

**DAUNTING PROSPECTS**  
**MINORITY WOMEN:**  
**OBSTACLES TO THEIR RETURN AND INTEGRATION**



**UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES**  
  
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## EXECUTIVE SUMMARY

In light of the legal obligations of the State and Entity authorities in Bosnia and Herzegovina (“BiH”) under various international conventions to respect the rights of women and to ensure their full development and advancement in society, and considering independent estimates that one household in five is female-headed (20%)<sup>1</sup> and women are assessed as the primary income earners in 15% of households,<sup>2</sup> an analysis of the current situation faced by displaced and returnee women, as well as their return and integration potential, is long overdue.

Four and a half years since the signing of the General Framework Agreement for Peace (“GFAP”) in December 1995, there is still no systematic gender analysis employed by either international actors or local authorities in their work. While there have been efforts by some international actors in BiH to include a gender analysis and to promote gender equity in the areas covered by this study, in general this has not been the case. There is a clear lack of gender disaggregated statistics and information available. For this reason, this study is welcomed, in order to prioritise future humanitarian and/or development assistance and to ensure that vulnerable persons are included in return and/or integration plans.

While the challenges facing displaced persons and returnees in general, such as, repossession of property, reconstruction assistance, security and justice issues and employment, also affect displaced or returnee women, this study has found that such factors impact differentially on women and men, respectively. This study focuses on female-headed families, single women and extremely vulnerable women, of Bosniak, Serb and Croat ethnicity. Within these groups, emphasis is given to women with missing husbands, widows (civilian and military) and abandoned women,<sup>3</sup> as well as survivors of sexual violence and torture and severely traumatised women. While the concerns of men have not been assessed separately, where applicable, their concerns have been reflected. It has not been possible to include other groups of women, such as elderly women, middle aged women, returnee women from abroad, women in mixed marriages, or Roma women, although it is recognised that they may have additional or different concerns.

In essence, this study has found three specific obstacles to return for the above mentioned groups of women, are (1) lack of familial or community support, (2) personal security and (3) psychological trauma. It was generally found that their subjective fear of returning (whether justified or not) was compounded by the lack of familial or community support, or by psychological trauma. This fear was found to be particularly acute for the above mentioned groups.

In relation to other obstacles to return, such as reconstruction assistance, it was found that no country-wide criteria for beneficiaries for reconstruction assistance exists, and in many cases, it was not able to be determined if women were prioritised or sidelined for such assistance, or indeed if such aid was evenly distributed. Specific concerns were raised with the new principle of “funding follows return”, which could be seen as disadvantaging those who require childcare

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<sup>1</sup> *Bosnia and Herzegovina, The Priority Reconstruction Program: Achievements and 1998 Needs*, European Commission and the Europe and Central Asia Region of the World Bank (April 1998), p.49, note 2.

<sup>2</sup> *Women in the BiH Economy: Current Status & Future Strategies, The Socio-Economic Status of Women in BiH – Final Reports of Survey Findings*, Prism Research (December 1998), p.2.

<sup>3</sup> The term ‘abandoned women’, for the purposes of this study, refers to women who have been deserted by their husbands, as opposed to women who have agreed with their husbands to separate or divorce.

assistance, are alone or are elderly and/or immobile, for instance. Women, like men, face the same difficulties in repossessing their pre-conflict habitable housing, with repossession of property continuing to be a concrete barrier to return. Serious efforts need to be made by the international community, however, to ensure that vulnerable women are not forgotten in the push for implementation of property laws, either in monitoring evictions, in the allocation of alternative accommodation or the re-allocation of unclaimed apartments.

Other areas, such as the prosecution of alleged war criminals, satisfactory gender and ethnic composition of local police forces, access and quality of health care, employment opportunities and access to education and vocational training, have also been reviewed as factors affecting one's return and/or integration potential. Without improvements in these areas, women will continue to be marginalised in society, and their return and/or integration potential compromised.

This study strongly recommends, in line with the Beijing Platform for Action, an active and visible policy of mainstreaming a gender perspective into all policies and programs by both international actors and local governments, in order to assess the impact of decisions on women and men, respectively. This would necessarily include the increased participation of women in decision-making processes at all levels within BiH, as well as in grass roots reconciliation efforts.

This study further recommends, in line with Annex 7 of the GFAP, that collective return programs be introduced, or enhanced where they already exist, incorporating female-headed families and single women, alongside other returning families, in order to ease the fear about return expressed by many women interviewed as well as providing community support, for those who genuinely and freely choose to return. In addition, while noting the need to continue to promote minority return opportunities for those wishing to return home in line with GFAP, other durable solutions, such as local integration and settlement, will need to be found for those who, on a case by case basis and under strict criteria, are unable for valid protection reasons to return, or who are unwilling to do so.

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## I. INTRODUCTION

As a result of the conflict in Bosnia and Herzegovina (“BiH”) from 1992-1995, an estimated 1.2 million refugees fled abroad, mainly to countries of the former Yugoslavia and Western Europe, while an additional one million people became internally displaced. Over 50% of the pre-war population became displaced by the conflict.<sup>4</sup> According to UNHCR statistics, there continue to be an estimated 809,545 displaced persons within BiH, and another 350,000 refugees abroad.<sup>5</sup> Return is considered as one of the principal rights guaranteed to citizens of BiH under Annex 7 of the General Framework Agreement for Peace (“GFAP”). Given the use of forced expulsion and displacement as a deliberate strategy during the conflict, restoring the right to a home and to a choice of location without discrimination are thus of fundamental importance.

Four and a half years since the signing of the GFAP, some 298,234 displaced persons have returned to their pre-conflict homes and of these, only approximately 68,994 were minority returnees. It is also estimated that a total of 351,399 refugees have returned from abroad, the majority of whom have returned to situations of internal displacement.<sup>6</sup> General lack of political will on the part of the local authorities to implement property legislation in both Entities, ongoing incidents of ethnic-based violence in many areas and the presence of mines, as well as the lack of employment opportunities and educational facilities, have been the major general obstacles preventing return. While women are equally affected by these obstacles, this study has found that minority women sometimes face additional barriers to their return. Due to such factors as displacement, loss of home and poverty, family separation and disintegration, and disappearance and/or death of close family members, some women find themselves, often for the first time, in new and unfamiliar environments, and as the primary income earners in their families. The most important obstacles to return for vulnerable women include their lack of family or community support, issues of personal security and psychological trauma. In addition, the widespread displacement has impacted on the demography of BiH, and the differences for returns to urban or rural areas need to be carefully analysed. In fact, the overwhelming majority of minority women interviewed stated that they did not wish to return at all, or were afraid to return alone.<sup>7</sup> This study has also found that many female-headed families and single women are living in acute poverty. Part of this poverty can be directly linked to situations of internal displacement.

It is estimated that one household in five is female-headed (20%) in BiH<sup>8</sup>, and women are assessed as the primary income earners in 15% of households.<sup>9</sup> Independent research has suggested that self-supporting mothers and their children find themselves in the severest

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<sup>4</sup> These statistics vary from those indicated in other papers produced by UNHCR. Essentially, there are no exact figures on the total number of persons who were displaced or became refugees during the conflict. In this case, these figures are taken from the UNHCR Country Plan 1997 and 1998 as the first estimates of those displaced by the conflict.

<sup>5</sup> UNHCR statistics (1 March, 2000).

<sup>6</sup> UNHCR statistics (1 March, 2000).

<sup>7</sup> The term ‘minority women’ refers to the concept of numerical minority. A woman would be a minority woman if in her pre-conflict residence, she would be a member of the numerically smaller ethnic group.

<sup>8</sup> *Bosnia and Herzegovina, The Priority Reconstruction Program: Achievements and 1998 Needs*, European Commission and the Europe and Central Asia Region of the World Bank (April 1998), p.49, note 2.

<sup>9</sup> *Women in the BiH Economy: Current Status & Future Strategies, The Socio-Economic Status of Women in BiH – Final Reports of Survey Findings*, Prism Research (December 1998), p.2.

economic and social situations vis-à-vis other persons in need.<sup>10</sup> For this reason, and in light of the legal obligations of the State and Entity authorities under various international conventions to respect the rights of women and to ensure their full development and advancement in society,<sup>11</sup> an analysis of the current situation faced by displaced and returnee women, as well as their return and integration potential, is long overdue.

While there have been efforts by some international actors in BiH to include a gender analysis and to promote gender equity in the areas covered by this study, in general this has not been the case. Most reports on returns, property implementation, security incidents and human rights violations, are gender neutral. Indeed, one of the difficulties in preparing this study has been the lack of gender disaggregated statistics and information.

This study highlights the principal concerns of minority women facing displacement and return in a post-conflict society. It analyses such factors as repossession of property, reconstruction assistance, security and justice issues, health care, education, employment and forms of financial assistance. It recognises that with decreasing international resources, local authorities need to actively fill the gaps in the provision of these services. Moreover, specific assistance programs are needed for this large category of vulnerable women, to assist them in their current and future needs.

This study strongly recommends, in line with the Beijing Platform for Action,<sup>12</sup> an active and visible policy of mainstreaming a gender perspective into all policies and programs by both international actors and local governments, in order to assess the impact of decisions on women and men, respectively. This would necessarily include the increased participation of women in decision-making processes at all levels within BiH, as well as in grass roots reconciliation efforts.

More specifically, in accordance with Annex 7 of the GFAP, persons should be allowed to return “in safety, without risk of harassment, intimidation, persecution or discrimination, particularly on account of their ethnic origin, religious belief or political opinion.”<sup>13</sup> In pursuit of this objective, this study further recommends establishing and/or enhancing collective returns, in order to ease the fear expressed by most interviewees, and to ensure that upon return, vulnerable women are not alone or left without a vital support network and community. At the same time, large numbers of those still in search of solutions may not return home because they are either unable or unwilling to do so. Many factors influence such decisions. Some are borne of experience during the war, some of experience since the war ended, and some reflect trends that would have changed the demography, even without conflict.

While the international community will need to continue to promote minority return opportunities for those wishing to return home in line with GFAP, other durable solutions, such as local integration and settlement, will need to be found for those (including particular groups of minority women) who are unable for valid protection reasons or unwilling to return.

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<sup>10</sup> For examples, see *Discussion Paper: Social Protection System and Policy Transition in the Republika Srpska, Preliminary Study of Problems and Proposed Changes*, Independent Bureau for Humanitarian Issues, Banja Luka (September 1998), p.5.

<sup>11</sup> *Convention on the Elimination of All Forms of Discrimination Against Women* – as incorporated into the BiH Constitution and Annex 4 of the Dayton Peace Agreement.

<sup>12</sup> Fourth World Conference on Women, Beijing, China, 4-15 September 1995.

<sup>13</sup> Art.2 of Annex 7 of the GFAP.



## II. AMBIT OF THE STUDY

This study has been prepared on the basis of interviews with international and local organisations present in BiH, such as ICRC, Legal Aid and Information Centres, Physicians for Human Rights (see List of Sources), experience of UNHCR field offices, as well as on 42 in-depth interviews of female-headed families, single women and extremely vulnerable women, of Bosniak, Serb and Croat ethnicity.

The interviewees fell into the following categories: women with missing husbands, widows (civilian and military) and abandoned women, as well as survivors of sexual violence and torture and severely traumatised women. The women were displaced in, or returnees to, both the Federation<sup>14</sup> and the RS<sup>15</sup>. These interviews do not provide an exhaustive overview of the concerns of minority women in the return process. However, they do provide an initial insight into the issues differentially affecting minority single women and female-headed households, which has not previously been considered. It was not possible to cover other groups of women, such as elderly women, middle aged women, returnee women from abroad, women in mixed marriages or Roma women, although it is recognised that they may have additional concerns. Further, it is acknowledged that men in similar situations may also encounter similar or identical problems. While the concerns of men have not been assessed separately, where applicable, their concerns have been reflected.

Of the women interviewed, they were either living in collective centres (6), buffer accommodation (9), settlements (8), with family or friends (2), or occupying someone else's property (12). Very few of the interviewees had returned to their own property, and none were renting. None of the women were permanently employed (several had been employed before the conflict), however, some were involved in short-term or sporadic employment (such as BWI projects<sup>16</sup>). While the majority of women interviewed were receiving either a pension or payments for families of fallen soldiers, over a quarter of the interviewees were not receiving any financial benefits at all, and they were wholly reliant on humanitarian aid. Many of the women were openly emotionally distressed about their circumstances, and almost all were in need of some form of psycho-social counselling.

SUPPORT NETWORKS OF INTERVIEWEES*				
Ethnicity	No. of Interviewees**	No. of female-headed families with children ***	No. of interviewees living alone	No. of interviewees living with extended family members
Bosniak	28	23	5	3
Serb	11	8	3	1
Croat	3	2	1	1
<b>Total</b>	<b>42</b>	<b>33</b>	<b>9</b>	<b>4</b>

\* There are more than 44 responses given in this chart. This is because some women lived with their children, together with extended family members.

\*\* Given the difficulties to locate women in the above mentioned groups willing to give in-depth interviews, it was not possible to achieve the same numbers of interviewees from each ethnic group.

\*\*\* 3 of the women were looking after children who were not their own (nieces and nephews and grandchildren).

<sup>14</sup> Ilidza, Ilijas, Drvar, Bosanska Krupa, Kljuc, Tuzla, Gorazde, Jajce and Bihac.

