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INVISIBLE CHILDREN:

The Legal Status of Children Born of Wartime
Sexual Violence in Bosnia and Herzegovina
and the Republic of Croatia

Comparative Legal Analysis and Practical Recommendations

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Invisible Children: The Legal Status of Children Born of Wartime Sexual Violence in Bosnia and Herzegovina and the Republic of Croatia - Comparative Legal Analysis and Practical Recommendations

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FOREWORD

Violations of fundamental human rights, particularly the rights of children, often remain at the margins of dominant narratives on civilian victims of war. Among the groups whose experiences have remained insufficiently recognised and systematically overlooked for decades are children born of wartime sexual violence. Children born of war constitute a category of civilian victims that has long remained outside the focus of legal, institutional, and social frameworks.

The invisibility of children born of war is not accidental; it is the result of a prolonged absence of systematic care, legal recognition, and social responsibility. It is precisely from the need to address these issues more openly and responsibly that this handbook was developed by alumni of the Global Campus of Human Rights, in cooperation with legal experts, activists, and journalists working in this field. In addition to providing a legal and analytical overview of the current situation, the handbook seeks to highlight injustices and patterns of systemic neglect while encouraging the social and institutional changes that remain necessary.

These children are no longer children today, yet violations of their fundamental human rights began at birth and continue to this day, more than three decades after the conflicts that followed the dissolution of Yugoslavia. The long-standing absence of legal recognition has resulted in both institutional and social invisibility, reflected in stigma, discrimination, and the lack of adequate legal protection. The continued violation of the fundamental rights of this category of civilian victims of war represents not only a legal deficiency but also a profound social failure.

The purpose of this handbook is to provide an overview of the legal framework protecting the rights of children born of war, to highlight its fragmentation in Bosnia and Herzegovina, and to draw attention to the near-complete legal and social neglect of this category in the Republic of Croatia. Particular emphasis should be placed on the responsibility of the Republic of Croatia, as a Member State of the European Union, to ensure the protection of the human rights of all categories of civilian victims of war, including through the recognition of children born of wartime sexual violence as a distinct legal category.

At the same time, this publication seeks to encourage policymakers to improve the legal and social position of children born of war while creating space for dialogue, understanding, and further action. The handbook aims to encourage young researchers, activists, and the wider public to engage more actively with this issue and to contribute to greater visibility and stronger protection of the rights of children born of war. It also highlights the important role of academia and civil society in advancing recognition, research, and advocacy in this field. Through the development of research and public policy, it is possible to lay the foundations for systemic change and to ensure more effective protection and greater social visibility for this group.

Examples of good practice from Bosnia and Herzegovina, particularly through the work of the Association Forgotten Children of War, demonstrate that change is possible and that an inclusive society in which fundamental human rights are guaranteed to all is an achievable goal. These examples should also serve as an important incentive for further action in the Republic of Croatia.

Ultimately, this handbook is also a call to assume responsibility for creating legal avenues through which children born of wartime sexual violence can exercise their rights. If the rights of children born of war have been neglected for decades, it is essential to ensure that such neglect does not continue. In this regard, the publication represents an appeal to the relevant institutions to establish clear and effective protection mechanisms and to ensure legal recognition and full social inclusion for this category of civilian victims of war.

We are more than thirty years late, but we must not allow violations of the fundamental human rights of children born of war to continue, whether in this region or elsewhere in the world.

Iris Knežević, Global Campus of Human Rights alumna

The legal status of children born of wartime sexual violence in Bosnia and Herzegovina, as presented in this handbook, can serve as a valuable resource not only for those who have worked for decades on the rights of civilian victims of war, but also for those who may become involved in efforts to improve this unresolved status in Croatia. It also offers an example of positive practice from Bosnia and Herzegovina.

However, without acknowledging and building upon both past and future efforts, and without continued work alongside victims and survivors, it will not be possible to achieve what is essential for meaningful change: a multidisciplinary coalition of allies capable of influencing and advancing that change.

Katarina Kruhonja, Right Livelihood laureatkinja

INTRODUCTION

Wartime sexual violence committed during the conflicts in the territory of the former Yugoslavia was not an incidental or isolated phenomenon, but a systematically employed strategy of warfare, as confirmed through the jurisprudence of international courts.

In Bosnia and Herzegovina, according to national and international sources, it is estimated that between 20,000 and 40,000¹ persons survived wartime sexual violence. In Croatia, estimates range from approximately 1,470 to 2,205² survivors. The International Criminal Tribunal for the former Yugoslavia (ICTY) confirmed this through a series of judgments, particularly in the Kunarac et al. case (commonly referred to as the 'Foča case'),³ which established an important precedent in international criminal law by recognising rape as an instrument of ethnic cleansing. The consequences of such violence did not end with the signing of peace agreements, but continue through the lives of survivors and the generations born as a result of that violence.

One of the least recognised consequences of such violence is the existence of children born of wartime sexual violence.

'My life story is widely known – I am a child born of wartime rape. I fight for human rights and for the rights of children, women, and men who were raped during the war.'

