

***“Sexual Violence in a Gender, Cultural and
Human Rights Framework”***

Bozica Stumfol

*Immigrant Women’s Support Service
Sexual Assault Program*

A Paper presented at the Sexual Assault Support and Prevention Forum

24 November 2000

Introduction

Croatia is a country of approximately 4.8 million inhabitants located in southern Europe on the Adriatic Sea. Croatia declared independence from the Socialist Federal Republic of Yugoslavia on 25 June 1991. After gaining independence, the processes of transition from a state-controlled to a market economy were complicated by the war situation. Due partly to the process of transition, partly to the war and partly to the policies of the ruling party, the status of women has decreased over the last nine years.

Leading politics in Croatia explicitly encourage traditional patriarchal patterns of behaviour. Women confront problems in attaining full recognition and enjoyment of all rights and freedom to which they are entitled. Influential force for traditionalism is the Catholic Church, which is gaining more and more public space and political influence. Its influence is especially noticeable in the public perception of reproductive rights and freedoms.

The Croatian parliament ratified Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) very soon after Croatian independence. Croatia has also ratified the 1985 Nairobi Forward Looking Strategies, which were adopted at the 1985 United Nation Conference on Women. Both treaties commit signatory governments to improve the condition and position of women in their respective countries, but that has not been achieved in practice.

The Constitution of the Republic of Croatia guarantees equality, freedom and dignity to all citizens regardless of sex, religion and nationality, but the situation in reality is very much different.

B.a.B.e., Women's Human Rights Group in Croatia (1) concludes that we are witnessing an increase in gender-based violence – wife battery, rape and female sexual slavery – within the social context of strong militarisation of masculinity with a corresponding domestication of femininity that is veiled by the patriarchal bias toward the inviolable privacy of the family.

Violence against Women

Gender-based violence is a form of abuse which prevents women enjoying rights and freedoms equally with men. Certain traditions, customs and practices, whereby women are regarded as subordinate or having stereotyped roles like in Croatian culture, perpetrate practices such as violence, coercion and discrimination.

There is no general definition of discrimination in the Croatian legislation, nor any specific definition of discrimination against women. Due to the absence of an appropriate legal definition of discrimination against women, and to the lack of

mechanism to enforce anti-discriminatory practice, much discrimination goes on without proper legal prohibition or sanctions, and is not publicly recognized.

The Croatian parliament ratified Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) very soon after Croatian independence. One of women's basic rights, the right to live without violence in private and public life, has not been achieved in practice.

Amnesty International report on Women's rights in Croatia states:

The three types of violence against women identified in the Declaration on the Elimination of Violence against Women – physical, psychological or sexual violence occurring in the family, the community or perpetrated or condoned by the state – are closely interlinked. Strategies for their elimination must tackle all three.

The human rights situation of women in the country is far from ideal. During the armed conflict in large parts of Croatia during 1991 women were victims of serious human rights violations, in particular rape and sexual abuse. One of the long-term side-effects of the armed conflict has been the reported substantial increase in domestic violence. Official Interior Ministry statistics reveal that 8,650 women were victims of such violence in Croatia between January and September 1997.(2)

In the section of the legislation that regulates issues of gender violence there are no basic provisions that could provide protection to women victims of family violence. Protection orders, which are part of many other legal systems, do not exist, although similar mechanisms for the protection of private property and certain other rights do. Even if a court trial for a case of physical injury is underway (initiated either by the woman herself, or by the state attorney office on the basis of legal obligation), women and children are supposed to continue to live with the perpetrator, in a situation highly dangerous to their physical and mental integrity.

The other major problem is the length of the divorce procedure and the even lengthier procedures for the division of property, which cannot be accelerated even when violence is involved.

Besides the inadequacy of legal provisions, the predominant traditional patriarchal culture still regards violence against women as something that may not be desirable but is definitely tolerable. There have as yet been no campaigns sponsored by the state (women's groups do organize such campaigns) aiming to change general attitudes towards violence in families nor other actions that would promote a culture of non-violence and mutual gender respect.