<sup>15</sup> Cajnice, Rogatica, Rudo, Foca/Srbijne, Foca(Ustikolina), Srebrenica, Han Pijesak, Zvornik, Vlasenica and Banja Luka.

<sup>16</sup> Bosnian Women's Initiative.

FINANCIAL SITUATIONS OF INTERVIEWEES					
Ethnicity	No. receiving a pension*	No. receiving payments for families of fallen soldiers	No. employed	No. receiving social welfare payments	No. not receiving any financial payments
Bosniak	7	13	0	0	8
Serb	8	1	0	1	2
Croat	1	0	0	0	2
<b>Total</b>	<b>16</b>	<b>14</b>	<b>0</b>	<b>1</b>	<b>12</b>

\* This includes own work pension and inheritance to family pension.

\*\* There are more than 44 responses given in this chart because one woman had inherited her husband's work pension, and her grandson was also receiving money for the death of his father.

ACCOMMODATION SITUATIONS OF INTERVIEWEES							
Ethnicity	No. in collective centre	No. in buffer accommodation*	No. in settlement	No. occupying someone else's property	No. renting	No. living with friends or relatives	No. in own house/ Apartment
Bosniak	2	6	8	10	0	0	2
Serb	4	0	0	2	0	2	3
Croat	0	3	0	0	0	0	0
<b>Total</b>	<b>6</b>	<b>9</b>	<b>8</b>	<b>12</b>	<b>0</b>	<b>2</b>	<b>5</b>

\* In practice, buffer accommodation has often turned into de-facto collective centres. Buffer accommodation was intended for persons while awaiting reinstatement in their pre-conflict property, as compared with CCs which were created during the conflict for internally displaced persons. What has occurred in practice, however, is that persons have been placed in either buffer accommodation or a collective centre, depending on the availability of accommodation in a particular municipality. This has meant that buffer accommodation often houses persons with no long term solutions.

### III. SUMMARY OF CONCERNS

#### (1) General

The large majority of women interviewed stated that they did not wish to return to their pre-conflict homes. Various reasons were stated by interviewees, but their primary concerns are as follows:

- **lack of familial or community support:** the majority of women stated that they were particularly afraid to return alone, especially without familial or community support. While this concern may also be apparent for families, it seems particularly acute for single female-headed families or single women of an ethnic minority, who stated that they would be isolated from society and would not have the ‘protection’ of male family members.
- **personal security:** consistently, personal security was stated as a principal concern. Specifically, being without male support or protection as well as community support meant that many women were not prepared to return. Linked to personal security is security of children, and several women interviewed stated that they could not risk putting their children in situations of discrimination, prejudice or harassment (e.g. in a majority school in their pre-conflict municipality), without male support.
- **psychological trauma:** given the use of ethnic-based violence as part of the military strategy in BiH, including sexual violence and rape, forcible detention, and systematic expulsion and displacement, many women interviewed were outwardly traumatised. Such trauma is considered to be a major hindering factor to their sustainable return to their pre-conflict municipalities.
- **repossession and/or reconstruction of property:** none of the women interviewed had successfully repossessed their pre-conflict property through the administrative process, and none were included in reconstruction projects. In fact, many women complained that they were unable to return to clean up their plots of land in preparation for reconstruction assistance. Reasons given were security risks, inability to do such work (particularly by the elderly), and issues of child care. Collective returns together with community members should provide them with some assistance in this regard.
- **prosecution of war crimes:** a number of the interviewees had been the victims of war crimes, amongst them 9 women had fled Srebrenica in July 1995, as well as one woman having been interned in a prison widely known to be where systematic rapes occurred in Foca in 1992. The transparent prosecution of war criminals is considered to be a vital step in the reconciliation and return processes.
- **education and employment:** research suggests that more than one third of Bosnian women are under-educated.<sup>17</sup> In addition, some post-conflict vocational training initiatives have been targeted at men, not women, as well as the tendency in BiH to favour men in hiring practices.<sup>18</sup> The high levels of unemployment in both Entities severely hinder one’s ability to

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<sup>17</sup> Prism Research, p.201. See also the *Human Development Report* of International Bureau of Humanitarian Issues (HDR of IBHI) (1998), pp.92-92, which notes that the education level of women in BiH is even more unfavourable now than it was before the war.

<sup>18</sup> According to the HDR of IBHI (1998), p.92.

become economically self-sustainable. There are also no accurate statistics for rates of illiteracy. Many women interviewed did express that because of their inability to read, they were unable to find out about their entitlements.<sup>19</sup> Without needed education and skills, many single women will continue to rely on social welfare assistance or public pensions. In order to make their returns sustainable, extra efforts and assistance in these areas are required.

- **financial means:** given the widespread displacement of persons throughout BiH as well as dramatic changes in the demography (rural-urban shifts and vice versa), combined with high rates of unemployment, many single women are living in acute poverty. The lack of a systematic approach to the delivery of financial aid to persons means that there are discrepancies in social payments, and those most in need are often neglected. There continue to be real problems with pension payments, as well as payments for families of civilian war victims versus those for war widows. In many areas, the Centres for Social Welfare are understaffed and under-resourced and are not able to meet their legislative obligations.
- **health care:** there continue to be serious problems with the fractured system of health care in BiH. Some persons are still denied access to services due to the geographical limitations on one's health coverage.

In general, poor conditions in both return and displacement communities mean many single headed households face a future of hardship and poverty. Without collective returns involving community support for single headed households, many women will be effectively excluded from the return process. It is acknowledged that arranging collective returns is easier to achieve in reconstructed minority villages. However, extra efforts for the safe and dignified return to vacated habitable housing will be needed. Moreover, for vulnerable women not willing to return, steps need to be taken to ensure they are offered, on a case by case basis, alternative durable solutions by local municipalities, including the possibility to dispose of pre-conflict property, gainful employment in host municipalities and education and vocational training. Clear criteria need to be established in order to assess one's need for local integration and the level of support required.

Single male heads of household also face some similar concerns as above. After the conflict, some men have found themselves, for the first time, as the primary caregivers to their children, due to the death of their spouse. With the high rates of unemployment, many previously employed men or demobilised soldiers face the situation of being unable to provide for their families. This can often be a significant disruption to one's life, and can lead to personal difficulties, feelings of worthlessness and shame. Psycho-social facilities must be equally available to traumatised men. The effect that this situation has on the oldest female child should not be under-estimated. Often the oldest female child carries the burden of caring for the family, a task which places serious emotional strain on the girl child and may have negative consequences for her education.

## **(2) Women with missing husbands**

According to statistics from the International Committee for the Red Cross ("ICRC"), as at 28 February 2000, the total number of missing persons as a result of the conflict, for whom tracing requests have been opened by a family member, is 20,333.<sup>20</sup> More than 92% of missing persons are men. The fate of only some 2,000 missing persons has been determined (the vast majority

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<sup>19</sup> Interviews with 9 displaced women from Srebrenica, Tuzla (October 1999).

<sup>20</sup> According to the origin of persons, a tracing request has been submitted on 16,845 Bosniaks, 709 Bosnian Croats, 2,518 Bosnian Serbs and 244 'Others'.

were solved dead). The total number of missing persons whose fate has still not been clarified is thus over 17,467. It is presumed that the overwhelming majority is deceased. Following the fall of Srebrenica and the ensuing mass massacre of Bosniak men, the number of missing persons from Srebrenica area alone is 7,424 persons, of whom more than 99% are male.

Given these statistics, there is thus a large number of women who lost one or more male family members during the conflict or whose family members are still missing. This group of women remain trapped in a situation of uncertainty and this situation is compounded by their precarious economic and social circumstances.

The main priority for women with missing husbands and other missing family members is to know the destiny of their loved ones and, as most of them have gradually started to accept the fact that most likely they are deceased, to find and identify their bodies, and to bury them in dignity.<sup>21</sup> Some of the interviewees stated that the process of declaring a husband as deceased in order to inherit a work pension is emotionally difficult, sometimes isolating women who have declared their husbands as deceased from those who continue to hold on to some hope. It also raises serious psychological feelings of 'survivor's guilt', as such women are receiving financial assistance *because* their husbands are dead. This sense of guilt and loss is equally applicable to widows, although the uncertainty and the longing is particularly significant for women with missing husbands.

It is very important that individual women are heard about their wishes regarding return and that there is no pressure put on them. This includes the common political manipulation of these groups. Specific assistance programs are needed for this large category of highly vulnerable female-headed households to assist them in their current needs. Particularly, secure housing, education and training, as well as health assistance, including psycho-social counselling. This would also facilitate eventual returns of those who opt to go back to their pre-war municipalities.

### **(3) Widows (civilian and war)**

Not unlike women with missing husbands, women who lost their husbands during the conflict are burdened with an emotional struggle of loss. The strongly patriarchal culture in some areas means that women are unable to act and socialise freely.<sup>22</sup> For these women who used to be accompanied by their husbands to the market, to dinner, to friend's houses, they are now restricted in their social activities. In addition, re-marriage is also sometimes stigmatised. For example, of a community settlement in Nihatovic, Tuzla Canton, in which 120 female-headed families are housed, the women interviewed stated that they did not know one woman who had remarried.<sup>23</sup> Several young widows interviewed in Gorazde and surrounding areas stated that they used to live with their husband's family, and they stated that they did not wish to return - that they could not re-start their lives under the guardianship of their husbands' families.<sup>24</sup>

In financial terms, women in this category are usually entitled to receive some form of a pension or an allowance. However, there are still many vulnerable women who are not receiving any payments. In the Federation, the amount received by war widows is more than double that

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<sup>21</sup> Interviews with 9 displaced women from Srebrenica, Tuzla (October 1999). In addition, according to a survey by the association Srebrenica 99, most of the members would like to bury the mortal remains of their family members in Potocari (RS).

<sup>22</sup> Interviews Foca and Gorazde (October 1999).

<sup>23</sup> Interviews Tuzla Canton (October 1999).

<sup>24</sup> Interviews Gorazde (October 1999).

received by pensioners or families of killed civilians, and they are also entitled to wide-ranging additional benefits. While there is a legislative framework dealing with civilian war victims and their families, its late introduction into the Federation has meant that many Cantons have not enacted corresponding provisions and many municipalities are not making any payments. In some areas, payments for civilian war victims equate to those paid to other invalids, which is at an unsatisfactory level for those without other financial means. For this reason, many widows of civilian husbands rely on their husband's work pension, provided that they are so entitled. Age limits mean that many women will not be able to claim such pensions. In the RS, the situation is similar, with allowances for families of fallen civilians being generally unsatisfactory.

#### **(4) Abandoned Women**

As a result of the conflict, there is a category of women, referred to in this study as 'abandoned women',<sup>25</sup> who find themselves in a legally uncertain predicament. During the conflict, and immediately after the conflict, many women remained in BiH while their husbands fled to a European country and subsequently lost contact with their families. Similarly, many women refugees have returned to BiH while their husbands have remained abroad, with or without contact with them. Women in this situation, where they have lost their male support, face many of the same problems as other female-headed families, as well as additional legal uncertainty. In particular, they are less able than other persons to access financial assistance and may have problems accessing pre-conflict property.

If an abandoned woman is unemployed, her financial situation is grim. First, women in this group will only be entitled to their husband's pension (if he was so insured) if he is deceased. It will be difficult for them to prove this. Second, abandoned women and single mothers are not entitled to any form of specific social assistance on this fact alone. Third, by definition, abandoned women are not receiving any financial support from their husbands. Although there is a provision in the *Family Law* allowing women to divorce their husbands after two years of not having any information about a husband's whereabouts, as well as provisions for alimony, this still does not resolve the issue of financial support.

#### **(5) Survivors of sexual violence and torture and other severely traumatised women<sup>26</sup>**

Ethnic-based violence, including sexual violence and rape and forcible detention, was used as a deliberate instrument intended to humiliate, degrade, intimidate and destroy the physical and mental integrity of an individual as well as others in an ethnic group during the conflict in BiH. The act of rape violates such fundamental human rights as the right to liberty and security, as well as the right to be protected against torture and inhuman or degrading punishment or treatment.

The International Criminal Tribunal for former Yugoslavia ("ICTY") in its statute has recognised rape as a war crime.<sup>27</sup> There is thus well-documented evidence, including public indictments, on

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<sup>25</sup> The term 'abandoned women', for the purposes of this study, refers to women who have been deserted by their husbands, as opposed to women who have agreed with their husbands to separate or divorce.

<sup>26</sup> Interviews with leading psychologists and psychiatrists working with displaced and returnee women: Aida Cipurkovic, Viva Zene (Tuzla), Infranka Pasagic, Amica (Tuzla), Beba Hadzic, BOSFAM (Tuzla), Vesna Kulju, International Rescue Committee (Gorazde), Sutka Vukas, Anima Centar za Zena (Gorazde) (October 1999) and Duska Andric-Ruzicic, Medica (Zenica) (March 2000).

<sup>27</sup> The Statute was adopted on 25 May 1993 and amended on 13 May 1998. Article 5 of the Statute lists rape as one of the crimes against humanity, when committed in armed conflict, whether international or internal in character, and when directed against any civilian population.

the use of rape during conflicts in former Yugoslavia.<sup>28</sup> It is beyond the scope of this study to document the consequences rape and other forms of sexual violence can have on rape survivors. Nonetheless, it must be recognised that one of the largest barriers to return is psychological trauma and subjective fear caused by attacks on personal integrity.

