legacy*, United Nations International Residual Mechanism for Criminal Tribunals, Bosnia – Herzegovina 2020, p. 23.

<sup>50</sup> *Kunurac, Kovać i Vuković (Foca)* (case ref. IT-96-23 i 23/1) trans. after M. Leśniak, M. Znojek, [in:] *International Criminal Law. A selection of sources*, eds M. Królikowski, P. Wiliński, J. Izydorczyk, M. Znojek, Warszawa 2010, p. 472.

<sup>51</sup> *Ibidem*.

<sup>52</sup> *Ibidem*, p. 473.

<sup>53</sup> *Ibidem*.

<sup>54</sup> E. Bexheti, *op. cit.*, p. 25.

<sup>55</sup> IRMCT, *Crimes of Sexual Violence*, United Nations Security Council, <https://www.icty.org>, 14.11.2021 (14.11.2021).

The Tribunal allowed witnesses to testify under pseudonyms, with facial and voice distortion in video feeds or in closed sessions<sup>56</sup>. What is important, the ICTY has relied on the judgments and rulings of other international tribunals in its decisions, and through its own landmark judicial decisions, has contributed to the growing awareness of the need to prosecute crimes of sexual violence in wartime<sup>57</sup>.

Thanks to the jurisprudence of the Yugoslavian tribunal and its sister Rwandan tribunal, rape has been included in the catalogue of acts covered by the definition of crimes against humanity<sup>58</sup> and once and for all put an end to the consideration of the validity of the recognition of rape as an international crime.

The tribunal played a historic role in prosecuting sexual violence during the war in the former Yugoslavia and paved the way for more robust sentencing of such crimes around the world<sup>59</sup>. No international tribunal had tried sex offenders in the past<sup>60</sup>. Events in the former Yugoslavia highlighted the urgent need to sanction these acts. The ICTY was also the first international criminal tribunal to convict for rape as a form of torture and for sexual enslavement as a crime against humanity, and the first international tribunal based in Europe to convict for rape as a crime against humanity. It proved, thereby, that effective prosecution of sexual violence in wartime is possible, and provided survivors with the territory to talk about their suffering. This ultimately helped break the silence and culture of impunity surrounding these horrific acts<sup>61</sup>. Thanks to the jurisprudence of this Court, as well as the Rwanda Tribunal, the drafters of the Rome Statute of the International Criminal Court included rape in the Elements of the ICC Crime Definition. It was also an important step to define the concept of “forced pregnancy,” which was defined as the unlawful imprisonment of a woman who has become pregnant through violence, with the intent to influence the ethnic composition of any group of the population or to commit other serious violations of international law (Article 7 (2) of the Rome Statute of the ICC). In doing so, it is important to remember that the crime of forced pregnancy was not formulated specifically with the rights of children born as a result of rape in mind, but was part of a broader push for the international criminalization of wartime gender-based harm to women<sup>62</sup>.

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<sup>56</sup> *Ibidem*.

<sup>57</sup> *Ibidem*.

<sup>58</sup> A. Szpak, *Evolution of the definition of rape in the jurisprudence of ad hoc international criminal tribunals* “Polityka i Społeczeństwo”, 2018 r., no 4, p. 126.

<sup>59</sup> IRMCT, *op.cit*.

<sup>60</sup> *Ibidem*.

<sup>61</sup> *Ibidem*.

<sup>62</sup> J. Neenan, *op. cit*.

## Conclusions

The purpose of the analysis of main problems related to sexual violence, which took place during the civil war in Bosnia and Herzegovina was to show that its consequences are visible until this day. Women who experienced this form of aggression have not been provided with sufficient psychological and legal help. In turn “the invisible children” are deprived the elementary rights and as a result of this in their adult lives have to face the trauma and fight to be granted their due category of war victims.

BiH society is slowly opening up to the topic of sexual violence during the war, and thus begins to recognize the problem of women who experienced it and their offspring. However, the whole process requires long-term action, comprehensive dialogue and public debate are needed. In the 21st century, there should be no place for discrimination against women who have experienced sexual violence, and the state should take measures to extend adequate protection to them. Today, victims of these acts experience inadequate access to adequate medical care and support tailored to their needs, including physical and psychosocial care. Ironically, in 2020, Serbian authorities in Bosnia reopened a hotel that was once used as a rape camp<sup>63</sup>.

The rights of children of war rape have been debated for many years now. Their legal situation still deserves to be clarified. The UN calls for their rights to be regularized as soon as possible and for all forms of discrimination to be eliminated. B. Rohwer states that the solution could be mechanisms of transitional justice, including compensation, which would be an opportunity for children born of wartime rape to come forward<sup>64</sup>. The case of Dominic Ongwen may turn out to be a breakthrough, which in the context of the issue of children from war rape has made a milestone. Among the numerous charges against Ongwen there were charges on forced pregnancies by members of his *Lord's Resistance Army (LRA)* unit. The prosecution explicitly recognized children of war rape as a category of war victims, consistent with their right to reparation under international law, as reflected in the UN Basic Principles and Guidelines for the reparation of victims who have suffered gross violations of international human rights law. The situation of children of war rape can be changed by the education of international regulations through which they will be granted the status of war victims, the creation of financial facilities and specialized psychological assistance, which are essential in the reconciliation process.

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<sup>63</sup> H. Pehlivan, *op. cit.*

<sup>64</sup> B. Rohwerder, *op.cit.*

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### **Kilka uwag dotyczących konsekwencji gwałtu wojennego na przykładzie Bośni i Hercegowiny**

#### **Streszczenie**

Wojna domowa w Bośni i Hercegowinie była jednym z najkrwawszych konfliktów zbrojnych po zakończeniu II wojny światowej. Mimo upływu lat nadal jest bolesnym elementem rzeczywistości dla dużej części mieszkańców tego kraju. W czasie wojny dochodziło do łamania praw człowieka w postaci czystek etnicznych, mordów i tzw. ludobójczych gwałtów. Zgwałcone kobiety do dziś spotykają się z napiętnowaniem społecznym. Według ostrożnych szacunków w wyniku gwałtów urodziło się ok. 4000 dzieci. Dziś dorosłe pokolenie „dzieci wstydu” doświadcza ostracyzmu społecznego w niemal wszystkich sferach życia. Na ich sytuację wpływa fakt, że w świetle obowiązujących przepisów nie są uznawani za „ofiary wojny”. Sytuacja ta powoli zaczyna się zmieniać, ale jest to proces długotrwały, wymagający wzmożonych wysiłków nie tylko w Bośni i Hercegowinie, ale także na arenie międzynarodowej.

**Słowa kluczowe:** Bośnia i Hercegowina, gwałty, zbrodnie przeciwko ludzkości, ICTY.