Sexual Violence

The law in Croatia states that anyone who by violence or threat forces a woman with whom he does not live in marriage to have intercourse, is guilty of the crime of rape and can be sentenced one to ten years in prison. The absence of regulation of rape in marriage (including common law marriage) supports and legitimates the power of husbands over wives and denies women the fundamental right to physical security and bodily integrity.

Sexual relationship achieved by force or utilizing a power is prosecutable under criminal law – the State has an obligation to prosecute this crime through the district attorney's office, which means that there is no financial charge for a woman. Other forms of "minor" sexual violence require a woman to seek justice through civil court at her own expense.

If a woman is "severely injured" i.e. dies, or if rape has been committed by more than one person, or was performed in an "especially" cruel and humiliating manner, then the assailant will be punished with at least a three-year jail sentence. It is the woman's obligation to provide evidence of bodily harm in cases where police or physicians were not involved. The following situations qualify as force:

- Threatening physical harm or death to a woman or to a person close to her,
- Taking advantage of a woman's mental (disability) or any other state in which she is not capable of resistance,
- A serious threat of blackmail that would injure her dignity or the dignity of someone close to her,
- Using a position of power against a woman who is financially dependent on the perpetrator (this is considered more serious if the man is a teacher, employer, parent or stepfather of the woman).

There are no official statistics on violence against women, though police reports and the experiences of women's groups that provide hotlines, counselling and support for battered women show that violence is steadily increasing.

A recent police report says that in 1997 the incidence of violent offences has risen by 11.54 % compared to 1996. The number of recorded rapes has risen by the same percentage. Of 73 recorded cases of rape in 1996, only 39 perpetrators were prosecuted and only 19 were found guilty, of whom 15 were sentenced to prison and 4 put on probation (3). Besides the increase in the number of women exposed to violence due to the war and the militarisation of society, the forms of violence have also changed. Women's groups have noticed that there are more severe and dangerous offences as a consequence of the use of firearms and hand grenades to commit violence against women. In several cases such incidents had fatal outcomes.

Police officers are generally insensitive and not trained regarding gender violence. Direct police protection for victims in violent or threatening situations is even more complicated due to the split in jurisdiction between civilian and military police. If the abuser is a member of the army, the civilian police have no jurisdiction over him. Often there is no possibility of protecting women whose abusers are soldiers, since the accountability gets lost somewhere in the unregulated area between the civilian and military police.

Domestic Violence

Domestic violence is not publicly recognized in Croatia as a violation of women's human rights, but is rather seen as a problem of the private sphere. Incest, child abuse, domestic battery, rape and other sexual assaults are kept buried in this private sphere. Consequently, most women are afraid or ashamed to break social taboos against speaking out on sexual violence. They silently endure economic hardship, intimidation and physical violence within the home.

Women's groups report an increase in the use of military weapons to threaten, control and harm women. The Autonomous Women's House in Zagreb (the only women's shelter in Croatia) and hotlines report many more calls and requests for shelter, and the courts have recorded an increase in cases of domestic violence. These cases are usually presented in a special court for minor offences unless the woman suffers "serious injuries". The laws covering domestic violence do not afford women adequate protection and there are no state supported shelters for women who have fled domestic violence and no program of rehabilitation for perpetrators.

Many forms of violence against women in the home, or in public are not treated as criminal acts. For example, according to the Criminal Code it would be difficult to characterize as violence against women insulting forms of address, disdainful behaviour towards women, shouting, threats, or curses. Furthermore, stalking, telephone harassment, sexual harassment is not even contemplated as criminal.

The only crimes defined by the criminal code, which can be applied to domestic violence cases, are insult, assault and battery. However, the legislation prescribes a civil suit as the appropriate remedy. The costs are very expensive and the process is long and complex. The result is a systemic failure of the judicial system to effectively address the issue of violence against women.

Reproductive Rights and Motherhood

During the previous regime, health care was free and available for all citizens in Croatia. Now, the situation is different, although state health care is more or less still available. The lack of financial resources has become immediately apparent in a lowering of the quality of health services and it has had strong repercussions on the protection of women's health in general, as well as on reproductive health.