There is consensus among researchers that the majority of the population has suffered some form of psychological disturbance, ranging from slight post-traumatic stress disorder to acute psychiatric illness.<sup>29</sup> The majority of the women interviewed for this study had experienced acute trauma.<sup>30</sup>

For women whose trauma stems from being victims of sexual violence, including rape, they face enormous stigmatisation as well as the real possibility of being re-traumatised or re-victimised upon return. This is compounded by the fact that very few of the perpetrators have been arrested and prosecuted (see later chapter on security and justice), and in many cases they are still living in their original municipalities, even in key public positions. If these women have not been helped to resolve their traumas, their (forced) return if they are left with no other choices, could produce devastating and destructive psychological reactions for them. One woman interviewed stated that she had been detained for 6 months in a prison in Foca in 1992. Her grandson was also detained with her. Her husband and son (grandson's father) were killed. She stated that she would eventually have no choice but to return because she knows she cannot remain forever in buffer accommodation. However, she is afraid for her grandson who is only 14 years old and remembers being in the camp and who refuses to return with her.<sup>31</sup>

Immediately post-conflict, many women were the recipients of much international attention and aid, especially those from Srebrenica and surrounding areas. Through this they gained a sense of security. With the withdrawal of much international support, many programs for women implemented by local women's NGOs have discontinued or are about to discontinue due to funding cuts. Such women now face a very uncertain future. For women living in settlements and collective centres, their emotional and psychological state is jeopardised by the often cramped living conditions and the lack of privacy and personal space.

For traumatised women, their return involves much more than physical aspects of return (such as reconstruction, repossession of property and employment). A lack of psycho-social services in general and upon return is a major concern. The provision of such services has so far been left to non-government organisations, in disregard of state responsibility. Upon return, traumatised women may be forced to re-live their past - the fear, the uncertainty, the escape, the loss and the fact that their lives will never be the same again without their husbands and sons. In fact, now, for many, the only link to their pre-conflict municipality is the fact that they *own* the land.<sup>32</sup>

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<sup>28</sup> Rapes occurred throughout BiH, including Foca, Prijedor and Visegrad. The trial against three individuals (Kunarac, Kovac and Vukovic) indicted for war crimes committed in Foca started on 20 March 2000 in the ICTY. All the accused are charged with allegations of sexual assault and rape as crimes against humanity and violations of the laws or customs of war.

<sup>29</sup> See *A Family Affair: A Report of Research into Domestic Violence in Albania, Bosnia and Herzegovina, Croatia, Federal Republic of Yugoslavia*, Oxfam (Sarah Maquire) (July 1998), p.22.

<sup>30</sup> Many women interviewed in Tuzla municipality had fled the events in Srebrenica in July 1995, another woman had been interned in a prison in Foca in 1992 where systematic rapes have been reported, while many women had witnessed the deaths of their family members, had missing family members, and one Croat woman had been deserted by her husband for being of a different ethnicity.

<sup>31</sup> Interviews Gorazde area (October 1999).

<sup>32</sup> *Rape: A Specific Trauma, A Specific Type of Violence*, Special Edition, Infoteka, Zenica, (1997).

In the spirit of voluntary, safe and dignified return in accordance with Annex 7 of GFAP, it is reiterated that ex-camp or prison detainees, survivors or witnesses of violence against family members, including sexual violence, as well as severely traumatised persons, should be offered protection and alternative durable solutions, including local integration and settlement. It is presumed that such persons have suffered grave persecution, including at the hands of elements in the local population, and cannot be reasonably expected to return.<sup>33</sup>

Men who have experienced similar trauma may also find themselves, too, in precarious psychological conditions. Counselling services available for men are almost non-existent - they have almost been forgotten in the post-war strategy. This combined with a culture which rejects any foreseeable weakness in men, means that traumatised men may carry their trauma with them in the long-term.

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<sup>33</sup> *Update of UNHCR's Position on Categories of Persons from Bosnia and Herzegovina who are in Continued Need of International Protection*, UNHCR (May 1999), p.36, as updated in February 2000.



## IV. OBSTACLES TO RETURN AND INTEGRATION

### 1. REPOSSESSION OF PROPERTY

#### (1) General

Like other displaced persons, displaced women also face the dilemmas of repossessing their pre-conflict homes. Statistics reveal that the process is a very difficult one. Of some 177,800 registered claims for repossession in both Entities, only 7.3% of claimants have so far been able to repossess their property.<sup>34</sup> It is clear that there has been insufficient progress with ‘minority returns’, even with the slow increase in assisted and spontaneous returns in the latter half of 1999. Slow implementation of the property laws in both Entities has proved to be a concrete barrier to return.

While everyone enjoys the right to return, some interviewees stated that they felt they were being forced to return for economic reasons, because they knew they were occupying another’s property and had nowhere else to live. Others stated that they felt they would be the first to be evicted because they had no male support to protest. In the past, there have been occasions when particularly vulnerable persons have been targeted (e.g. the forcible post-Dayton evictions in West Mostar). There have been recent indications that this practice is continuing in some areas. In addition, there have been some recent reports that unclaimed apartments have been re-allocated to well connected and sometimes public figures, instead of the intended beneficiaries of vulnerable persons. While ensuring that the authorities actively carry out the property laws, it is equally important that vulnerable groups are not forgotten as a result. Vulnerable groups, including single-headed families, should be prioritised in the provision of acceptable legally sanctioned alternative accommodation. For illegal occupants, who are not entitled to accommodation under the property laws, and who continue to be displaced persons, the provision of accommodation under the appropriate laws on refugees and displaced persons should be implemented. Currently little analysis has been done to determine the types of persons who fall into the category of illegal occupants (e.g. single headed households, elderly, Roma, etc.) nor the reasons for their illegal occupation (e.g. not able to obtain the correct papers, not aware of the process at the time, etc.), but for those vulnerable persons who are illegal occupants and displaced persons, the authorities should fulfil their legal obligations and provide them with alternative accommodation upon eviction if in need.

The conditions of many accommodation facilities need to be improved also. Many informal facilities do not meet acceptable standards (e.g. a centre in Banja Luka in which 25 families live side by side in one basketball court without petitions between families, another facility in Sanski Most in which 3 ex-camp detainees were housed behind a wall made of blankets). This is particularly important for inhabitants who are long term residents and who do not have durable solutions. It is equally crucial for traumatised individuals whose psychological condition is likely to be exacerbated due to cramped and poor living standards. Further examples include a young divorcee woman with two children who was denied accommodation on her own, and was placed

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<sup>34</sup> Statistics from OHR, OSCE and UNHCR monitoring for 29 February 2000 (Federation) and 3 April 2000 (RS) – In total, decisions have been made in both Entities on 19% of claims. For the Federation, of some 104,500 claims, 33,000 (32%) decisions have been made and 13,000 (11.5%) claimants have been able to repossess their property. In the RS, of some 73,000 claims for repossession, 1,200 (1.6%) decisions have been made and 1,000 (1.4%) claimants have been able to repossess their property.

in the same room in a collective centre as her parents.<sup>35</sup> Moreover, residents in buffer accommodation (*de facto* collective centre) in Ilijas faced further cramped conditions with the Cantonal Ministry's "rationalisation of space" plan to join single women with other single women in order to implement the new property amendments.<sup>36</sup> The interviewees were long-term residents of the centre (2.5 or 3 years) and had no foreseeable return possibilities.<sup>37</sup>

For single headed households who will not have the opportunity to obtain another occupancy right through future working life, they will face future instability and uncertainty if their right is cancelled. For women reaching old age, and who do not have working capacity, they face a future relying on social welfare. It must be acknowledged that for women who lost their occupancy right to an apartment for failure to reoccupy within the 90-day deadline, they will lose all future rights to exchange or sale, and will subsequently become dependent on the weak system of social welfare (which, at the date of writing this study, does not provide accommodation in any of 50 municipalities surveyed). Currently, there are a few exceptions to the cancellation of occupancy right, however, the one most applicable to these categories of women would be "well-founded fear of persecution". Under the property laws, this is to be determined by one's pre-conflict municipality. Arguably, if this provision is to remain, such an exception should be determined by an independent body.

The needs of vulnerable groups should be reflected in the allocation of funding for alternative accommodation. At present most, if not all, available funding is channelled into the reconstruction of housing for returnees. Sufficient funding (for social housing, for instance) must be made available by the international community in order to locally integrate vulnerable persons with valid protection concerns who are unable to return, on an exceptional basis and who meet strict criteria. Moreover, local authorities should include such persons in current local integration projects, provided such projects do not jeopardise or block minority returns to that area.

## **(2) Inheritance of property rights**

The issue of entitlement to pre-conflict property (equally applicable to pensions) directly raises the issue of inheritance and proving one's right. For women with missing husbands, declaring one's husband as deceased in order to inherit the right to their pension or to pre-conflict property can be an emotionally difficult step. The legal steps are not overly burdensome in terms of content, but undertaking the process can result in emotional stress and feelings of guilt for some women.

In the Federation, one must initiate proceedings in the municipality of pre-conflict address which can raise real concerns for single women without male support. They must return to their pre-conflict municipality in order to initiate proceedings. Moreover, proving one's right to inheritance can be emotionally troublesome. It means that one must overtly declare the reason one believes their husband is deceased, and it can represent a public statement of giving up hope. In fact, the Federation Law requires the court to make a public announcement in the Federation Official Gazette stating that such proceedings have been instituted.<sup>38</sup> In relation to property repossession in both Entities, there is equal recognition in the respective laws of household members to apply

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<sup>35</sup> Interviews Gorazde (October 1999).

<sup>36</sup> They were planning to house evictees in the buffer accommodation.

<sup>37</sup> Interviews Ilijas Collective Centre (January 2000). In fact, three of the women interviewed had houses or apartments which are completely destroyed, and are not under any reconstruction plans, and the fourth woman has separated from her husband and is unsure whether she would be entitled to the apartment.

<sup>38</sup> Art.65(3) of the *Law on Out-Of-Court Proceedings*, (FBH Official Gazette 2/98, 20 January 1998).

for repossession of socially-owned property, and so women will not have to prove that they inherited the apartment from their ‘deceased’ husband. This eases the burden on women to prove their inheritance right.

**Recommendations:** See Chapter V.

## 2. RECONSTRUCTION ASSISTANCE

Apart from repossession of property, the other means of facilitating returns of refugees and displaced persons is to assist them in reconstructing their destroyed homes. Since the GFAP, KM731 million has been spent on reconstruction of housing. For the year 2000, KM131 million is indicated as both completed and ongoing reconstruction of housing.<sup>39</sup>

The major concern of those involved in the reconstruction process has been that many of the beneficiaries have not moved into their reconstructed houses and have continued to occupy someone else’s property. While there might be valid reasons for this phenomenon, such as the lack of sustainability of the returns (e.g. employment and education, as well as non-availability of essential services such as water, electricity and telephone), it has meant the waste of limited resources. Various measures have been taken to combat this, including evictions of this category of double occupants as well as the introduction of a policy that “funding follows returns”, according to which more evidence is required of one’s return intentions before qualifying for reconstruction assistance, such as participating in house cleaning or even moving to the site and working on their houses.<sup>40</sup> Preliminary research suggests that there is a real risk that certain categories of people would be excluded if this policy is strictly implemented. There needs to be specific measures taken to ensure that people who are not in a position to travel frequently or move to the return area, such as female-headed households or vulnerable persons, also qualify for interim housing while awaiting reconstruction assistance and receive adequate support. There is clearly a need to have more information on the potential impact of this policy.<sup>41</sup>

No clear criteria has been established in BiH for identifying potential beneficiaries. Beneficiary criteria have been left to individual agencies to ascertain, which means there has been no systematic gender analysis. Generally in 1999, focus was placed on breakthrough return areas, where persons had not previously returned, as well as the above mentioned policy of “reconstruction follows return”. In 1998 and 1999, UNHCR in particular began focusing on minority returnees, rather than returnees in general. Through this process, UNHCR through its implementing partners reconstructed 851 housing units, with 3,182 beneficiaries, of which 19% were female-headed households and 11% included one or more physically or mentally handicapped persons. For 2000, collective centre residents without durable solutions have also been identified as a priority group for reconstruction assistance.<sup>42</sup> It is vital that the most vulnerable groups, including female-headed households, who are less likely than others to be able to reconstruct their houses privately, are included in ongoing and future reconstruction projects.

**Recommendations:** See Chapter V.

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<sup>39</sup> See OHR’s Economic Task Force Secretariat’s Newsletter (March 2000).

<sup>40</sup> This policy has not been applied to specific hardline or breakthrough areas, in order to encourage returns by reconstructing housing.

<sup>41</sup> The Return and Reconstruction Task Force (RRTF) is currently conducting a survey on this issue.

<sup>42</sup> UNHCR Operations Unit (March 2000).

### 3. SECURITY AND JUSTICE

#### (1) General

A recent study has indicated that 68% of respondents who expressed a desire to return to their pre-conflict properties ranked personal security and security of property as their highest priority.<sup>43</sup> While the issue of security affects all displaced persons and returnees, the issue for single women seems to be paramount, and their concern is compounded by their lack of support. While violence is often targeted at minorities in general, women may face a specific type of concern.<sup>44</sup>

The initiatives of home visits and UNHCR's Inter-Entity Bus Lines have alleviated some security concerns, helped by the overall improvement in the freedom of movement. These initiatives have assisted vulnerable women to adjust to their own return, with the support of other persons also visiting their pre-conflict municipalities. However, other women stated that it confirmed that they would never return – it reminded them of everything they had lost. One woman stated that when she returned to Srebrenica on a home visit she saw the man who had herded her and her sister into the back of a truck in July 1995. The personal security which women feel in the company of other persons indicates that collective returns for single women, interspersed with nuclear families, should be encouraged and supported.