- Alen Muhić, member of the Association 'Forgotten Children of War' and recipient of the University of Oslo Human Rights Award, 2024⁴

Although international legal and policy frameworks have made significant progress over the past decade in recognising this population, **they nevertheless remain marginalised, insufficiently researched, and largely excluded from public policy and institutional responses.**

While survivors of sexual violence have gradually attained a certain degree of legal recognition and protection, children born of wartime sexual violence have remained trapped in a state of double invisibility⁵ – as individuals whose identities are intrinsically linked to the commission of a crime, yet who are not themselves recognised as its direct victims. **Such an approach is inconsistent with the evolving standards of international law, which increasingly recognise this category as persons entitled to protection, support, and reparations under international law.**

In Bosnia and Herzegovina, certain legislative developments indicate the possibility of an institutional response; however, implementation remains inconsistent and limited. In Croatia, by contrast, children born of wartime sexual violence remain entirely excluded from the legal system, without any form of formal recognition or access to rights.

This disparity does not stem from differences in the scale of the crimes committed, but rather from differences in political approaches, the level of public pressure, and the degree of civil society engagement.

Accordingly, this Handbook seeks to shift the focus from descriptive analysis towards active advocacy. Its purpose is not merely to present the legal status of this population, but also to build upon previous efforts to advance the rights of survivors of wartime sexual violence as a resource for future action, while identifying key gaps in research, legislation, and public policy and defining concrete avenues for engagement by the academic community and civil society organisations.

Children born of wartime sexual violence remain insufficiently recognised in law, socially stigmatised, and largely neglected within academic research, notwithstanding the existence of international standards that explicitly require their protection and inclusion within reparation frameworks. More than three decades after the end of the conflicts, their continued exclusion from legal and policy frameworks can no longer be justified.

INTERNATIONAL PROTECTION STANDARDS AND THE LEGAL FRAMEWORK

Sexual violence in armed conflict was long regarded as an inevitable consequence of war rather than as an autonomous crime. It was only towards the end of the twentieth century, through the jurisprudence of international tribunals, that a fundamental shift occurred: rape and other forms of sexual violence came to be recognised as war crimes, crimes against humanity, and acts constituting genocide. This development laid the foundations for the legal protection of survivors, while simultaneously raising the question of the long-term consequences of such violence.

It is precisely within the sphere of these long-term consequences that children born of wartime sexual violence remained invisible for the longest period of time.

Although the **Convention on the Rights of the Child**⁶ guarantees universal rights to every child without discrimination, practice demonstrates that formal equality alone is insufficient. Children born of wartime sexual violence face specific legal and social barriers, including difficulties relating to birth registration, questions of identity, stigmatisation, and the absence of institutional support. Their lived reality remained unrecognised within the very systems formally established to protect them.

Furthermore, the expert roundtable initiated by the **Global Survivors Fund** documented a broad range of so-called legal challenges, as well as administrative and practical barriers, which systematically prevent the effective enjoyment of the rights guaranteed under the Convention.⁷ These barriers include gender-discriminatory birth registration practices, citizenship laws that fail to recognise the specific circumstances of forced conception, administrative procedures requiring the disclosure of the identity and personal details of both parents, the criminalisation of children born outside marriage in certain legal systems, and requirements relating to legal representation during the registration of a child. Although formally neutral, such mechanisms have a disproportionate and discriminatory impact upon children born in circumstances of wartime sexual violence.

Within the context of Bosnia and Herzegovina, whose representatives from the Association '**Forgotten Children of War**'⁸ participated in the aforementioned expert roundtable, this practice becomes particularly illustrative through institutional requirements mandating the disclosure of the father's identity during identification procedures.⁹ Such requirements not only expose mothers to renewed traumatising, but also place the child in a position whereby their origin becomes an instrument of stigmatisation within the very administrative system that ought to provide protection.

A significant turning point emerged only during the last decade.

United Nations Security Council Resolution 2467 (2019) constituted the first explicit recognition of children born of wartime sexual violence as a distinct vulnerable category,¹⁰ emphasising the need to ensure their protection, access to education, healthcare, and social inclusion. In doing so, the focus of the international community shifted from the exclusive protection of women survivors of violence towards a broader understanding of its intergenerational consequences.

In the same year, the Report of the United Nations High Commissioner for Human Rights submitted to the Human Rights Council specifically referred to the engagement of civil society organisations, once again highlighting the Association ‘Forgotten Children of War’, which has worked to raise public awareness of the challenges faced by children born of wartime sexual violence. In doing so, the Report recognised not only the existence of the issue itself, but also the contribution of those actors who, in the absence of an effective institutional response, had sustained advocacy efforts over many years.¹¹

A further significant development emerged through the jurisprudence of the International Criminal Court. **In the cases of Ntaganda (2021)**¹² and **Ongwen (2024)**,¹³ the Court explicitly recognised children born of sexual violence as direct victims of war, entitled to reparations. These judgements leave no room for ambiguity: such children are not merely a consequence of the crimes committed, but are recognised in legal terms as direct victims thereof and as rights-holders under international law.

Nevertheless, the gap between legal recognition and the actual exercise of rights remains substantial, and closing that gap requires not only the continued development of normative frameworks, but also systematic efforts in the fields of education, destigmatisation, and the strengthening of institutional capacities for the implementation of the law.

Although a normative framework now exists, its implementation depends entirely upon the political will of states. In this regard, **international standards constitute not only a legal framework, but also a tool for advocacy**: they clearly define state obligations and provide the basis for demands for legislative and practical reform. International law now provides a clear framework recognising children born of wartime sexual violence as persons entitled to protection, support, and reparations; however, implementation at the national level remains fragmented, inconsistent, or entirely absent.

Academic analysis of the compatibility of national legislation with international standards (CRC, UNSCR 2467, ICC), together with research into the practical barriers to the implementation of existing norms, represents an important basis for policymakers and legislators. The development of models for integrating international standards into domestic legal systems, alongside the documentation of the experiences of children born of wartime sexual violence as an empirical foundation for future legal and policy reforms, constitutes one of the first and most crucial steps towards meaningful action.