Abortion is still legal until the 10th week of pregnancy on the woman's request. After that period, women have to apply to a special committee for permission to have an abortion on the grounds of a threat to the health of the woman or fetus. Although abortion should be legally performed in all country hospitals, due to pressure from the church, ruling party politicians and public pro-life politics, a kind of "conscientious objection" for doctors to refuse to perform abortions on the request of women is tolerated. Incidents have occurred in several hospitals. Two are known in the public:

Split and Pula. All the practitioners in these hospitals have refused to perform abortions on the ground of conscience objection but were ready to perform abortions illegally outside their working hours, and to charge highly for doing so. The state controlled media says that the rate of abortions is officially dropping but NGO report (3) explained - *that a lot of women, due to having difficulty attaining abortions in hospitals, are choosing to have abortions illegally and expensively in private gynaecological clinics or in nearby Slovenia.*

In 1992 the Ministry for Renewal in Croatia established a Department for Demographic Renewal under the control of a Catholic priest well-known for his radical conservative attitudes toward women and family. Subsequently, the government introduced the "Program for Demographic and Spiritual Renewal" which proposed motherhood as the highest vocation and profession for women. The program was met with protest from the liberal press, women's groups and international observers. The protest was successful and program did not pass.

The pressure of the Catholic Church to criminalize abortion is strong, and all these factors together have resulted in changing public opinion. *The percentage has dropped in two years from around 70% to around 60% of the population who are in favour of the present law and legal situation regarding abortion.(1)*

Rape as Weapon of War (Croatia and Bosnia)

Rape has long been a horror of war. In Bosnia and Croatia, it became a weapon of war.

In 1993, the women's traumatic accounts of rape during the Bosnian war in particular, helped create the International Criminal Tribunal for the former Yugoslavia at The Hague. In a historic move, the tribunal declared rape a war crime and the violation of women among the most heinous offences war.

At least 20, 000 Bosnian Muslim women were sexually assaulted by Serb forces, according to a European Community mission. In 1992, a UN Commission of Experts concluded 'a systematic rape policy' was carried out by Bosnian Serbs, including rapes in detention camps. One pattern involved sexually assaulting women as part of the Bosnian Serb policy of 'ethnic cleansing' the stratagem that included killing Muslims or ousting them from their homes ... (7)

Dr. Beverly Allen, director of the humanities doctoral program at Syracuse University and a prominent advocate of women's rights, defined rape warfare as (11)

"a military policy for the purpose of genocide currently practiced in Bosnia-Herzegovina (B-H) and Croatia by members of the Yugoslav Army, the Bosnian Serb forces, Serb militias in Croatia and B-H, the irregular Serb forces known as Chetniks, and Serb civilians"

There are three main forms of this “genocidal rape” that Allen has identified. First, Chetniks or other Serb forces enter a B-H or Croatian village, take several women of varying ages from their homes, rape them in public view, and depart. The news of this atrocious event spreads rapidly throughout the village. Several days later, regular Bosnian Serb soldiers from the Yugoslav Army arrive and offer the now-terrified residents safe passage away from the village on the condition they never return. Most accept, leaving the village abandoned to the Serbs and thus furthering the genocidal plan of “ethnic cleansing.”

Second, B-H and Croatian women being held in Serb concentration camps are chosen at random to be raped, often as part of torture preceding death. Third, Serb, Bosnian Serb and Croatian Serb soldiers, Bosnian Serb militias and Chetniks arrest B-H and Croatian women, imprison them in a rape/death camp, and rape them systematically for extended periods of time. Such rapes are either part of torture preceding death or part of torture leading to forced pregnancy. Pregnant victims are raped consistently until such time as their pregnancies have progressed beyond the possibility of a safe abortion and are then released. In the first case, the death of the victim contributes to the genocidal goal; in the second, the birth of a child does, for the perpetrator or the policy according to which he is acting considers the child to be only Serb and to have none of the identity of the mother.

During the wartime in Croatia, the author of these papers worked as a counsellor and co-ordinator of the “SOS telephone help-line” for emotional support for adults and children dealing with effect of torture and trauma caused by the war. The telephone help-line was located in Osijek, capitol of Western Slavonia, the part of Croatia that was directly exposed to the war fire. In 1992 we remember the fear and panic within citizens of Osijek when Serbs released women from temporary occupied Croatian territory in Western Slavonia in advanced pregnancy that abortion was impossible. About 50 pregnant terrified women between the age of twelve and forty were released in two busses, just stopped at Osijek’s Hospital for the first medical aid and continued to the direction of Zagreb or Slovenia seeking for appropriate medical help.