While the number of reported incidents of violence targeting returnees has decreased in 1999 and early 2000, there continue to be serious incidents of violence against returnees and security is still an issue in many areas, particularly in the Bosnian-Croat administered municipalities in the western part of BiH, as well as in some parts of the RS. The presence of anti-personnel and anti-tank mines is also a potential threat. During the month of March 2000, as an example, there were 50 reported incidents of ethnically motivated violence,<sup>45</sup> including throwing of hand grenades at returnees or their houses, arson of newly constructed returnee houses, shootings of automatic rifles at returnees, desecration of graveyards (2 cases) and various explosions, causing property damage and physical injuries and 3 deaths.<sup>46</sup> The level of investigation into such incidents as well as the prosecution of alleged offenders remains poor.

#### (2) Freedom of movement

The freedom of movement across the Inter-Entity Boundary Line (or territory controlled by another ethnic group within in the Federation) has improved tremendously in the past two years, in particular since the establishment of a common licence plate policy in 1998. Most of the areas of BiH have opened up for visits in 1999, including areas in eastern and south-eastern RS. Many

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<sup>43</sup> *Return, Local Integration and Property Rights: A Study of the Preferences and Intentions of Refugees and Displaced Persons Regarding the Exercise of Property Rights*, UNHCR and CRPC Report, Sarajevo (November 1999), p.16.

<sup>44</sup> There are no gender statistics available. During interviewing, we were informed of one returnee woman having been raped, and another single woman's house was arsoned. For reasons of confidentiality and possible identity, the municipalities are not named.

<sup>45</sup> Information from UNMiBH/IPTF – HRO/Human Rights Investigations Desk.

<sup>46</sup> UNMiBH Weekly Reports (March 2000).

visits are now either spontaneous or organised by refugee and displaced persons associations themselves without any involvement of the international community.<sup>47</sup>

The improved compliance with the Rules of the Road<sup>48</sup> by the authorities in 1998 and 1999 has meant that previous fear against arbitrary arrest upon return of minority males has largely been alleviated. While *Amnesty Laws* granting amnesty to persons for crimes committed during the war have been enacted in both Entities,<sup>49</sup> there is still in existence outstanding arrest warrants targeting minority men. Such arrest warrants arise out of the practice of indiscriminate use of trials in absentia against persons who fled from what is now Federation territory during the war, in which arrest warrants were issued.

### (3) Law enforcement

The role of the local police is crucial in providing secure conditions for minority returns. According to the BiH Constitution, law enforcement is an Entity responsibility. Despite several years of restructuring by the UNMIBH/IPTF<sup>50</sup>, the law enforcement agencies in both entities remain nearly exclusively mono-ethnic (with some exceptions mainly in the Bosniak controlled areas)<sup>51</sup> and prone to political influence of the ruling nationalist parties. In addition, their effectiveness in crime detection, investigation and response remains low.<sup>52</sup> While some progress is reported with regard to attaining a more balanced ethnic composition, another concern is the almost total lack of female police officers in the police forces as well as lack of gender sensitivity.<sup>53</sup> This in turn has had a serious impact on how the local police investigate crimes committed against women (e.g. domestic violence and rape). While the lack of adequate response to gender specific crimes influences all women, it is particularly important for the women who have already been victims of violence to feel that they can trust the local police.

The registration and testing of all police, as well as background checks on one's wartime activities and previous criminal records, as recent initiatives, should in some ways assist in creating a society in which one feels trust towards the police. However, until active investigation and prosecution of all types of offences, including sex crimes, is carried out efficiently and routinely, vulnerable persons will continue to raise the issue of security as a serious return concern.

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<sup>47</sup> See also HRCC Semi-annual report covering the period April-September 1999, which reports increasing returns and assessment visits, including to previously difficult areas.

<sup>48</sup> According to the Rome Agreement of 18 February 1996, persons suspected of genocide or war crimes may be arrested only if the indictment or arrest warrant against them has been previously reviewed by the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the Hague.

<sup>49</sup> War crimes and the most serious crimes are still prosecutable, and are not included in the *Amnesty Laws*. *Federation Amnesty Law* came into effect on 11 December and grants wide amnesty for crimes committed between 1 January 1991 and 22 December 1995. The *RS Amnesty Law* was amended in July 1999 in order to bring it into compliance with the GFAP.

<sup>50</sup> UNMIBH/IPTF is mandated by the UN Security Council to reform and restructure the local police.

<sup>51</sup> In the RS in total, only 2% of the police force are Bosniaks, 1% Croat and the remaining 97% are Serbs. In the Federation, 60% are Bosniaks, 37% are Croats, and only 1% Serbs and 1% 'Other' (information from UNMIBH/IPTF).

<sup>52</sup> "Questions of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of Human Rights in the former Yugoslavia – Report of Mr. Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia" E/CN.4/2000/39 (28 December 1999).

<sup>53</sup> Only 7% of police officers are female (7% in the RS, 8% in the Federation). In some areas, such as Foca based on the information received from the Entity Ministries of Interior, the percentage of female police officers is below 2%. (Information from UNMIBH/IPTF).

#### **(4) Prosecution of war crimes**

One of the main barriers to return is the presence of war criminals in one's pre-conflict municipality. The ICTY has publicly indicted 67 individuals for crimes committed in Bosnia and Herzegovina out of which 28 remain at large, most of them for crimes committed in the RS.<sup>54</sup> As long as indicted war criminals are permitted to remain at large, their presence continues to prevent minority returns, and slow down ethnic and political integration.

It is clear that not all the persons who have committed war crimes will be prosecuted for their crimes. The ICTY has focused on those who had command responsibility. For ordinary people contemplating return, however, it is equally important that also those who bear direct responsibility for crimes committed against them or their families be prosecuted. This is also part of the reconciliation process. The domestic courts, according to the Statute of the ICTY, have concurrent jurisdiction.<sup>55</sup> However, until now all the domestic war crimes trials (with one exception, the Golubovic trial in Mostar Cantonal Court) have been against the other ethnic group (or in some cases, a different warring faction of the same ethnic group). For victims or witnesses of war crimes, the continuation of mono-ethnic judiciaries as well as sole responsibility over prosecution at the Entity level, and the presence of war criminals, will remain a real obstacle to return to some areas.

**Recommendations:** See Chapter V.

### **4. EMPLOYMENT**

In both Entities, unemployment levels since the conflict have remained high, at 42.4% in the Federation and 36% in the RS. Average nominal wages are 386KM in the Federation, and 272KM in the RS,<sup>56</sup> while in the Federation, the "basic consumer basket" for a four-member family was 450KM.<sup>57</sup> While the employment sector looks bleak for all persons, it is well known that there is much discrimination on the basis of ethnicity, political opinion or affiliation, gender as well as discrimination against returnees in general (be it minority or majority returnees). There was also a perception by interviewees that the privatisation process will negatively impact on women, who have neither political nor social contacts with new employers.

Although there has been increasing investment in the economic sector, there has been insufficient progress in general. Recently the Federation Government announced that it will establish operational programs for the employment of women, as a distinct category,<sup>58</sup> which is a positive initiative provided women are not marginalised into traditional female occupations as a result. In contrast, in both Entities, priority in employment should be given, according to the law, to

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<sup>54</sup> ICTY website.

<sup>55</sup> Article 9 of the Statute of the ICTY.

<sup>56</sup> See OHR's Economic Task Force Secretariat's Newsletter, (December 1999) for the Federation figure. The RS unemployment figure was taken from the June 1999 newsletter (no later figures available).

<sup>57</sup> The equivalent estimate was not available for the RS. *Bosnia and Herzegovina: ICRC's Assistance after Dayton*, International Committee of the Red Cross, Assessment Mission, 25 October – 4 November 1999, Gilles Carbonnier.

<sup>58</sup> See Basis for the Preparation of a Social Program in the Federation of Bosnia and Herzegovina adopted by the FBH Government on 10 November 1999 (FBH Official Gazette, No.49/99).

demobilised soldiers, military war invalids and family members of fallen soldiers.<sup>59</sup> This indirectly discriminates against ethnic minority returnees, as they fought or a spouse died for the 'wrong' army and they are excluded from this prioritisation. For example, two returnee women in Gorazde stated that they did not hold out much hope for filling their old jobs, because they were not families of fallen soldiers. Further, it ignores families of civilian war victims (including widows), and places this group in an even more vulnerable and marginalised position. The majority of women interviewed stated that they were not employed, were not registered with the Employment Office (those who were had not received any form of assistance), or were engaging in short-term or sporadic employment. Several of the women were actively participating in Bosnian Women's Initiative projects.

**Recommendations:** See Chapter V.

## 5. EDUCATION AND VOCATIONAL TRAINING

### (1) General

The necessity of educating and training women cannot be under-estimated. In cases where women become the primary income earners of families, their education and skill levels may directly affect their financial means and employment opportunities. One report suggests that 51% of the displaced person and refugee populations within the RS were without education or with only elementary schooling.<sup>60</sup> It is expected that these figures would be higher for women. It is crucial that women are not only vocationally skilled in various projects but also that they reach adequate literacy levels. Some non-government organisations are providing various types of training and micro enterprise projects, such as the BWI projects, but these organisations are wholly supported by the international community. With declining international assistance to BiH, it is imperative that local authorities adopt and support these projects and allocate appropriate resources.

### (2) Education of children

For some women interviewed, the schooling of their children is an issue of real concern. Many women interviewed did not want to subject their children to potential stigmatisation, prejudice or harassment based on their ethnicity. Some stated that they could not face this possibility as single parents, and especially without male support. This includes the lack of a common or joint school curriculum throughout BiH, and the continued existence of ethnically-based textbooks. Other interviewees simply raised the fact that there was no longer a school in their place of pre-conflict residence as being a major deterrence to return. In some areas, such as Banja Lucica in Sokolac municipality, 60 houses have been reconstructed, but not the local school. This leads to the double occupation of reconstructed property, as well as apartments or houses in their displacement community so that their children can continue to attend school.

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<sup>59</sup> In fact, Art. 9 of the *RS Labour Law* and Arts.31 and 81 of the *RS Law on Rights of Soldiers*, contain provisions under which priority in employment will be given to families of deceased members of the RS Army, if no other family members are employed, disabled war veterans, demobilised soldiers, and those unemployed for over two years. The equivalent in the Federation is on a Cantonal basis – for example, Art.20 of the *Law on Assisting with Employment and Social Security of Unemployed Persons* (Sarajevo Canton Official Gazette 22/97). See OSCE Report: *Employment Discrimination in Bosnia and Herzegovina*, Human Rights Department (June 1999), p.9-10.

<sup>60</sup> *Discussion Paper: Social Protection System and Policy Transition in the Republika Srpska, Preliminary Study of Problems and Proposed Changes*, Independent Bureau for Humanitarian Issues, Banja Luka (September 1998), p.53.

**Recommendations:** See Chapter V.

## 6. HEALTH CARE

### (1) General

Access to adequate health care is an important aspect of return. For those requiring ongoing treatment, it can be of principal importance. While the respective laws in both Entities on health insurance provide health coverage to various groups of persons including employees, apprentices, self-employed persons, farmers, pensioners and registered unemployed persons,<sup>61</sup> based on regular contributions made by employers/bodies or individuals, the current level of health care in BiH is far from at an acceptable level.<sup>62</sup> The health coverage for displaced persons and refugees is regulated by virtue of the respective Entity laws on displaced persons and refugees.<sup>63</sup> Health insurance in the Federation is devolved to the Canton level. This devolution leads to a disparity in services provided throughout the Federation. It has been found that in most Cantons, only primary health care is provided free of charge.<sup>64</sup> Similarly, in the RS, the situation on the ground reveals that insured persons do not always obtain medical assistance as outlined in the law.<sup>65</sup> Due to this fractured system, there is a disparate level of health care provided to persons in different areas.

According to the BiH Constitution, each Entity is responsible for supporting and promoting individual and community health. While there is no specific legal provision requiring co-operation between the Entities, recently the two Entities agreed to co-operate in order to improve the provision of health care throughout BiH, on 22 November 1999. No progress has been made since this date. Access to services is directly related to where one is insured, and moreover, whether contributions to the relevant fund have been paid. Because there is no system of transfer of payments from one area to another, and from one Entity to another, persons may be required to pay the full amount for services in one area, and not in another. This also impacts on one's right to freedom of movement. For instance, an inhabitant of Pale (RS) in need of tertiary health care has to travel to Banja Luka (which is approximately 3.5 hours drive away) in order to receive adequate treatment, whereas the Sarajevo hospital is only forty-five minutes from Pale.<sup>66</sup>

The problem can also be seen on a lower scale – sometimes persons go to the 'nearest' health facility or *ambulanta*, but they may not be insured for that fund and will therefore not be reimbursed for the costs. Uninsured persons must also pay the full costs of medical treatment, unless emergency, and often these are the persons least likely to be able to afford such care.

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<sup>61</sup> Art.10 of the RS *Law on Health Insurance* (RS Official Gazette Nos.18/99) and Art.19 of the Federation *Law on Health Insurance* (FBH Official Gazette No.30/97).

<sup>62</sup> *A Social Assessment of Bosnia and Herzegovina*, World Bank Report (April 1999).