Furthermore, it is evident that, for civil society organisations, international standards represent one of the most powerful tools of advocacy. Their use must therefore be strategic and continuous.

Advocacy grounded in states' international obligations as the basis for demands for legislative reform contributes to the inclusion of this issue within reporting processes before United Nations bodies, including shadow reporting and monitoring mechanisms. By relying upon the international legal framework, civil society actors may invoke the jurisprudence of the International Criminal Court as a legal precedent within national advocacy campaigns.

The active involvement of civil society in processes aimed at achieving legal and social visibility further creates opportunities to connect local initiatives with global frameworks, including the Women, Peace and Security agenda.

Experience demonstrates that international standards do not, in themselves, produce change. **Change occurs only when such standards become tools in the hands of those advocating for their implementation. Equally important, they must be embedded in domestic legal frameworks and translated into concrete social and institutional action.**

LEGAL FRAMEWORK IN BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina has a complex constitutional and legal system consisting of the state level, two entities (the Federation of Bosnia and Herzegovina and Republika Srpska), and the Brčko District of Bosnia and Herzegovina. Such a structure directly affects the regulation and exercise of the rights of civilian victims of war, including children born of wartime sexual violence.

The Constitution of Bosnia and Herzegovina guarantees the application of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, which take precedence over domestic legislation with regard to the prohibition of discrimination.¹⁴ This requires the state to ensure the effective protection of the rights of all victims and to prohibit discrimination on any ground. However, questions concerning the status and rights of civilian victims of war, including children born of wartime rape, fall entirely within the competence of the entities and the Brčko District.

Federation of Bosnia and Herzegovina

In 2023, the Federation of Bosnia and Herzegovina adopted a new Law on the Protection of Civilian Victims of War, which for the first time explicitly recognised children born of wartime sexual violence as a distinct category of civilian victims of war. This law represented a significant step towards the legal recognition of this group, in line with international standards and the recommendations of United Nations bodies.

The Law on the Protection of Civilian Victims of War of the Federation of Bosnia and Herzegovina regulates the fundamental principles governing the protection of civilian victims of war, the definition and status of civilian victims of war, the categories of rights to which they are entitled, the scope and conditions for the exercise of those rights, the purpose of financial compensation, procedures relating to the exercise of rights, methods of financing, as well as other matters relevant to the protection of civilian victims of war within the Federation of Bosnia and Herzegovina.¹⁵

The Law on the Protection of Civilian Victims of War of the Federation of Bosnia and Herzegovina establishes eight rights for children belonging to the special category of civilian victims of war, namely children born of wartime rape. The exercise and implementation of these rights fall exclusively within the competence of the cantons, resulting in significant responsibility at the cantonal level for ensuring effective access to the rights guaranteed under the Law. These rights include: the right to healthcare and related services; priority access to healthcare services, psychological support, support in covering medical treatment costs and the procurement of orthopaedic aids, spa and climate therapy and medical rehabilitation; the right to coverage of funeral expenses; vocational training, including professional rehabilitation, retraining and additional qualifications; priority employment; priority housing assistance; the right to free legal aid; and the right to preferential conditions in education.¹⁶

Brčko District

The Law on Civilian Victims of War of the Brčko District of Bosnia and Herzegovina, adopted in July 2022, represents a modern legal framework governing the protection of civilian victims of war within the territory of the Brčko District and replaced the previous Decision on Civilian Victims of War. One of its most significant innovations is the explicit legal recognition of children born of wartime rape, thereby providing the first explicit legal recognition in Bosnia and Herzegovina of this particularly vulnerable category of civilian victims of war.¹⁷

With regard to the definition of civilian victims of war, Article 2 of the Law establishes a clear normative link between survivors of wartime sexual violence and children born of such violence. Specifically, Article 2(a) recognises as a special category of civilian victims of war a person who has suffered permanent psychological harm as a result of sexual abuse and rape, while Article 2(g) explicitly defines a person born of wartime rape and wartime sexual abuse committed against a person referred to in Article 2(a). Such a legislative approach establishes a conditional relationship between the legal status of the child and the legal recognition of the mother as a survivor of wartime sexual violence. In practice, this means that recognition of the child as a civilian victim of war depends upon the prior recognition of the mother's status under the criteria prescribed by the Law.¹⁸

With regard to the rights of children born of war in the Brčko District of Bosnia and Herzegovina, the Law distinguishes between two categories of rights: basic rights and supplementary rights.

The basic rights prescribed by the Law include: civilian disability benefits and family disability benefits, care and assistance allowance, healthcare with exemption from co-payment obligations, orthopaedic allowance, and coverage of funeral expenses. However, these basic rights are not directly linked to children born of war, but instead apply to other categories of civilian victims of war defined by the Law. Children born of war may exercise the right to coverage of funeral expenses solely in their capacity as immediate family members of a deceased person, and not on the basis of their own status as a distinct category of persons born of wartime rape and wartime sexual violence.