The International Tribunal must finally demonstrate that rape crimes are serious crimes deserving of serious attention and punishment . . .

Refugees Women

During the war, in large parts of Croatia, women were victims/survivors of serious human rights violation. Many women and children were forcibly expelled from their homes and remain as refugees in other parts of the country. A number of women “disappeared”, in particular after the fall of Vukovar (Eastern Slavonia) to the Yugoslavia Army in November 1991, most of whom were believed to have been killed.

Among the approximately 380,000 refugees and displaced persons living in Croatia today, 80 % are women and children. Living conditions and social care for all of them is inadequate. Despite the strength and courage that has carried them out of their homes, refugee women have special needs in terms of shelter, supplies and health

care. They also require attentive preventive action to protect them from sexual violence and exploitation at all stages of their flight.

It is good to know that UNHCR has guidelines on preventing and responding to sexual violence that occurs for refugee women.

Based on recommendations by field workers experienced with rape and piracy attacks, they aim to provide other field workers with practical, non-specialist advice on the medical, psychological and legal ramifications of sexual violence. UNHCR has also developed gender training, known as People Oriented Planning (POP), to encourage staff to focus on the protection and assistance needs of refugee women. (10)

Refugee Croatian women in Australia are particularly disadvantaged group as they are isolated and vulnerable in unfamiliar surroundings. Refugee women are target group for all sorts of intimidation, exploitation and physical and sexual abuse.

In Australian law, refugee women have rights to make decisions that will affect their lives. It is therefore vital that Croatian refugee women actively participate in planning and implementing programmes designed for refugees (if there are any). Unfortunately, women's participation in activities can be hindered by cultural norms, a lack of skills or low self-esteem. In Croatian Culture, men have decision-making power and active role in public sector while women are seen as their followers and care-givers.

Trafficking in Women

In Croatian legislation prostitution of women is not penalized but soliciting acts are. Taken measures and public responses are more visible against prostitutes than against procurers or the owners of brothels.

Prostitution is written and talked about as another "market and civilization phenomenon," its "liberalization" and legalization is demanded publicly, while the deep social and economic causes and patriarchal essence of this form of exploitation and degradation of women are not being addressed and remain invisible.

In the last 8 years, with the employment of international military forces (UNPROFOR) and as a result of the "opening of Eastern European markets", trafficking in women and prostitution has taken form of more organized crime. Newspaper advertisements for erotic massage, telephone lines and entertainment places or restaurants (actually brothels) have been increasingly common. Women are usually trafficked from ex-USSR countries and are illegally in Croatia without any status after their three-month tourist visa expires. Some of them are brought to Croatia by false offers for job and are then blackmailed. The only measures taken by the police are occasional raids with consequent charges against procurers and the eviction of the women from Croatia on the grounds that their visa has expired. A few years ago a Ukrainian woman was killed and the police have not released the results of the investigation. The press in a manner insulting to women regularly comments such cases.

Portrayal of Women in Cro-Media

Media in Croatia very rarely provide space to the women's initiatives. Media don't have any gender-sensitive editorial policy or may have an anti-women policy. The portrayal of women in both media groups (government and private) is sexist and there is no awareness of the need for gender democracy. The State television does not have educational, political or socially useful program covering the problems and status of women. *Electronic media, considered independent (OTV, Radio 101) provide examples of sexist intimidation of women and use of sexist stereotypes. (B.a.B.e. report) and (8)*

The market economy has encouraged the production of pornography. In highly commercialised private publications soft pornography is the foundation of the market strategy. *New women's magazines belong to commercial media groups that offer a mixture of fashion, glamorous gossip, and anti-women values, and portray women as a fancy escort to important men or as "self-confident" vamps in and entertainment business. Other women's magazines are focused on motherhood, fashion, the family, entertainment, and tourism and provide advice on cooking, health-care and beauty. These magazines are sometimes in favour of women's rights and pro-choice but more often, they frame women's issues out of the social and political context and always distance themselves from or denounce feminism in the manner of cheap political trends.(3)*

The condition in media, unfortunately, accurately reflects the prevalent situation in the society regarding women's human rights and status and low conscience.