<sup>63</sup> RS *Law on Displaced Persons, Refugees and Returnees in the Republika Srpska* (RS Official Gazette No.33/99) and Federation *Law on Displaced-Expelled Persons and Repatriates in the Federation of Bosnia and Herzegovina* (awaiting publication in the FBH Official Gazette at the time of writing this study). Some Cantonal Laws on Social Welfare cover displaced persons and refugees and entitle such persons to health care.

<sup>64</sup> See *Registration of Repatriates in the Federation of Bosnia and Herzegovina and Entitlement to Identity Documents, Food Assistance and Medical Care*, UNHCR (November 1998).

<sup>65</sup> See *Registration of Repatriates in the Republika Srpska and Entitlement to Identity Documents, Food Assistance and Medical Care*, UNHCR (April 1999).

<sup>66</sup> *Issue Paper on Health and Human Rights in BiH*, OHCHR (January 2000).



Others will have to contribute to the costs, depending on their category of insurance.<sup>67</sup> For pensioners, their health insurance is directly linked to their pension entitlements as one is only able to access health care on the territory of the particular pension fund. This, of course, has serious ramifications for displaced persons (see later section on pensions).

It is not only a question of geographical limitations to one's insurance coverage, but the insurance body (the one that insures a person) must make the contributions to the appropriate fund. Given the current poor economic climate in BiH, some employers and public bodies have failed to make payments to the health fund. In such an event, an insured person will have to pay the full cost of the health services.

In addition, the uneven distribution of health resources between Entities can also create inequities in the quality of health care: the Federation spends 7.8% (as a percentage of GDP of the Entity) on health care, while the RS spends 7.6%.<sup>68</sup> Due to the much lower GDP in the RS, the figures are distorting, with the RS health care system still receiving much less than the Federation system. Within the Federation, rich and poor Cantons are not able to provide the same quality of health care or access to the same types of drugs. Some Cantons have not even established a health fund (e.g. Middle Bosnia (Travnik) and Neretva (Mostar)), while the Federation Fund has been established but is not yet functioning.

For potential returnees, especially elderly people, women and women with children, access to appropriate primary health care is a real concern. Women's health services (e.g. mammograms and pap smears) are also not addressed in any comprehensive manner. Returnees are required to register with the Employment Office in their return municipality within 30 days in order to be insured as an unemployed person. If they fail to do so, they will not obtain insurance except through some other means. A recent UNHCR study of returnees to Tuzla Canton indicates that often persons with health insurance are being asked to pay the full costs, as their insurance fund/employer had not made the appropriate contributions. One family, with health insurance through the Employment Office, stated that they had been denied assistance twice because the Employment Office refused to pay the necessary contributions. Another family, in the survey, without medical insurance was informed that the cost of delivery for a child would be 1000KM or 3000KM for a caesarean.<sup>69</sup>

## **(2) Psychological Health Care**

For severely traumatised persons, the availability of psycho-social counselling services in their current and pre-conflict municipalities is crucial. Many persons in BiH continue to suffer from PTSD (post-traumatic stress disorder). Research in 50 municipalities in both the Federation and the RS is illustrative that the situation faced by traumatised persons is far from ideal, and that for tertiary treatment (psychiatry and psychology) the situation is extremely poor.<sup>70</sup> While there are centres for mental health in BiH, they are neither well equipped, nor do they have the capacity to

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<sup>67</sup> *Registration of Repatriates in the Republika Srpska and Entitlement to Identity Documents, Food Assistance and Medical Care*, UNHCR (April 1999) and *Registration of Repatriates in the Federation of Bosnia and Herzegovina and Entitlement to Identity Documents, Food Assistance and Medical Care*, UNHCR (November 1998).

<sup>68</sup> *Summary Report: 1998 Health Resource Accounts in Bosnia and Herzegovina – Reports of Methods and Results, including findings of 1999 health expenditure and perceptions survey*, Department for International Development, KNOW HOW FUND and Health and Life Sciences Partnership, p.6.

<sup>69</sup> *Returnee Monitoring Study: Refugees Repatriating to Tuzla Canton – Bosnia and Herzegovina*, UNHCR, Sarajevo (January 2000), p.27.

<sup>70</sup> UNHCR field research (January-February 2000).

accommodate patients (i.e. in-patient care). A limited number of such services are provided by non-government organisations (NGO), free of charge, but largely their capacity is small and only very few receive persons on a long-term basis (only in Zenica (30 women and their children) and Tuzla (16 women and their children)). Moreover, the majority of NGO assistance is for women and children only. There is also clearly a lack of counselling services available for men. There are outpatient counselling services in some of the larger cities, but for rural households, these services are often non-existent.

Very few hospitals in BiH include mental health departments and the existing capacity is very low. All departments are organised as “closed departments”, which means that they are most likely located in a basement with bars on the windows. There is very little freedom of movement. The facilities were originally designed for persons who needed serious observation, in order to protect them from harming themselves and others. The conflict in Bosnia produced new and different kinds of psychological/psychiatric trauma and problems, and there has not been adequate training of local professionals to deal with these changes. For concentration or detention camp survivors, it cannot be acceptable that they are treated in isolated psychiatry departments in a barricaded basements.<sup>71</sup>

**Recommendations:** See Chapter V.

## 7. PENSIONS

### (1) General

Due to the premature deaths of family members as a result of the conflict in BiH, many persons have become widows. For widows, pensions are often their main, if not sole, source of income, as well as their source of health coverage. There is a sizeable category of widows however, who are not able to access a family pension, because at the time of the death of their spouse, they had not reached the required age limit (45 years old for widows). Only one interviewee was receiving her own pension for past working life. Some persons may be entitled to allowances for families of fallen soldiers, while others will be solely dependent on social welfare assistance or humanitarian aid (see later sections). Even for those who are receiving a pension, the financial situation is extremely difficult, due to low amounts and there are almost always delays in pension payments. In fact, the Sarajevo Fund has stated that due to financial problems, there are “significant delays”, with the Sarajevo Fund paying pensioners their September 1999 pension in late January and February 2000. Payment is also being paid out Canton by Canton, and not simultaneously. This means that some persons will be forced to wait longer than others for payment.<sup>72</sup>

Pension law is an Entity responsibility and as a consequence, there is a separate law governing pension entitlements in each Entity. There currently exist three pension funds (the Mostar Fund, the Sarajevo Fund and the Republika Srpska Fund), each covering a distinct ethnically-divisive territory. This has caused widespread difficulties for displaced persons and returnees to obtain their pensions. Recently, the directors of the three funds signed an *Agreement on Respective Rights and Obligations Regarding Implementation of Pension and Disability Insurance*, on 27 March 2000 which is pending publication in the respective official gazettes. Once in force the agreement should overcome some of the longstanding problems of the pension system, such as,

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<sup>71</sup> See also Opinion of Medica, Women’s Association caring for traumatised women, Zenica (January 2000).

<sup>72</sup> Information provided by the Sarajevo Fund, dated 7 February 2000.

the lack of co-ordination between the pension funds, lack of data exchange as well as the current inability of some persons to realise their rights due to requirements for current residence and last place of insurance to be in the same administrative area of the respective Pension Fund. It should also cover persons who now live in reintegrated areas who paid their contributions to the RS Pension Fund (i.e. former Serb-held areas which are not located in the Federation). While such problems persist, this agreement is a progressive step towards alleviating some of the difficulties encountered by displaced and returnee pensioners.

In most cases, pensions paid are inadequate and they do not take into account increasing costs, as payments are fixed.<sup>73</sup> The average pension paid out of the Sarajevo Fund from 1 January 1999 was 180KM (average family pension was 145KM) and from the RS Fund the average pension paid was 105KM (average family pension was 84KM).<sup>74</sup> According to regulations, the lowest pension payable in the Federation is 117KM and the maximum is 613KM, while in the RS, the lowest pension paid was 27KM (family pension) and the maximum paid was 321KM (old age pension). There is no statutory minimum in the RS. None of the women interviewed in the Federation were receiving more than 125KM (the most commonly cited amount was 116KM).

The Sarajevo Fund also pays 1,643 holders of the military insurance scheme of former members of the Yugoslav National Army ("JNA"). The Fund pays 50% of the amount they previously received from the Military Institute of the Socialist Federal Republic of Yugoslavia ("SFRY"). The average pension for these beneficiaries is 315.38KM. The Sarajevo Fund also provides pensions for BiH Federation Army members as well, under the same conditions as other insurance holders. This equally applies to war widows inheriting their husband's military pension.<sup>75</sup>

## (2) The legal framework in the RS

The *Law on Pension and Disability Insurance*<sup>76</sup> ("RS Pension Law") provides that a person is entitled to a "family pension" in the RS if the insured person, on the day of his/her death, had satisfied the conditions for the old age or invalidity pension,<sup>77</sup> or s/he was already receiving a pension. This provision covers also missing persons who have been declared as deceased under the appropriate procedure.<sup>78</sup> At this juncture it should be noted that women with missing husbands must declare their husbands as deceased in order to inherit a family pension. As illustrated earlier, this can be difficult emotionally and can mean that some women will not realise their entitlements.<sup>79</sup> It is also worth noting that, in both the RS and the Federation, if one dies due to an illness or injury sustained at work, then family pension entitlements will be automatic and greater than those for persons who died engaging in non-work-related activities. The minimum prescribed period of contributions must be met as a minimum in the latter case.

A widow acquires the pension (1) if she is 45 years of age on the day of her husband's death, (2) if she is completely without working capacity, or (3) she is performing her parental duties to

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<sup>73</sup> See *Report On the Situation of Human Rights and Freedoms in the Federation of Bosnia and Herzegovina in 1998*, The Ombudsmen of the Federation of Bosnia and Herzegovina (March 1999), p.36. This fact is also the same for the RS.

<sup>74</sup> No information was provided by the Mostar Fund.

<sup>75</sup> Information provided by Sarajevo Fund, dated 7 February, 2000.

<sup>76</sup> RS Official Gazette Nos.27/93, 14/94, 10/95 and 22/96.

<sup>77</sup> In both the RS and the Federation, invalidity includes death.

<sup>78</sup> Art.103 of the *RS Pension Law*.

<sup>79</sup> See III. Summary of Concerns, (3) Widows (civilian and war).

children.<sup>80</sup> For widows who acquire the right under (1) or (2), the pension is acquired on a permanent basis. For widows who acquire the right under (3), the pension entitlement lasts only for as long as children reach the age of 15 or as long as they remain in full-time schooling up to the age of 26 years<sup>81</sup> or if the children become incapable of caring for themselves so long as the condition remains.<sup>82</sup>

If a widow has acquired the family pension on the basis of her children, there is a real possibility that she will lose it after this time (see examples below),<sup>83</sup> or if she has reached the age of 40 years at the date of the cessation of conditions for acquiring the pension, she will be entitled to obtain it on a permanent basis once she reaches 45 years.<sup>84</sup> While there is a provision stating that a widow shall keep the pension if she is unemployed, it is unclear how liberally this is applied.<sup>85</sup> There is no equivalent provision in the Federation, indicating that a widow will lose her family pension once her children finish their full-time schooling, unless she is also entitled to it on another ground.

The *RS Pension Law* also covers spouses and children of deceased persons who had been members of either the JNA, the Republika Srpska Army or the Ministry of the Interior, irrespective of years of service. Entitlement is equal to that of other pensioners.

### **(3) Who misses out?**

The below listed examples illustrate some cases of women who would be excluded from pension entitlements.

- A 28 year old Serb woman from Cajnice, RS, with 2 children (6 and 8), lost her husband during the war. He was a soldier in the RS Army and killed during active duty. She is entitled to receive a family pension under Article 104, but only on the basis of her children (Article 105(3)) as she is neither 45 years of age before the death of her husband nor completely unable to work. She is entitled to receive a pension for her children until they reach 15 years of age, or if they are in full-time schooling, until 26. If both her children decide not to continue with their education after the age of 15 years, she may lose her pension when she is 37 years of age - and unless she gains some skills in the interim period or remarries, she will be left without future support.
- A 38 year old woman from Rogatica, RS, has no dependent children. Her husband was a member of the JNA Army and died in military service. She is not entitled to a family pension because she has not reached the age of 45 years at the time of her husband's death, is not completely unable to work and she is not performing any parental duties to children. It is likely that she would be entitled to an allowance for families of killed soldiers under different legislation (see later section).
- Any woman from the RS, whose husband died, but was never insured.

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<sup>80</sup> Art.105 of the *RS Pension Law*.

<sup>81</sup> Art.113 of the *RS Pension Law*.

<sup>82</sup> Art.116 of the *RS Pension Law*.

<sup>83</sup> Interviews, Iustitia, Banja Luka (February 2000).

<sup>84</sup> Art. 106 of the *RS Pension Law*.

<sup>85</sup> Art.112 of the *RS Pension Law*.

- A 30 year old woman from Foca, RS, who refuses to declare that her missing husband is deceased. She is not able to prove her claim for inheritance to a family pension.

