A FEMINIST PERSPECTIVE ON POST-CONFLICT RESTRUCTURING AND RECOVERY

THE CASE OF BOSNIA AND HERZEGOVINA

EXECUTIVE SUMMARY

WOMEN’S INTERNATIONAL LEAGUE FOR PEACE & FREEDOM
A FEMINIST PERSPECTIVE ON POST-CONFLICT RESTRUCTURING AND RECOVERY – THE STUDY OF BOSNIA AND HERZEGOVINA

Executive summary

Authors: Gorana Mlinarević, Nela Porobić Isaković, Christine Chinkin, Jacqui True, Madeleine Rees, Barbro Svedberg
Cover image: Bedneyimages / Freepik
Design and layout: Sanja Vrzić
A FEMINIST PERSPECTIVE ON POST-CONFLICT RESTRUCTURING AND RECOVERY
THE CASE OF BOSNIA AND HERZEGOVINA

EXECUTIVE SUMMARY

Authors:
Jacqui True
Christine Chinkin
Madeleine Rees
Nela Porobić Isaković
Gorana Mlinarević
Barbro Svedberg
INTRODUCTION

The ‘Reform Agenda’ - Bosnia and Herzegovina’s most recent reform framework - is in the focus of this report as it constitutes a prime example of a prevailing austerity paradigm seen across Europe. The report takes a closer look at political and economic processes leading up to adoption of the framework and analyses the likely outcomes of the reforms on the structural gender equality and social justice in the country. By looking at and exposing the ideological representation of neoliberal interventions in Bosnia as “neutral” and “technical”, the report attempts to highlight the problems that neoliberal solutions of austerity measures and stabilization policies create in the post-conflict reconstruction and recovery. The report is an attempt to open a discussion on how this can be reimagined beyond such measures. In the report, we argue that an economic reform agenda introduced in a post-conflict country, that is not underpinned by a rigorous feminist conflict and gender analysis, will contribute to a continuum of entrenched structural and gender inequalities. Ensuring compliance to human rights, especially to social and economic rights, in a country coming out of a violent conflict, can create a firm foundation upon which a sustainable and just transition from conflict to peace can be made. The report shows that it is the complete ignorance of social and economic rights immediately after the end of the war that significantly contributed to prolonged situation of the social conflict in Bosnia and Herzegovina. Continuation of the failure to comply to social and economic rights, or even worsening the situation through a gender and conflict blind economic reform agenda, will contribute to the ongoing social conflict in Bosnia and Herzegovina (BiH), and increase the risk of re-occurrence of the conflict.

Whilst the primary obligation to respect, protect and fulfil human rights falls on the host state, when resources are severely constrained, as they inevitable will be in a country coming out of a conflict, international assistance and cooperation becomes a must. The report looks at the linkages between international human rights obligations and the role international financial institutions (IFI) play in designing and facilitating post-conflict recovery and reconstruction processes. In particular, it analyses economic and social rights, and the recognition that ‘observance of human rights’ is of ‘vital importance’ for securing a lasting peace and argues for a need to determine international and national responsibility for potential violations of human rights.
THE CASE OF BOSNIA AND HERZEGOVINA

The Reform Agenda is now a part of Bosnia’s EU accession path and is supported by the international funding institutions, all demanding rigorous austerity measures that the Bosnian local government(s) have happily accepted and enthusiastically started to implement. In a classical neoliberal way, the Agenda conditions positive growth of Bosnia’s economy with structural reforms in labour legislation, public administration, employment policy in the public sector, improvements in business climate (including restructuring of public enterprises), social welfare (including pensions), health sector, and rule of law. The priorities were subject for discussion with the IFIs and EU in advance of its adoption and the Agenda has become a basis for the negotiation of individual programs for financial and technical assistance with the WB, IMF and EU. The subsequent BiH lending agreements resulting from those discussions come with huge financial commitments and severe austerity conditionalities.

In line with the neoliberal doctrine one of the main goals of the Reform Agenda is fiscal consolidation, meaning reduction in the governments deficits and depth. This implies massive cuts in public spending - reorganization of the health sector including privatization, privatization of utilities, a surtax imposed on petrol, public sector pay and pensions slashed, benefits cut, dismantling of workers’ rights, and so forth. The burden of the proposed austerity measures will be carried by the larger portions of the BiH society, and without conflict and gender analysis informing these measures, it can be expected that women will be affected more than any other group.

Furthermore, the Reform Agenda rests on, by now, a well-established politics of exclusion – not just of women but also of a vast majority of marginalized groups in the society. The planning of the proposed reforms was exclusively confined to negotiations with the Bosnian ethnonational political elite that monopolize both ‘the private’ and ‘the public’ sphere. Those that will be affected the most by the reforms are (again) excluded from decision-making.