The second category consists of supplementary rights, which may potentially be available to children born of war who have been granted status under the Law. Although **supplementary rights** are not explicitly granted to children born of war under the Law of the Brčko District, Article 3(1)(f) leaves open the possibility that 'other persons, under the conditions prescribed by this Law', may qualify as beneficiaries of such rights. Supplementary rights listed under Article 4(2) of the Law include: support in covering medical treatment costs and the procurement of orthopaedic aids, vocational training, including professional rehabilitation and retraining, employment support programmes, priority housing assistance, and the right to free legal aid.¹⁹

Republika Srpska

The legal framework of Republika Srpska governing the protection of civilian victims of war and victims of wartime torture is characterised by a fragmented and restrictive approach, **without the explicit recognition of children born of wartime sexual violence.**

The Law on the Protection of Civilian Victims of War of Republika Srpska was adopted in 1993, with the first amendments introduced in 1994 and the most recent amendments adopted in 2009. Although the Law formally regulates the rights of civilian victims of war, it does not recognise sexual violence as a distinct legal ground, nor does it include children born of wartime rape within the definition of civilian victims of war.²⁰

It was only in 2018 that Republika Srpska adopted a separate Law on the Protection of Victims of Wartime Torture, which for the first time systematically regulated the rights of persons who survived various forms of wartime torture, including sexual violence. The Law entered into force on 5th October 2018, while the deadline for submitting applications for recognition of victim of wartime torture status expired in early October 2023.

Pursuant to Article 4 of this Law, victims of wartime torture include: (1) persons unlawfully deprived of liberty (camp detainees); (2) persons subjected, against their will, to rape or other forms of sexual abuse; and (3) persons exposed to other forms of torture causing severe physical or psychological suffering. The right to recognition of status and the exercise of rights is granted to citizens of Bosnia and Herzegovina with permanent residence in Republika Srpska or the Brčko District, returnees to the Federation of Bosnia and Herzegovina under certain conditions, citizens of Bosnia and Herzegovina residing abroad who previously had permanent residence in Republika Srpska or the Brčko District, as well as foreign nationals who resided in Republika Srpska for at least three years prior to submitting an application.²¹

However, neither the Law on the Protection of Civilian Victims of War of Republika Srpska nor the Law on the Protection of Victims of Wartime Torture recognises children born of wartime rape as a distinct or derivative category entitled to legal recognition and protection. The legal framework of Republika Srpska remains focused exclusively on direct victims of torture and violence, without any provisions that would enable the recognition of status, protection, or access to rights for children born of wartime sexual violence.

LEGAL FRAMEWORK IN THE REPUBLIC OF CROATIA

The issue of institutional protection for victims of sexual violence committed during the Homeland War in the Republic of Croatia long remained at the margins of the legal and political system. Although the wartime events formally ended in the mid-1990s, the legislative response to sexual violence followed only two decades later, with the adoption of the **Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War** in 2015, as amended in 2019.

The very lapse of time between the commission of the crimes and the adoption of the Law is not merely a procedural fact, but an indicator of broader social and political dynamics: deep-rooted stigma, institutional unwillingness, and the absence of sustained advocacy capable of sustaining public attention to this issue.

The Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War,²² adopted in 2015, represents the first systematic attempt to legally recognise survivors of sexual violence and incorporate them into the protection framework. The Law establishes the status of victim of sexual violence, defines forms of violence, and introduces certain rights, including psychosocial support, healthcare, legal aid, and financial compensation.

The definition of sexual violence under the Law is relatively broad and encompasses various forms of physical and psychological violence, including rape, sexual slavery, forced pregnancy, and other forms of abuse of comparable gravity.²³ Such an approach enables the inclusion of diverse experiences of violence within the legal framework and represents an important step towards recognising the complexity of these crimes. However, the Law is structured entirely around the direct victim, namely the person against whom the violence was committed.

Within this framework, children born of wartime sexual violence appear only indirectly, through a provision prescribing increased financial compensation for a mother in the event of the **'birth of a child resulting from forced pregnancy caused by sexual violence'**.²⁴ This formulation carries two important legal implications.

On the one hand, **the legislator implicitly acknowledges the existence of children born of wartime sexual violence and recognises that their birth constitutes an additional burden and a source of particular vulnerability for mothers who survived wartime sexual violence.** On the other hand – and more importantly – the Law does not recognise the child as an autonomous legal subject, nor does it confer upon the child any independent rights.

From a normative perspective, the child is treated as a circumstance rather than as an individual with independent rights.

Such an approach creates an internal inconsistency within the Law itself. **If the Law acknowledges that the birth of a child aggravates the harm suffered by the survivor, it simultaneously and implicitly recognises that the child is likewise affected by the consequences of that crime.** However, by failing to provide any legal recognition of the child as an individual entitled to legal recognition and protection, the Law effectively prevents those consequences from being addressed through institutional mechanisms.

This normative gap is further deepened by the fact that the Law provides for no procedures, records, or institutional mechanisms for the identification, registration, or monitoring of this population. In the absence of such mechanisms, **children born of wartime sexual violence remain excluded from statistics, public policy, and support systems.**

In practical terms, this means that their existence remains not only legally unrecognised, but also administratively invisible. Another important aspect of the Law concerns its procedural framework. Responsibility for determining the status of a victim of wartime sexual violence rests with the Commission for Victims of Sexual Violence, an independent expert body composed of seven members and their respective deputies, appointed by the minister responsible for veterans' affairs.²⁵ The Commission reaches decisions on the basis of the survivor's testimony and available documentation, including medical records, court judgments, and other forms of evidence, while allowing, in certain cases, victims to avoid direct testimony (for example, where a final criminal conviction of the perpetrator already exists) in order to reduce the risk of retraumatisation. The formal decision recognising the status of a victim of wartime sexual violence and granting the rights prescribed by law is issued by the Ministry of Croatian Veterans.