#### **(4) The legal framework in the Federation**

In the Federation, entitlement to pensions is regulated by the *Pension and Disability Insurance Law*<sup>86</sup> (hereinafter “*Federation Pension Law*”). Family members (spouse, children or ex-spouse who has right to support by a court decision) of deceased policy holders are entitled to a family pension provided the policy holder fulfilled one of the following conditions: (1) conditions of the old-age pension, or (2) conditions of the invalidity pension, or (3) s/he was already receiving a pension.<sup>87</sup> A policy holder acquires the right to the old-age pension when s/he reaches 65 years of age and has completed at least 20 years of service, or 40 years and no age limit.<sup>88</sup> A widow will acquire this right if she meets one of the following conditions: (1) she reached 45 years *before the death of her husband*; (2) she was completely unable to work before the death of her husband or within one year after the death of her spouse; or (3) if after the death of her spouse, one or more children who are entitled to the pension remain, and the widow is caring for them. For widows who become completely unable to work during the period of care for children, they are entitled to retain their pension as long as the invalidity exists.<sup>89</sup>

Widows who reach the age of 45 during the time of entitlement will be permanently entitled to the family pension.<sup>90</sup> All others will lose their pension once the conditions (2) or (3) cease to exist. There is no equivalent provision as in the RS which stipulates that if one reaches 40 years of age and conditions cease, one will regain the pension at 45 years. Nor is there a provision allowing the continuation of the pension for reasons of unemployment.

A child who receives a right to the family pension retains the right until s/he reaches the age of 15 or if a full-time student, until s/he reaches 25 years of age,<sup>91</sup> or unless s/he becomes completely unable to care for her/himself as long as the condition persists.<sup>92</sup> This age limit for loss of pension coverage is one year shorter than the limit applicable in the RS.

#### **(5) Who misses out?**

The below listed examples illustrate some cases of women who would be excluded from pension entitlements.

- Any woman from Sarajevo whose husband died, but was never insured.
- Any woman who, at the time of her husband’s death, was not yet 45 years of age, or she is not completely unable to work, or she does not have dependent children.
- A 45 year old woman from Tuzla, whose husband worked in Montenegro and is now missing and she will not declare him as deceased.

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<sup>86</sup> FBH Official Gazette No.29/98.

<sup>87</sup> Art.61 of the *Federation Pension Law*.

<sup>88</sup> Art.30 of the *Federation Pension Law*.

<sup>89</sup> Art.62 of the *Federation Pension Law*.

<sup>90</sup> Art.62(2) of the *Federation Pension Law*.

<sup>91</sup> Art.65 of the *Federation Pension Law*.

<sup>92</sup> Art.66 of the *Federation Pension Law*.

**Recommendations:** See Chapter V.

## 8. SOCIAL WELFARE ASSISTANCE

### (1) General

In a post-conflict social, economic and political environment, access to social welfare assistance becomes an ever important resource for many persons. As a result of the loss of a spouse or partner, or a parent, due to the loss of employment, and/or displacement, many persons find themselves with no other source of income except social welfare assistance or donations from non-government organisations. Twelve women out of 42 interviewed were not covered by pensions or other payments, and only one woman was receiving a contribution from the Centre for Social Welfare (“CSW”), although several women had approached them for assistance. The most commonly cited reasons for refusal was lack of funds. In parts of BiH, the situation is precarious for many families. While there exists in both the Federation and the RS various levels of legislation dealing with social welfare and protection (the Federation *Law on Social Protection, Protection of Civilian War Victims and Protection of Families with Children*<sup>93</sup> as well as Cantonal legislation, and the RS *Law on Social Welfare*<sup>94</sup>), the reality on the ground is very different.

The economic situation in BiH in many ways prevents the active implementation of social welfare laws to the extent that they are needed. However, some municipalities stated that they were not paying benefits simply because the finances had not been allocated by the Federation or the Canton. Too often economic arguments are used by the local authorities to avoid their legal responsibilities in the area of social help, while at the same time it is recognised that a boost to the economy improves the social conditions for many persons. Support varies from Entity to Entity, as well as from poor to rich Cantons and municipalities.

The responsibility for social welfare assistance lies with at the Entity level. In the Federation, the Cantons have responsibility for implementing the Federation Law, as well as implementing their own correlative laws, while in the RS, there is just one law covering social protection. To date, only four Cantons have introduced social welfare legislation, and none have harmonised these laws with the applicable Federation Law which entered into force in September 1999.<sup>95</sup> Those without individual Cantonal laws, are either applying the former Socialist Republic of Bosnia and Herzegovina 1984 law<sup>96</sup> or are simply applying the Federation Law directly. The protection afforded in principle by the legislative framework in both Entities is generous and comprehensive, however, the actual services provided to beneficiaries are poor, and even non-existent in some areas. It is worth noting also that if one is receiving any other social payments (e.g. pension, allowances for families of fallen soldiers), they are precluded from CSW support. For certain categories of women, they may not be covered under the applicable social welfare

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<sup>93</sup> FBH Official Gazette No.36/99.

<sup>94</sup> RS Official Gazette Nos.5/93 and 15/96.

<sup>95</sup> Una Sana Canton, Western Herzegovina Canton, Sarajevo Canton and Herzeg-Bosna Canton have all introduced social welfare legislation, but they are not all harmonised with the Federation Law. Of the remaining Cantons, many are in the process of drafting or draft legislation is pending adoption. For more information see *Extremely Vulnerable Individuals: The Need for Continuing International Support in Light of the Difficulties to Reintegration Upon Return*, UNHCR, Sarajevo, (November 1999).

<sup>96</sup> *Law on Social Welfare* (SRBH Official Gazette, No.39/84)

legislation at all. With the withdrawal of food assistance by the World Food Program in July 1999,<sup>97</sup> many families are facing an even more difficult period.<sup>98</sup> The Federation Government has assessed that there are 200,000 vulnerable households in the Federation.<sup>99</sup>

## (2) Permanent financial assistance

In neither the RS nor in the Federation are female-headed families or extremely traumatised women specifically referred to in the eligibility provisions of social welfare legislation. For most single women, they will have to prove their eligibility under the catchall provision. The catchall provision is almost identical in both the Federation and RS laws, essentially covering “persons with working capacity in need of social care, due to specific circumstances, are those whose needs are caused by such things as unemployment, natural disasters, migrations, repatriations, death of one or more family members, long medical treatment, release from prison.”<sup>100</sup> The RS also covers “caused by war” which would seem to cover women whose poverty is related to recent conflict events. In the Federation, such women would need to use another ground, such as “repatriation”.

Certainly single mothers, without other financial means, are not identified as a special category, although in both Entities, “women in the course of pregnancy, delivery and after delivery in accordance with labour provisions, as well as parents taking care of children up to one year old where they have no family members or relatives obliged to support them, or where such persons cannot meet their obligations of support”, are referred to in relation to eligibility for permanent material assistance.<sup>101</sup> This limits one’s entitlement to material support to the first year of a child’s life. In these cases, single mothers with children over one year, who are not working, are excluded unless they can establish an entitlement under another provision. It is recommended that these provisions be amended to reflect “self-supporting parents without financial means, taking care of children prior to their enrolment in compulsory schooling”.

The final additional requirement to prove eligibility for permanent material assistance is that the Federation will only provide such assistance to persons whose *permanent residence* is in the municipality where social assistance is sought, unless otherwise provided by Cantonal laws.<sup>102</sup> This would appear to completely bar displaced women, where otherwise entitled, to satisfy the pre-conditions to support. The majority of Cantons have broadened this eligibility provision by including temporary residents or registered displaced persons or refugees, however, this does not always mean that the municipality will in practice provide for displaced persons. The RS Law covers both temporary and permanent residents.<sup>103</sup>

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<sup>97</sup> In June 1998, WFP distributed to 580,000 persons; from September 1998 – July 1999 to 175,000 persons.

<sup>98</sup> Food assistance is now being provided by Catholic Relief Services (“CRS”) to a total of 11,922 beneficiaries until end April 2000, the majority of whom are accommodated in collective centres, and by other non-government organisations on a short-term as well as ad hoc basis. For more information see *Extremely Vulnerable Individuals: The Need for Continuing International Support in Light of the Difficulties to Reintegration Upon Return*, UNHCR, Sarajevo, (November 1999), p.16-17.

<sup>99</sup> Statistics were not available for the RS. See Basis for the Preparation of Social Program in the Federation of Bosnia and Herzegovina adopted by the FBH Government on 10 November 1999 (FBH Official Gazette, No.49/99).

<sup>100</sup> Art.18 of the *Federation Law on Social Protection* and Art.19 of the *RS Law on Social Welfare*.

<sup>101</sup> Art.45 of the *Law on Social Welfare* and Arts.12(6) and 23(3) and (4) of the *Federation Law on Social Protection*.

<sup>102</sup> Art.22(2) of the *Federation Law on Social Protection*.

<sup>103</sup> The amendment is provided in Art.2 of the *Law on Amendments and Supplements to the Law on Social Welfare*. Material assistance should therefore apply to registered displaced persons.

The most commonly paid amount of permanent financial assistance in the Federation is 34KM per month to maximum 51KM for 4 family members. In several municipalities the amount varied from maximum 100KM in Lukavac (Canton 3), minimum 63KM to maximum 163KM in Kakanj (also Canton 3), 62KM in Gorazde (Canton 5) and 50KM paid in Ljubuski (Canton 8), Livno and Glamoc (Canton 10). Of 30 municipalities investigated, seven were not making payments at all or only on an ad hoc basis.<sup>104</sup> There appears to be no consistency in the amount or timing of payments, even sometimes within the same Canton. Many municipalities (17) were behind in payments, some as delayed as June/July, August and September 1999.

The situation in the RS was substantially more unpromising, with 13 of 20 municipalities surveyed not making permanent financial payments. Of those CSWs which are making payments, there is a wide range of payments from 15KM per person per month (in Rudo municipality), to 220KM (in Novi Grad and Derventa). Of the seven municipalities making payments, all were behind in payments, some as delayed as July (Novi Grad and Bratunac), August (Zvornik) and September 1999 (Prijedor).<sup>105</sup>

### **(3) Lump sum assistance**

In the Federation, the majority of municipalities make lump sum payments or provide material assistance, with the exception of Celic (only in some instances), Gorazde, Travnik, Stolac and Mostar East. The most usual assistance was payment for medical help and the provision of firewood during Winter. Several municipalities were paying one-off financial assistance, ranging from 42.40KM (maximum 3 times per year) to 250KM for exceptional support.<sup>106</sup> There are no common types of payments, nor regularity of payments.

In the RS, all municipalities surveyed were providing either lump sum payments or material assistance to registered families, except in Srebrenica. Many municipalities stated that such assistance is provided on an ad hoc basis, depending on the municipal budget. Payments made were small, of approximately 10-15KM, maximum 100KM paid at any one time. Several municipalities had been providing firewood during the Winter months, and some paid for hospital costs.

### **(4) Accommodation**

Access to accommodation is another right under the RS and Federation social welfare laws. In the RS, accommodation is theoretically provided to “pregnant women and self-supporting mothers without financial resources, with a child under the age of nine months, in need of temporary care, due to lack of accommodation, financial circumstances and similar situations.”<sup>107</sup> This provision is narrowly constructed, and in reality, no such facilities for women are known to exist in the RS. No provisions are made for domestic violence shelters or safe houses or other similar services. In the Federation, the same situation prevails. The only possibility for accommodation is through non-government organisations or if displaced, through the municipal department responsible for refugees and displaced persons.

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<sup>104</sup> Gradacac (Canton 2), Celic and Olovo (Canton 3), Capljina, Stolac, Mostar East and Mostar West (Canton 7).

<sup>105</sup> The accuracy of this information has not been tested. Information was provided directly from the heads of CSWs in the various municipalities to UNHCR field offices, but some discrepancies have arisen from information provided on previous occasions and for previous reports. UNHCR field research (January – February 2000).

<sup>106</sup> E.g. Bihac, Bosanki Petrovac, Velika Kladusa, Kakanj.

<sup>107</sup> Art.37(4) of the RS Law on Social Welfare.



**Recommendations:** See Chapter V.

## 9. ASSISTANCE FOR FAMILIES OF KILLED SOLDIERS

In both Entities, families of killed soldiers are legally guaranteed substantial rights.

### (1) The legal framework in the RS

In October 1999, the RS passed a new law on assistance to families of killed soldiers, *Law on the Rights of Soldiers, Military Invalids and Families of Killed Soldiers* (“RS Law on the Rights of Soldiers”).<sup>108</sup> Essentially, family members of a person who was killed, who died or went missing during the course of armed action (as outlined in the law) or who died from a bodily injury or wound or illness 5 years from the date of such injury, wound or illness, are entitled to certain rights under this law.<sup>109</sup> Family members include spouse, children (born in or out of marriage) and adoptive children, as well as step-children supported by the killed soldier (until 15 years, or if in regular schooling until maximum 26 years), parents (as well as step-parents or adoptive parents) supporting the soldier or who were supported by him/her, and grandparents and grandchildren, supported by the killed soldier.<sup>110</sup> Benefits are also available to families of missing soldiers.<sup>111</sup>

Not only are persons qualifying under this legislation entitled to, *inter alia*, an invalidity allowance, health care insurance, as well as free and reduced fares on public transport,<sup>112</sup> they are also offered priority in employment, which directly discriminates against returning ethnic minorities.<sup>113</sup> Such entitlements are only available to persons fighting on the side of the “Serbian peoples”, so they will not be available to returning Bosniak families whose husbands went missing or died during military service on the side of the RBH Army (these families are covered under the equivalent Federation Law). A monthly invalidity allowance is paid of 125KM for a family member of a soldier who was killed during the war, plus 62KM for additional co-beneficiaries (e.g children). For a military invalid who later dies, it is 62KM for family member, and additional 31KM for any co-beneficiaries.<sup>114</sup> This family invalidity allowance is limited to widows upon reaching 45 years of age, or if before 45 years, if incapable of work, and children until 15 years or if in regular schooling until maximum 26 years.<sup>115</sup> This effectively excludes many of the same persons who would be excluded under pension laws, as outlined earlier.<sup>116</sup>

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<sup>108</sup> RS Official Gazette No.35/99.