Issues for Croatian women living in Australia

Women from Croatia are facing specific difficulties in reporting sexual assault and/or any other form of violence against them. They were already facing discrimination towards women back home and they may think that nothing could be done to stop the abuse or to punish the perpetrator.

Women from Croatia may not have knowledge about the issues of sexual assault and domestic violence as in Croatia the violence against women is not publicly recognized. For example, report on the Activities of Legaline (9) , a telephone service in Croatia that provide free legal advice to women, for the period of two years (1994-1996), reported the following:

The violence was generally within the context of a joint household and hidden from the public eye. All women reported verbal abuse in the form of insults, cursing, shouting, threats, often escalating into physical assaults, which in some cases resulted in the infliction of serious bodily harm. Few of the women had reported the violence before to anyone in authority and many had never spoken of it to anyone.

When asked why they had not reported the violence to the police, to the courts, to their doctor or social service center, most women indicated that they were afraid.

They were afraid that the perpetrator would become more violent, they were afraid they may be killed; they were also ashamed that they had been victimized and finally they did not trust the institutions to deal with the problem. Those that had reported violence complaints to the police were not taken seriously. Officers did not want to intervene because it was a private matter between spouses. The police did not want to respond to the complaint until something happens.(9)

Croatia immigrant and refugee women may have the same fears from the perpetrator, police and legal institutions when they come to Australia. "Women have no knowledge of their rights" and "Many women associate the Australian legal system with the legal system in their countries of origin, a system which is usually more biased against women" (5) Women may not realize that abusive behaviour may constitute a crime in Australia.

Generally speaking, NESB women have difficulties in obtaining the information about the services in Australia and have limited access to information. They might have language and communication barriers and fear of not being understood if they decide to report the abuse. Fear of being judged and blamed by family and community keeps them silent. Those and lots of other issues stop women to speak out about sexual violence

This paper has highlighted a range of issues of violence against women in Croatia, in terms of political and socio-economic changes that Croatia is facing over the last decade. The cultural practice towards violence against women in Croatia may be a reason why women do not report sexual and domestic violence or seek assistance once here in Australia. The Immigrant Women's Support Service might be the best place to seek information, support and counselling for Croatian women who are dealing with issues of sexual and domestic violence.

Bibliography

1. *The Status of Women in Croatia*, B.a.B.e., Women's Human Rights Group in Croatia, NCADV Voice, Washington, Winter, 1995, p. 15-17
2. 'Why are we still waiting?' The struggle for women's human rights, Amnesty International. March 1998 (AI Index: ACT 30/004/1998)
3. *NGO Report on the status of women in the Republic of Croatia*, B.a.B.e. Woman's Human Rights Group, Croatia, Zagreb, 1997
4. Hunt, L., *Issues for women from Culturally and Linguistically diverse Backgrounds*, paper presented at the Rockhampton Sexual Assault Services Training Workshops, October 1999

5. Gatbonton, T., 1997, *Women of Non-English Speaking Background within the Criminal Justice System*, Victim support Service, Office of Director of Public Prosecutions, Qld Dept of Justice.
6. *Finally – Rape Recognized as Weapon of War*, WIN (Women’s International Network) News 24-3, USA, Summer 1998
7. *Bosnia Rapes continue to go unpunished*, WIN News 24-1, USA, Winter 1998
8. *Women’s Media and Networks – Croatia*, B.a.B.e., Woman’s Human Rights Group, Croatia, Zagreb, December 1999
9. *Legal Status of Women in Croatia*, Report on the Activities of Legaline – a telephone service providing legal advice to women, Croatia, December 1996
10. UNHCR 1999 Global Appeal – Refugee Women
11. Allen, B., *Rape Warfare: The Hidden Genocide in Bosnia-Herzegovina and Croatia*, University of Minnesota Press, Minneapolis, 1996