Although this approach demonstrates a certain degree of sensitivity towards survivors, it simultaneously raises questions concerning the availability of evidence. A significant number of victims never reported the violence and possess no formal documentation, which substantially complicates or entirely prevents the exercise of rights. This issue has direct implications for children born in such circumstances, **as the absence of evidence of the violence** further limits any possibility of future legal recognition of their position.

As a Member State of the European Union, the Republic of Croatia is subject to additional obligations concerning the protection of victims. Directive 2012/29/EU²⁶ establishes minimum standards on the rights, support, and protection of victims of crime, including the obligation to carry out individual assessments of victims' needs and to ensure protection against secondary victimisation. Although the Directive primarily concerns direct victims, its underlying principles leave room for a broader interpretation that could also encompass persons indirectly affected by the crime.

Children born of wartime sexual violence undoubtedly fall within this broader category of indirectly affected persons.

However, the current legislative framework of the Republic of Croatia fails to make use of this possibility. As a result, a situation arises in which a developed international and European normative framework enabling broader protection exists, while the national system remains confined to a narrowly defined category of direct victims, without recognising the long-term and intergenerational consequences of violence.

In addition to the normative limitations of the existing Law, **one of the most serious issues in the context of the Republic of Croatia is the near complete absence of empirical data concerning children born of wartime sexual violence.** Unlike Bosnia and Herzegovina, where certain research and advocacy frameworks have been developed in recent years, Croatia still lacks systematic assessments, databases, and institutional efforts aimed at identifying this population.

This gap is not neutral. It reflects a combination of factors: **deeply rooted social stigma, the privacy and sensitivity of such experiences, as well as the complete absence of institutional willingness** to address the issue openly.

The consequence is a form of triple invisibility: children born of wartime sexual violence are absent from official statistics, from the legal framework, and from public discourse.

Within such a context, the absence of data itself becomes an obstacle to the development of any meaningful public policy response. That which is not recorded cannot be addressed; that which has not been researched cannot be recognised as a matter of social concern.

This lack of research further limits the capacity of the academic community to engage in the development of a theoretical and empirical understanding of this category. **The issue of children born of wartime sexual violence in Croatia remains almost entirely absent from academic scholarship, university curricula, and research initiatives.**

The absence of research contributes to the invisibility of the issue, while the invisibility of the issue further discourages research.

In comparison with Bosnia and Herzegovina, the distinction becomes even more pronounced.

Although Bosnia and Herzegovina likewise lacks a comprehensive statistical overview of this population,²⁷ the combination of research initiatives, the work of civil society organisations, and legislative reforms has resulted in the issue being publicly recognised and institutionally addressed. The existence of a legislative framework in the Federation of Bosnia and Herzegovina and the Brčko District, notwithstanding continuing implementation challenges, has created a foundation for the further development of public policies and academic research.

In Croatia, such a process has yet to emerge.

One of the principal reasons for this divergence lies in the role of civil society. In Bosnia and Herzegovina, a central role in opening this issue and initiating legislative reform was played by the Association 'Forgotten Children of War',²⁸ which, since its establishment in 2016, has systematically worked to dismantle the social and institutional silence surrounding children born of wartime sexual violence. Through a **combination of public advocacy, research activities, international networking, and direct engagement with persons belonging to this category**, the organisation succeeded in transforming an issue that had remained entirely invisible for decades into a recognised political and legal matter.

The results of such an approach are visible on multiple levels. The organisation actively contributed to the development of legislative solutions in the Federation of Bosnia and Herzegovina and the Brčko District, participated in the creation of practical mechanisms for the exercise of rights, and established the issue of children born of war as a matter of international relevance, including its recognition within reports issued by the United Nations. This process demonstrates that legislative reform in this field does not emerge spontaneously, but rather as the result of long-term and strategically coordinated advocacy **connecting the experiences of affected persons with legal and political frameworks**.

The absence of organised advocacy has resulted in a situation in which the issue remains outside both political and public interest. Without pressure, there is no perceived need for institutional response; without response, there can be no change. This closed cycle perpetuates a situation in which children born of wartime sexual violence remain unrecognised, unresearched, and unprotected.

This situation is further particularly concerning in light of the international obligations of Croatia. The development of international law, particularly through United Nations Security Council Resolution 2467²⁹ and the jurisprudence of the International Criminal Court in the cases of Prosecutor v. Ntaganda³⁰ and Prosecutor v. Ongwen,³¹ clearly indicates the obligation of states to recognise children born of wartime sexual violence as direct victims entitled to protection, support, and reparations under international law.

Although the 2015 Law was enacted prior to these normative developments, the amendments adopted in 2019 failed to seize the opportunity to harmonise the legislative framework with the evolving international standards. Consequently, Croatia has remained in normative misalignment with the development of international law, notwithstanding the fact that, as a Member State of the European Union, it is required to follow and implement the highest standards of human rights protection.

The legal framework of Croatia cannot be regarded merely as incomplete or limited in scope. Rather, it reflects a deeper structural pattern characterised by the selective recognition of victims and the absence of an approach capable of addressing the long-term and intergenerational consequences of wartime violence.

Children born of wartime sexual violence remain outside that framework.

Such an approach constitutes not merely a legal omission, but an institutional choice: **a choice not to recognise, name, or include a particular category of victims within the system of protection and support.**

From this, a clear conclusion emerges. The central issue in Croatia is neither the absence of legal mechanisms nor the lack of applicable international standards. Rather, it lies in the absence of political will, academic and research engagement, and organised advocacy capable of rendering this issue visible and demanding its institutional recognition and resolution.

Within such a context, the role of the academic community and civil society organisations becomes particularly significant.