<sup>109</sup> Arts.14 and 2 of the RS Law on the Rights of Soldiers.

<sup>110</sup> Art.16 of the RS Law on the Rights of Soldiers.

<sup>111</sup> Art.14 of the RS Law on the Rights of Soldiers.

<sup>112</sup> Art.41 of the RS Law on Rights of Soldiers enumerates rights of family members.

<sup>113</sup> Art.31 (priority for soldiers) and Art.81 (priority for families of killed soldiers) of the RS Law on the Rights of Soldiers.

<sup>114</sup> These amounts are provided for January 2000, per the *Order on Monthly Amounts for Personal and Family Invalidity, Addition for Care of Other Persons, Orthopedic Services and Additional Material Assistance for War Invalids for January 2000* (RS Official Gazette No.9/00 – issued on 10 April, 2000). The amounts are determined on the average net salary of an employed person in the RS, times by 1.35 (Art.20 of the RS Law on Rights of Soldiers). For family members of killed soldiers, it is determined on 40% of the Category I invalids (Art.53 of the RS Law on Rights of Soldiers). This means that the amounts will vary accordingly.

<sup>115</sup> Art.50 of the RS Law on the Rights of Soldiers.

<sup>116</sup> See Chapter IV., 7. Pensions.

## (2) The legal framework in the Federation

The applicable legislation in the Federation is the pre-war SFRY *Law on Basic Rights of Military Invalids and Families of Killed Soldiers* (“*Federation Law on the Rights of Killed Soldiers*”).<sup>117</sup> In spite of negotiations on the text of a new draft Federation Law for over two years, no agreement has been reached. Part of the pre-conflict legislation is still applied. The law stipulates that widows (upon reaching 45 years of age, or if incapable of work and younger than 45 years), and children, adoptive children and stepchildren (until 15 years of age, or until completion of full time schooling – latest 26 years of age) of killed soldiers shall be entitled, according to the law, to a family invalidity allowance. If any of the children are so entitled to this allowance, then the widow shall be recognised as a co-beneficiary irrespective of other conditions.<sup>118</sup> Like the RS, the age limit of 45 years on acquiring rights for widows would effectively exclude many of the same women who would be excluded under pension laws, as outlined earlier.<sup>119</sup>

In addition to the invalidity allowance, a *Decree on Exceptional Material Assistance for Military War Invalids and Families of Killed Soldiers*<sup>120</sup> was introduced in September 1995 which is still in force. This Decree (now Law) applies only to those soldiers and their families who “were part of the resistance to the aggression against the Republic of BiH”, including the members of the RBH Army, police officers of the RBH Ministry of the Interior as well as members of the HVO, effectively excluding soldiers who fought for the RS (although they will be covered by the applicable RS legislation).<sup>121</sup> In total a widow and her children will receive at the same time, between 300KM-400KM per month.<sup>122</sup> Parents of killed soldiers are also entitled to an allowance if they have no other financial means.<sup>123</sup> The money is directly disbursed from the Federation budget to the municipalities. It is not, however, uniformly applied across the Federation with differences noted between Bosniak and Croat administered areas.<sup>124</sup>

**Recommendations:** See Chapter V.

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<sup>117</sup> SFRY Official Gazette No.31/86 (consolidated text) which was taken over by the *Law on Take Over and Application of the Federal Laws which are applied as the Republic Laws in BiH* (RBH Official Gazette Nos.2/92 and 13/94).

<sup>118</sup> Art.33 of the *Federation Law on the Rights of Soldiers*.

<sup>119</sup> See Chapter IV., 7. Pensions.

<sup>120</sup> RBH Official Gazette Nos.33/95, 37/95 and 17/96. This law was initially introduced as a decree during the State of War by the then Republic of Bosnia and Herzegovina. It was later confirmed as a law and continues to be applied in practice in the Federation.

<sup>121</sup> Art.1 of the *Decree (now Law) on Exceptional Material Assistance*.

<sup>122</sup> In spite of concerted efforts to obtain this information from the relevant government and municipal bodies as well as local associations of such persons, there was no consensus on the amount provided under the above mentioned laws. The amount of 300-400KM per month was determined on the basis of interviews with 14 women who receive these allowances.

<sup>123</sup> Art.4 of the *Decree (now Law) on Exceptional Material Assistance*.

<sup>124</sup> Information obtained from UNHCR-funded Legal Aid and Information Centres, as well as confirmed by a number of municipal bodies.

## 10. ASSISTANCE FOR FAMILIES OF KILLED CIVILIANS

One of the often neglected groups of persons in BiH are civilian war victims and/or families of killed civilians

### (1) The legal framework in the RS

The applicable law in the RS is the *Law on the Protection of Civilian War Victims*,<sup>125</sup> which provides that family members (spouse, children (marital, extramarital, adopted and step-children) and parents) of civilian war victims who were killed, died or went missing, are entitled to a family allowance, amounting to 40% of the amount paid to disabled civilians of at least 60% disability. For families of disabled civilians who later die, they are entitled to receive 20% of the amount paid to disabled civilians of at least 60% disability.<sup>126</sup> It is also possible for municipalities to increase the amounts paid and the benefits to these persons.

Unlike the Federation, there does not appear to be a standard method of payment, with the CSW in some municipalities making the payments, while more commonly, the requisite municipal bodies for soldiers issues are doing so. While information was not available for all municipalities in the RS, the maximum amount payable to an invalid him/herself is 207KM (does not increase with the number of family members or children) and for family members of deceased civilian war victims, the maximum is approximately 85KM with not more than 50% for all additional family members.<sup>127</sup>

### (2) The legal framework in the Federation

In August 1999, a new law was passed in the Federation to include social protection to civilian war victims and their families in the *Law on Social Protection, Protection of Civilian War Victims and Protection of Families with Children* (“*Law on Social Protection*”).<sup>128</sup> Prior to this, there was no common practice regarding payments for this group of persons. Before the passage of the above mentioned law, rights of such persons were realised under the Public Fund for Pension and Disability Insurance of the Federation. Now, the responsibility has been delegated to the Cantons. At the date of writing this study, none of the Cantons had enacted legislation in order to implement these provisions, although some were in the process of drafting and passing such regulations. Current beneficiaries belonging to the category of civilian war victims or their family members will be required to file a new claim six months from the day of entry into force of this Law (otherwise they will lose their previously acquired right).<sup>129</sup>

Essentially a family member of a civilian war victim “who was killed, who died or who was reported missing, due to molestation and confinement during war or immediate war danger, activities in connection with war (bombing, street fights, explosives, stray bullets, etc.), explosions of war materials remaining after the war, or actions of sabotage and terrorism which endanger the security and constitutional order of the Federation”, has the right to family invalidity allowance under the *Law on Social Protection*.<sup>130</sup> In addition, the law covers family members of

<sup>125</sup> RS Official Gazette No.25/93 and 32/94.

<sup>126</sup> Art. 10 in conjunction with Arts.2 and 3 of the *RS Law on Protection of Civilian War Victims*.

<sup>127</sup> UNHCR field research (January – February 2000). In spite of efforts, no information was able to be obtained from the competent Ministry.

<sup>128</sup> FBH Official Gazette No.36/99

<sup>129</sup> Art.101 of the *Federation Law on Social Protection*.

<sup>130</sup> Arts. 54 and 62(1) of the *Federation Law on Social Protection*.

an invalid who, before their death, was 60% or more injured and enjoyed the subsidy of care of another person.<sup>131</sup> In order to access one's right to family invalidity allowance, one must be either a widow of 55 years or if under 55 years and incapable of productive living, or a child, adopted child or stepchild, until the age of 15 years, or if in regular schooling, until a maximum of 26 years of age.<sup>132</sup>

For civilian war invalids themselves, they are also entitled to certain benefits, which in turn assists their families who need to care for them.<sup>133</sup> Parents are also entitled to family invalidity allowance, even in cases where close family members are also exercising the right, if they have provided support to the invalid before his/her death or who were supported by that person for at least 5 years preceding his/her death.<sup>134</sup>

The amount payable for family invalidity allowance amounts to 25% of the standard amount for an invalid of 100% damage who was receiving the support of another person. The amount shall increase by 50% for each additional co-beneficiary. For a child without both parents, it amounts to 80% per month of the standard invalidity allowance.<sup>135</sup>

The Federation Ombudsmen have concluded that among the groups of the "most vulnerable categories of citizens" are civilian war victims.<sup>136</sup> Assistance to such persons is minimal, and sometimes depends on municipal budgets. Currently, in spite of legislative certainty, some municipalities pay such amounts, either under previously issued regulations or under normal payments for civilian invalids. These payments are subject to the fulfilment of certain criteria. Only those with an invalidity greater than 60% are eligible. Of 30 municipalities surveyed in the Federation, one-third are not making any payments at all, while payments made in the remaining 20 municipalities vary from one municipality to the next. In Canton 7, several municipalities (Capljina, Stolac, Mostar East (South-East, Old Town, North) and Mostar West (South, South-West, West)) are no longer making payments for civilian war victims because there is no enacting Cantonal law. In other municipalities where payments are made, the lowest amount paid is 15KM per month (Bihac, Bosanski Petrovac, Gorazde, Travnik, Kiseljak, Novi Travnik municipalities), the highest is 320KM (Tuzla municipality). Generally, amounts increase with the level of disability, and in most municipalities, payments do not increase with the number of family members.<sup>137</sup> It can be seen that in most areas, such payments are significantly less than for families of fallen soldiers in the Federation.

**Recommendations:** See Chapter V.

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<sup>131</sup> Art.62(2) of the *Federation Law on Social Protection*.

<sup>132</sup> Art.63 of the *Federation Law on Social Protection*.

<sup>133</sup> See Chapter III of the *Federation Law on Social Protection*.

<sup>134</sup> Art.64 of the *Federation Law on Social Protection*.

<sup>135</sup> Art.65 of the *Federation Law on Social Protection*.

<sup>136</sup> *Report on Human Rights Situation in Federation of Bosnia and Herzegovina for 1999*, Ombudsmen of the Federation of Bosnia and Herzegovina, Sarajevo (February 2000), p.29.

<sup>137</sup> UNHCR field office research (January-February 2000).

## 11. PROTECTION UNDER THE FAMILY LAW

The *Family Law*<sup>138</sup> is particularly relevant to certain categories of women, such as divorced women and abandoned women, and is applicable in both the RS and the Federation. For abandoned women, who have not been in contact with their husbands for more than two years, they can file for divorce under the *Family Law*.<sup>139</sup> Filing for divorce does not, in any way, assist their ability to care for their children or themselves. Alternatively, a woman may initiate a procedure for declaring her missing husband deceased. Although the marriage shall in both cases be legally terminated, the legal consequences of the termination of the marriage shall be different. By declaring persons dead, the surviving spouse shall have the right to inheritance, whereas that right may be lost with divorce.<sup>140</sup> This further raises issues regarding their ability to repossess pre-conflict joint property.<sup>141</sup> One elderly separated woman interviewed stated, for instance, that she knows that her husband has submitted an application for repossession of their property but he will not inform her of the status of the claim.<sup>142</sup>

Women who find themselves divorced are entitled to financial support for their children and alimony if requested.<sup>143</sup> Many women, due to the current difficult economic circumstances throughout BiH, are not receiving these payments, either at all or on a regular basis, or the amount they are receiving is inadequate to cover basic living costs.<sup>144</sup> And the courts in many municipalities are not vigilant in (or are not able to) enforcing support orders.<sup>145</sup> One woman stated that although she was divorced, and her invalid husband was receiving a pension, she was not receiving any payments as the pension was not enough for both of them and their children.<sup>146</sup> In addition, it is legally burdensome on divorced wives (or husbands) to prove that their spouses have been avoiding payments and are in a financial position to make such contributions.<sup>147</sup> Previously, court orders were sent directly to the defendant's employer and child support would be debited from her/his salary. Since the war, however, this system has disintegrated, with many persons now employed illegally.<sup>148</sup>

The stigma attached to single women who have been divorced was confirmed by a number of interviewees. In fact, one woman from a mixed marriage stated that she remained married, even though her husband had been living in a de facto relationship while she was abroad and he continues to live with her part-time, because she feels she is protected by her husband's name (her husband belonged to the ethnic majority group). It was also stated by some women in mixed

<sup>138</sup> The *Family Law* (SRBIH Official Gazette Nos.21/79 and 44/89). This law is currently applicable in both Entities.

<sup>139</sup> Art.56 of the *Family Law*.

<sup>140</sup> "Divorce and Division of Matrimonial Property", *Pravni Magazin* 2, p.34.

<sup>141</sup> For more information, see *A National NGO Report on Women's Human Rights in Bosnia and Herzegovina*, in co-operation with International Human Rights Law Group BiH Project (May 1999), p.162.

<sup>142</sup> Interviews Ilijas (January 2000).

<sup>143</sup> Art.75 of the *Family Law*. Alimony is provided to a spouse who has no financial resources or incapable of obtaining this out of her/his own property and incapable of working or finding a job.