Without systematic research, this population remains outside the sphere of knowledge; without knowledge, it remains outside the sphere of public policy.

Without organised advocacy, the issue is not raised, and that which is not raised cannot be resolved.

In other words, **invisibility is not merely a condition - it is the product of institutional and societal inaction.**

It is precisely for this reason that any future progress towards the recognition and protection of children born of wartime sexual violence in Croatia must begin outside institutional structures: through research, public discourse, and sustained advocacy capable of rendering this issue impossible to ignore.

CONTRIBUTION OF CIVIL SOCIETY ORGANISATIONS IN THE REPUBLIC OF CROATIA

A comprehensive assessment of the situation in the Republic of Croatia requires a clear distinction **between two levels of engagement. Advocacy for survivors of wartime sexual violence has existed in Croatia for many years and has produced tangible results, whereas the issue of children born of such violence, as a distinct category, has remained largely undocumented and under-researched.** Distinguishing between these two dimensions is important for a fair assessment of civil society engagement: **the gap does not concern support for survivors themselves, but rather the specific recognition of children born of wartime sexual violence as a separate group.**

Over the past three decades, civil society organisations in Croatia have developed significant capacities for working with survivors of wartime and other forms of gender-based violence. **The Centre for Women War Victims – ROSA**, established in 1992, is one of the oldest feminist and anti-militarist organisations dedicated to supporting women who survived wartime violence.³² In addition to providing direct psychosocial and legal support, the Centre has been actively engaged in advocacy and participated in the working group responsible for drafting **the 2015 Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War.**³³

The Centre has consistently argued that the 2015 Law has not fully achieved the objectives for which it was adopted. It has also continuously addressed the issue of wartime sexual violence, including the question of children born as a result of such violence, through public lectures, roundtables, conferences, and other forms of public engagement. Through international cooperation, the organisation has shared its experience in working with survivors of wartime sexual violence with organisations and institutions in other countries affected by armed conflict.

Documenta – Centre for Dealing with the Past occupies a central position in Croatia's efforts to document war crimes and advance transitional justice processes. Its work in recording cases of wartime sexual violence and monitoring related judicial proceedings has created a valuable empirical foundation, while the methodologies it has developed are directly relevant for future research concerning children born of wartime sexual violence. Through its campaign **“Victims Have Waited Too Long”**, launched within the broader framework of advocating for the rights of civilian victims of war, Documenta also addressed the issue of wartime sexual violence and children born as a consequence of such violence.³⁴ In March 2026, the Centre for Women War Victims – ROSA and Documenta jointly submitted an initiative to the Ministry of Croatian Veterans proposing amendments to the Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War.

The Women's Room – Centre for Sexual Violence Victims provides free and anonymous psychological and legal support to victims of sexual violence and is recognised within official protocols governing institutional responses to sexual violence. These protocols include not only victims of sexual violence in peacetime but also survivors of wartime sexual violence.³⁵ Similarly, **the Autonomous Women's House Zagreb**, together with other organisations gathered within **the Women's Network of Croatia**, has systematically monitored the implementation of relevant legislation and advocated for its improvement.³⁶ **The Sunčica Foundation for Victims of Wartime Rape** has focused specifically on survivors of wartime sexual violence and has publicly highlighted practical and evidentiary obstacles encountered in the implementation of existing legal mechanisms.³⁷

The absence of dedicated research concerning children born of wartime sexual violence should therefore not be interpreted as evidence of a lack of commitment on the part of Croatian civil society. Rather, it reflects a series of structural circumstances. **First, the legal framework has provided no basis for recognising this category; without legal recognition, there can be no administrative mechanism for registration or data collection. Second, evidentiary barriers remain exceptionally high, given that many survivors never reported the violence and possess no formal documentation. Third, available estimates suggest that the number of survivors in Croatia is significantly lower than in Bosnia and Herzegovina, resulting in a smaller and less visible population of children born of wartime sexual violence. Finally, under conditions of limited resources, prioritising direct support for survivors represented a reasonable and responsible response to immediate needs rather than a neglect of this issue.**

Moreover, the issue may not be entirely absent from Croatian public discourse. Public testimonies by individuals born in such circumstances have appeared,³⁸ demonstrating that the issue exists and awaits a framework through which it can be recognised and addressed. This should be understood as an opportunity for future development rather than as evidence of a complete absence of engagement.

Precisely because Croatian civil society already possesses many of the capacities that are most difficult to establish—including the trust of survivors, methodological expertise in documentation, legal knowledge, and international networks—it would be inaccurate to conclude that the sector has been absent. Rather, it has thus far lacked a framework capable of rendering this specific category visible and institutionally recognisable. The recognition of children born of wartime sexual violence as a distinct category represents a logical next step emerging from decades of work with survivors, not as a correction of past failures, but as a continuation of an already established trajectory.

COMPARATIVE ANALYSIS OF BOSNIA AND HERZEGOVINA AND THE REPUBLIC OF CROATIA

A comparative analysis of the legal and institutional frameworks in Bosnia and Herzegovina and the Republic of Croatia reveals substantial differences in the possibilities available for the exercise of rights by children born of wartime sexual violence. Although both countries share a comparable historical experience of armed conflict and are subject to similar international legal obligations concerning the protection of human rights, their responses to the needs of this specific category of victims differ significantly.

Over the past decade, Bosnia and Herzegovina has made important advances through the normative recognition of this category and the establishment of legislative and procedural mechanisms for the exercise of rights, primarily within the Federation of Bosnia and Herzegovina and the Brčko District. By contrast, in the Republic of Croatia this category remains outside the scope of formal legal recognition, without a distinct legal status, specialised legislative solutions, or adequate institutional mechanisms for the protection and exercise of rights.

These differences reflect not merely divergent legislative approaches, but also broader disparities in the scope of institutional response, the accessibility of rights, and the visibility of this category within public and political discourse. In this respect, the comparative analysis provides a basis for identifying existing legal and institutional gaps, as well as potential directions for improving and strengthening the legal and institutional framework, particularly within the context of the Republic of Croatia.

Table: Comparative Overview of Key Differences

Comparative Aspect	Bosnia and Herzegovina	Croatia
Estimated number of survivors of wartime sexual violence during the armed conflict	In Bosnia and Herzegovina, it is estimated that between 20,000 and 40,000 persons survived wartime sexual violence.	In the Republic of Croatia, estimates indicate between 1,470 and 2,205 survivors of wartime sexual violence.
Legal status of children born of wartime sexual violence	Children born of wartime sexual violence are legally recognised as a distinct category of civilian victims of war.	Children born of wartime sexual violence are not legally recognised as a distinct category of civilian victims of war.

Comparative Aspect	Bosnia and Herzegovina	Croatia
Legislative framework	Bosnia and Herzegovina currently has two legislative instruments explicitly recognising this category: the Law on the Protection of Civilian Victims of War of the Federation of Bosnia and Herzegovina (2023) and the Law on Civilian Victims of War of the Brčko District of Bosnia and Herzegovina (2022).	The Republic of Croatia has neither a law nor subordinate legislation recognising children born of wartime sexual violence during the Homeland War as a distinct legal category
Procedural mechanisms	Where a normative framework exists, procedural mechanisms for the exercise of rights have also been established. In the Federation of Bosnia and Herzegovina, an application for the recognition of status is submitted to the Centre for Social Work through Form Z1, while the Commission for Issuing Expert Opinions within the Federal Ministry of Labour and Social Policy is required to issue its opinion within 30 days.	In the Republic of Croatia, no comparable procedural mechanism exists for children born of wartime sexual violence. The only existing procedural framework, established under the Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War, applies exclusively to survivors, namely mothers, through the right to an increased one-off financial compensation in cases involving the birth of a child resulting from forced pregnancy caused by sexual violence.
Empirical data and research	Although limited, certain research and advocacy efforts concerning this population do exist.	There is an almost complete absence of empirical data, research, and systematic monitoring concerning this population.

Comparative Aspect	Bosnia and Herzegovina	Croatia
Role of civil society	Civil society organisations have played a pivotal role in initiating normative and societal change (e.g. through the work of the Association 'Forgotten Children of War').	Civil society organisations have played an important role in supporting survivors of wartime sexual violence and advocating for their rights. However, children born of wartime sexual violence have not yet been addressed as a distinct category through dedicated research, advocacy, or legal reform initiatives.
Public and political discourse	The issue is publicly acknowledged and institutionally recognised.	The issue is almost entirely absent.
Compliance with international standards	Partial compliance (normative progress accompanied by weak implementation).	Low level of compliance (normative gap).

This comparative overview does not merely illustrate differences in legislation, but rather differences in institutional and societal approaches.

Despite internal inconsistencies and ongoing implementation challenges, Bosnia and Herzegovina has undertaken a crucial step: it has formally acknowledged the existence of children born of wartime sexual violence and established a foundation for their legal protection. In doing so, it has created space for the further development of public policies, research, and institutional support mechanisms.

'By adopting this legislation, Bosnia and Herzegovina became only the third country in the world to legally recognise children born of war, thereby establishing a global precedent whose significance extends far beyond its borders.'

- Ajna Jusić, recipient of the 2024 Human Rights Award of the University of Oslo.³⁹

Children born of wartime sexual violence are not merely deprived of rights; they remain entirely outside the Croatian legal system. Their existence is not legally recognised, their needs are not formally defined, and their position is absent from public policy frameworks. In such circumstances, the issue is not one of insufficient protection, but of the complete absence of protection.

The lack of research and academic engagement concerning children born of wartime sexual violence, combined with the absence of dedicated advocacy focused specifically on this category, has contributed to a situation in which the issue has not been meaningfully addressed within legal, institutional, or public policy frameworks. This creates a self-perpetuating cycle of invisibility: without data there can be no policy, and without policy there can be no rights.

Where knowledge production, advocacy, and sustained pressure exist, legal and institutional change becomes possible. Where these elements are absent, the legal system remains static, irrespective of international obligations.

In this respect, the central challenge in the Republic of Croatia is not the absence of legal instruments, but the absence of processes capable of bringing such instruments into existence and ensuring their implementation.

Without research capable of rendering this population visible, without academic engagement capable of conferring legitimacy upon the issue, and without organised advocacy specifically addressing children born of wartime sexual violence as a distinct category, the question of children born of wartime sexual violence will remain outside the legal and institutional framework.

RECOMMENDATIONS

Legislative Amendments to the Law on the Rights of Victims of Sexual Violence

The starting point of this recommendation is an internal inconsistency within the current legal framework: the provision granting enhanced financial compensation to a mother for the “birth of a child resulting from forced pregnancy” implicitly acknowledges both the existence of such children and the additional consequences arising from their birth. However, the Law does not recognise the child as an independent legal subject. From a normative perspective, the child is treated as a circumstance giving rise to increased compensation rather than as a rights-holder in its own capacity. This inconsistency requires urgent and responsible legislative action.