<sup>144</sup> Art.256b of the *Family Law* states, "The court shall confine the person obliged to provide support, who is not employed or who is not a pension beneficiary, or who does not realise a permanent monthly financial income, to pay future monthly support payments, the amount of which shall be determined in the percentage of a guaranteed pay in the Republic." Art.256c of the *Family Law* goes on to state that the percentage cannot be less than 15% for each supported person, and not more than 50% for all persons seeking support.

<sup>145</sup> Experience of UNHCR-funded Legal Aid and Information Centre lawyers.

<sup>146</sup> Interview, Gorazde (October 1999).

<sup>147</sup> *A National NGO Report on Women's Human Rights in Bosnia and Herzegovina*, in co-operation with International Human Rights Law Group BiH Project (May 1999), p.161.

<sup>148</sup> *A National NGO Report on Women's Human Rights in Bosnia and Herzegovina*, in co-operation with International Human Rights Law Group BiH Project (May 1999), p.161.

marriages where they are of the minority ethnic group in their municipality or village that they face poor relations with their husband's relatives, including insulting behaviour.<sup>149</sup>

**Recommendations:** See Chapter V.

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<sup>149</sup> Interviews Gorazde and surrounding areas (October 1999).

## **V. SPECIFIC RECOMMENDATIONS**

### **1. REPOSSESSION OF PROPERTY**

- 1.1 In line with the right to return, and the clear concerns expressed by the women interviewed regarding their personal security and their fear to return alone, collective returns of female-headed families and single women together with other families returning to a particular municipality should be actively supported.
- 1.2 The local authorities in co-operation with the international community should consult women as to their pre-conditions (e.g. reconstruction assistance, material assistance) to their own sustainable return.
- 1.3 Long-term residents in buffer accommodation and collective centres should be prioritised in terms of allocation of living space in the centres or reconstruction assistance, especially those who are traumatised or who have no current solution.<sup>150</sup> Sufficient funding should be allocated for the building of alternative accommodation or social housing facilities.
- 1.4 The international community should continue to closely monitor the implementation of the property laws, including with a specific gender sensitivity to detect possible tendencies of the local authorities to target female-headed families or other vulnerable groups for evictions, and in particular to ensure that adequate and acceptable alternative accommodation is provided to these persons, whether under the property laws (for temporary occupants) or under the laws on refugees and displaced persons (for illegal occupants who are displaced persons). The reallocation of unclaimed apartments, in line with the law, should benefit those most in need.

### **2. RECONSTRUCTION ASSISTANCE**

- 2.1 With declining resources of the international community, and reductions in money earmarked for reconstruction projects, it is crucial that vulnerable women, who voluntarily and freely choose to return, are prioritised in accessing reconstruction assistance, noting particularly that this group of persons will be less able to obtain future funds themselves to reconstruct their houses privately. In addition, vulnerable women who satisfy clear criteria should be included in local integration projects developed by the local authorities and, in exceptional cases, the international community should support local integration projects for persons considered unable to return for valid protection reasons.

### **3. SECURITY AND JUSTICE**

- 3.1 With personal security and security of property being one of the largest concerns for all persons, and specifically for female-headed families, the promotion of collective returns is again reiterated.
- 3.2 There is a clear need for an overall improvement in the actions of the local police in their investigation and prosecution of offenders of ethnically motivated violence, as well as

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<sup>150</sup> UNHCR's implementing partner, Swiss Disaster Relief, has identified the needs of collective centre residents in both Entities and has set about to reconstruct the homes of those wanting to return as a priority.

continued training on gender sensitivity to gender crimes. This recommendation necessarily presupposes multi-ethnic and gender balanced police forces.

- 3.3 The international community should continue to monitor the existence of outstanding arrest warrants usually targeting men and preventing their return, as well as the implementation of the Amnesty Laws.
- 3.4 Due to the presence of war criminals in one's pre-conflict municipality being a major deterrent to return, the ICTY should be supported in its crucial role in apprehending indicted war criminals, as well as placing firm responsibility on local authorities to investigate and prosecute crimes not prosecuted by the ICTY.
- 3.5 De-mining and mine awareness activities need to be promoted on an ongoing basis.

#### **4. EMPLOYMENT**

- 4.1 Adequate resources must be allocated by the local authorities to ensure that women are as equally skilled and trained as men, so that they obtain economic independence, and can independently support their family members. Reliance on social welfare payments or on pensions is not a viable alternative to full-time productive employment, especially given the low amounts and delays in payments, the tight municipal and Entity budgets, as well as the uncertainty in the continuation of some pensions and the eligibility criteria which excludes a sizeable number of women. This recommendation presupposes substantial developments in the BiH economy.
- 4.2 Linked to the above recommendation is the realisation that due to the disintegration of the family as well as the death and/or disappearance of close family members, women no longer have the family support networks which existed prior to the war, regarding childcare. This means that many women with pre-school children cannot obtain gainful employment. There must be progress in this area, to allow single headed families to enter the workforce.
- 4.3 Rural women should be encouraged to complete their education, and the supply of tools and equipment is a necessity for their integration upon return.
- 4.4 BWI (currently UNHCR-funded) and other projects aimed at training and employing women in public and private enterprises should be continued. In addition, credit schemes accessible to women should be provided in both urban and rural areas, with reasonable terms of credit.
- 4.5 In light of the process towards privatisation of industry and business, it is crucial that all actors involved in this process ensure that a gender analysis is undertaken. Given the tendencies of preferential treatment in favour of men in hiring practices, appropriate safeguards need to be created so that women will not be marginalised as a result of the privatisation process, such as anti-discrimination legislation.

#### **5. EDUCATION AND VOCATIONAL TRAINING**

- 5.1 In its efforts towards establishing a tolerant and open education system in BiH, the international community should include a gender-sensitive approach.



- 5.2 Noting the phenomenon in some areas of split families due to the non-existence of a local school in a reconstructed area, emphasis should be placed on supporting infrastructure development in reconstructed areas, including schools, health clinics, electricity, water and telephone lines without which return to these areas will not be sustainable (especially for elderly persons and families with small children).

## **6. HEALTH CARE**

- 6.1 Due to the fragmented system of health care which creates the possibility for the avoidance of legal responsibility and abuses by authorities, increased co-operation must be reached between the two Entities responsible for health care, as well as between Cantons and municipalities, with minimum levels of insurance and coverage established. One's health insurance should allow one to access health care throughout BiH, and not limit one to geographically defined areas, often demarcated along ethnic lines. This is also a necessary aspect of the right to freedom of movement.
- 6.2 Given the current unsatisfactory levels of access to psycho-social counselling facilities, improvements in this area are needed.<sup>151</sup> To this end, investigations into the current training needs of health care workers, particularly training needs for those persons dealing on a regular basis with traumatised persons should be carried out, and appropriate international and local funding earmarked for these purposes. Men should be fully incorporated into future projects for traumatised persons.

## **7. PENSIONS**

- 7.1 Given the importance of pensions to particular groups of women (e.g. women with missing husbands and widows), there is an important need for pension laws to be harmonised between the two Entities. Due to the devolution of pension responsibilities to the Entities, as well as to three separate pension funds, which has created the possibility for the authorities to avoid their legal responsibilities and has lead to abuses by both authorities and pensioners, the realisation of the joint agreement of directors of the three respective funds of 27 March, 2000 must be a priority, as well as the establishment of at least minimum rights throughout the country. In particular, co-operation between the funds should be accelerated, and the existence of two funds in the Federation, divided along ethnic lines, should be overcome by merging these funds. Specifically for refugees abroad, there is a need for bilateral pension agreements to be established between host countries and BiH so that these pensioners can also exercise their rights.
- 7.2 Given the sizeable number of vulnerable women who cannot inherit a family pension or who face the possibility of losing it in the future, the local authorities should invest adequate resources to the education and training of women in order that they are able to take up productive employment. In line with the recommendations at 8 below, the CSWs should be strengthened to ensure a safety net for persons in need.

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<sup>151</sup> The UN High Commissioner for Human Rights in conjunction with Columbia University are currently researching a paper addressing the main inequities in accessing health care in BiH.

## **8. SOCIAL WELFARE ASSISTANCE**

- 8.1 The local Centres for Social Welfare should be strengthened. Adequate resources should be assigned to the CSWs by the local authorities so that they can function effectively and can reach and support the most vulnerable persons in society. For this reason, a qualitative and quantitative survey of the overall social situation in BiH and the projected needs should be carried out.
- 8.2 It is likely that there are many vulnerable persons who have not been able to approach the CSW (e.g. due to an inability to pay the bus fare to the CSW, age and immobility, no support network to look after their children) and extra efforts (e.g. outreach projects) need to be made to reach such groups, including the training of CSW officials.
- 8.3 In line with the legislative provisions, there is a clear need in many areas for social housing to be established in order to protect displaced women in need, including shelters for survivors of sexual and/or domestic violence.

## **9. ASSISTANCE FOR FAMILIES OF KILLED SOLDIERS**

- 9.1 Given the limited financial resources available in BiH, and the disparity in payments between families of killed soldiers, military invalids and families of killed or injured civilians, material assistance should be more equally distributed.

## **10. ASSISTANCE FOR FAMILIES OF KILLED CIVILIANS**

- 10.1 Related to 9 above, clear improvements in the accessibility of financial and other assistance to families of killed civilians need to be sought. The complicated and diverse system of social assistance (including assistance through the Centres for Social Welfare) should be streamlined in order to provide for persons according to their genuine need, and not according to which category of persons they fall into.

## **11. PROTECTION UNDER THE FAMILY LAW**

- 11.1 The courts should be encouraged to enforce decisions regarding payments for child support or alimony. Where a spouse is not in a financial position to provide such support to his/her spouse and children, the court should, at a minimum, recommend the spouse and children for entitlement to social welfare benefits.
- 11.2 A framework of support should be introduced for women in need due to divorce as a result of domestic violence, destructive marriage, or stigma, or through no support from husbands abroad or ex-husbands. This framework should include safe houses, free access to counselling services and legal advice, and financial support.
- 11.3 A study on persons in mixed marriages should be carried out, in order to identify their return or local integration potential, and to analyse their specific needs.

## VI. CONCLUSIONS

The current reality in BiH for many displaced and returnee female-headed families and single women can be extremely difficult. Many of the women interviewed were living in acute poverty. Without educational and employment opportunities, women will continue to be reliant on social welfare assistance and will continue to face situations of economic dependence, either on relatives or on state structures. For women in displacement, the situation is often exacerbated by lack of access to certain social rights, poor living conditions and uncertain futures. From the interviews conducted, while not a quantitative analysis, it has shown that there are different and separate concerns affecting the return of the groups of women included in this study. Three specific factors deterring return for women belonging to one or more of these groups were found to be (1) lack of familial or community support, (2) personal security and (3) psychological trauma. It was also found that political, economic and social factors can impact differentially on women and men, respectively. For instance, while personal security is an issue which affects all persons in the return process, the subjective fear felt by the women interviewed is compounded because of their lack of male, familial or community support networks. This emphasises the need for all actors in BiH to incorporate a gender analysis into political, economic and social policies and programs, thereby promoting gender equity. This approach has been to date poorly implemented in the BiH context and has meant that certain groups of vulnerable women remain without a foreseeable long-term solution. Unless serious attempts are made by both international actors and local communities to ensure that the rights and needs of these women are addressed, the likelihood of their further marginalisation, and their psychological, social and economic deterioration cannot be over-stated.

Clearly, collective return programs incorporating female-headed families and single women among returning families, need to be established, or enhanced in areas where the concept already exists, in order to offer greater assistance to women wishing to return, and to provide social and community support in one's return municipality. There is a need for greater progress in the areas of property repossession and reconstruction, as well as not under-estimating the effect that poor prosecution of war criminals and ethnically pure police can have on return. In light of the principles of voluntary, safe and dignified return, there is a need by both the international community and government agencies to look at providing alternative durable solutions to vulnerable women not wishing to return, on a case by case basis, and under strict criteria to avoid abuses. In addition, complicated legislative frameworks and social policies need to be systematically reviewed so that persons in need are provided for, and that they are offered adequate protection. This includes laws on pensions, social welfare assistance, as well as assistance to families of killed soldiers and killed civilians.

## **VII. LIST OF SOURCES**

### **INTERVIEWS WITH:**

- 42 in-depth interviews with displaced and returnee women carried out in Tuzla, Gorazde, Foca, Ilijas, Banja Luka and Bijeljina
- Amica (Tuzla) - Ifranka Pasagic
- Anima Centar za Zena (Gorazde) - Sutka Vukas
- Association for Refugee Assistance (ARA) (Bijeljina) - Neda Colic and Jagoda Petrovic
- BOSFAM (Tuzla) - Beba Hadzic
- BOSPO (Tuzla) - Zlata Begic
- EVA Women's Association (Bijeljina) - Zora Vukovic
- International Rescue Committee (Gorazde) - Vesna Kulju
- International Committee of Red Cross (Sarajevo) - Natasha Miskin and Florence Sechaud
- Iustitia Legal Aid and Information Centre (Banja Luka) - Zvezdana Bukic and Laura Jovanovic
- Legal Aid and Information Centre (Bosanska Krupa) - Aida Topcagic
- Legal Aid and Information Centre (Foca) - Mile Cajevic and Zlata Krsmanovic
- Medica (Zenica) - Duska Andric-Ruzicic
- Medecins Sans Frontieres (Gorazde) - Lucia Digheiro
- Physicians for Human Rights (Tuzla) - Katrina Palmer
- Viva Zena (Tuzla) - Aida Cipurkovic