A proposal for amendments to the Law should therefore be developed with the aim of recognising children born of wartime sexual violence as a distinct category with their own catalogue of rights. At a minimum, such a framework could draw upon the model established by the 2023 Law on the Protection of Civilian Victims of War of the Federation of Bosnia and Herzegovina, which demonstrates how a legal system can respond to long-standing institutional silence and structural invisibility.

Such an amendment would not represent merely a technical legal correction, but also a clear societal message that no individual should remain outside the system of legal recognition and protection due to the circumstances of their birth.

Submission of a Shadow Report to the UN Committee on the Rights of the Child

The Republic of Croatia has a formal obligation to submit periodic reports to the UN Committee on the Rights of the Child under the Convention on the Rights of the Child. This mechanism represents one of the most accessible and important tools for placing the issue of children born of wartime sexual violence on the international agenda, without requiring prior legislative reform.

The preparation of a shadow report would enable the systematic documentation of the experiences and needs of this category of civilian victims of war, presenting them to international bodies for the first time. This would not only increase international visibility, but also generate additional pressure for the development of domestic policies of recognition and protection. International recognition frequently constitutes an initial step towards institutional change at the national level.

Promoting Destigmatisation and Strengthening the Capacities of Professionals Working with Vulnerable and Marginalised Groups

Legislative reform is necessary, but it is not sufficient on its own. Without destigmatisation, professional education, and greater visibility of this issue in public discourse on the Homeland War, rights that exist on paper will remain inaccessible in practice.

The experience of Bosnia and Herzegovina demonstrates that public visibility, continuous education, and organised civil society engagement were crucial in creating the political conditions for legislative change. In Croatia, such a process has yet to be systematically developed, but it represents a key opportunity for meaningful transformation.

Opening public space for discussion of this issue is not only a matter of political and social responsibility, but also an act of restoring dignity to individuals who have remained invisible for decades.

Children born of wartime sexual violence during the Homeland War are now adults between 28 and 35 years of age. Every year of delay represents another year in which consequences remain unrecognised and needs remain unaddressed. Bosnia and Herzegovina waited more than two decades for institutional recognition; Croatia must respond with greater urgency and a stronger commitment to justice.

Interdisciplinary Research Programme

One of the most significant obstacles to public policy development in Croatia is the near-total absence of empirical data on children born of wartime sexual violence. What is not documented cannot be addressed; what is not researched cannot be recognised as a social issue. Without academic legitimacy, the topic remains marginalised and vulnerable to political neglect.

For this reason, an interdisciplinary research programme should be developed to integrate this issue into academic, legal, and public policy discourse. Such a programme would enable evidence-based policy recommendations and create conditions for long-term institutional recognition of this group. Research cooperation with the organization Association 'Forgotten Children of War' may be established through a formal protocol ensuring the protection of identity and ethical research standards. The experience of the Association, which evolved from a civil society initiative into a catalyst for legislative reform in the Federation of Bosnia and Herzegovina and the Brčko District, should be documented as a comparative case study and a model for Croatia.

International cooperation could further strengthen this process through methodological exchange, expertise sharing, and increased visibility of findings. Potential partners include the Global Survivors Fund, the Transitional Justice Institute, and the OHCHR Regional Office for Europe. Funding may be secured through European Union programmes and international research grants.

Development and Institutionalisation of Advocacy Processes in the Republic of Croatia

In order to improve the status and protection of children born of wartime sexual violence in Croatia, it is necessary to develop a structured, long-term, and sustainable advocacy process capable of bringing this issue into both public and institutional spheres.

The comparative experience of Bosnia and Herzegovina demonstrates the crucial role of organised civil society actors. Since its establishment in 2016, the Association 'Forgotten Children of War' has developed a comprehensive model combining direct support, research, public advocacy, and international cooperation. This demonstrates that systemic change emerges through sustained, evidence-based, and strategically coordinated pressure.

In the Republic of Croatia, there is currently no visible or publicly recognised advocacy actor addressing this issue in a systematic way. As a result, children born of wartime sexual violence remain largely absent from academic discourse, public policy debates, and civil society agendas. This produces a form of double invisibility - within both public space and institutional frameworks.

At the same time, this gap represents an opportunity for action. Advocacy initiatives should be encouraged that integrate research, public communication, professional expertise, and institutional cooperation, with the aim of creating the foundations for normative and institutional recognition.

Change does not begin with legislation. It begins when society decides it will no longer ignore those who have remained invisible for too long.

Concluding Remarks

The implementation of these recommendations does not depend upon the availability of legal instruments; such instruments already exist. Nor does it depend upon the absence of international standards; those standards are well established and clearly articulated. Rather, it depends upon recognising this issue as a matter of prolonged and systemic violations of human rights and human dignity, as well as a question of broader societal responsibility.

The experience of Bosnia and Herzegovina demonstrates that legislative reform does not occur spontaneously. It emerges through a combination of knowledge generation, sustained advocacy, and strategic pressure. Between 2016 and 2023, the Association 'Forgotten Children of War' successfully developed such a process, transforming an issue that had previously been entirely absent from public and institutional recognition into a legally recognised category. While this model cannot be replicated mechanically, its underlying principles can be consciously and responsibly adapted to the Croatian context.

For decades, children born of wartime sexual violence have existed outside the systems that were intended to protect them. It is for this reason that every new research initiative, as well as every public discussion on this issue, represents a potential step towards meaningful institutional recognition and reform.

Further delay is not a neutral option; it represents the continuation of institutional invisibility.

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