While the austerity measures proposed for Bosnia are not unheard of, but rather follow a well-established path implemented across Europe in the post-crisis period, Bosnia and Herzegovina’s recent war past puts the country in an even more precarious position. The source of a continuous weakness of the BiH peace lies in the continuous impoverishment of the people and is embedded in the intersection of different inequalities and injustices in the society. Structural inequalities in a post-conflict country such as Bosnia and Herzegovina are not just politically consequential but, as the report demonstrates, bear consequences for the peace itself.

The current state of BiH demands political, economic and social reforms of the country. There is a broad societal consensus on that. At the same time, there is no consensus on how those changes are to be delivered. As it stands now, the impoverished, disenfranchised and disempowered citizens of BiH, still dealing with consequences of the war, are faced with irreversible neoliberal post-conflict restructuring to detriment of their human rights, in particular social and economic rights. Rather than reducing the public sector, it would be more equitable to conduct budget trade-offs through comparing the impact of reducing budget deficits with the impact of strengthening investments in human capacities and needs on economic growth, poverty reduction and gender equality. Complementary to that, the country must deal with the consequences of the past war through comprehensive, gender sensitive reparations programmes that are included in the overall economic recovery of the country, thus laying the grounds for creation of a socially just and equal society. From a feminist political economy point of
view, ‘rebalancing’ the economy should not be about reducing government spending and aggregated demand, but about striving towards a just, productive and sustainable economy - an economy for peace.

FEMINIST PERSPECTIVES ON THE RESPONSIBILITY OF INTERNATIONAL ACTORS TO GUARANTEE ECONOMIC AND SOCIAL RIGHTS

The report also analyses the proposed structural reforms in relation to BiH’s obligations on progressive realization of economic, social and cultural rights of its citizens. The report argues that the international human rights obligations persist throughout any programme for economic reconstruction. The financial restructuring (including privatization of key public services and austerity measures) in the name of economic reform and undertaken in accordance with World Bank’s or International Monetary Fund’s conditionalities may have an adverse effect on the enjoyment of human rights within the state. Accordingly, there is a need to determine international and national responsibility for such violations. The BiH government(s), and other involved actors (EU and International Funding Institutions) are not only collectively responsible to ensure the reforms are aligned with progressive realization of its economic and social rights obligations, and the broader human rights framework, but also to ensure other global policy agendas such as the Sustainable Development Goals.

The actors that are considered against these obligations in the report are: the host state, member states of the International Funding Institutions, and the International Funding Institutions themselves.

The host state is obliged to comply with human rights obligations it has accepted through becoming a party to a particular treaty or through customary international law. Economic, social and cultural rights, are defined by the International Covenant on Economic, Social and Cultural Rights (ICESCR), and because there is no provision of derogation in ICESCR the obligations continue in time of crisis, such as post-conflict or economic crisis. The doctrinal “need” for austerity measures does not justify failure to comply with a state’s human rights obligations, and as the report points out, there have been several concluding observations by the Committee on Economic, Social and Cultural Rights emphasizing that austerity measures must not be discriminatory, and can only be temporary, necessary and proportionate. The CEDAW committee has also pointed to its disproportionate impact on women. These messages, that human rights obligations must not be subordinated to economic reform or austerity programmes, are consistent with the position of the Human Rights Council that has repeatedly reaffirmed that: “that the exercise of the basic rights of the people of debtor countries to food, housing, clothing, employment, education, health services and a healthy environment cannot be subordinated to the implementation of structural adjustment policies, growth programmes and economic reforms arising from the debt”.1

1 HRC Resolution 20/10, 18 July 2012, The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.
When it comes to member states of International Funding Institutions (IFI) we argue that they do not cease to be bound by their human rights obligations (the obligations to respect, protect and fulfill) when they act as members of an international institution. This basic principle requires a member state of an international organization to respect the human rights of those situated within its territory and in some instances outside it. Donor governments (whether acting under bilateral agreements or as members of the IFIs) remain bound by their own human rights obligations and thus responsible for human rights protections; so too when they are recipients of loans and subject to the conditions imposed by the institution. The human rights obligations of BiH are of course territorial with respect to its citizens. However, for member states of the IFIs the application of their continuing human rights obligations is extra-territorial: “extra-territorial obligations arise when a state exercises control, power, or authority over people or situations located outside its sovereign territory in a way that could have an impact on the enjoyment of human rights by those people or in such situations. All states are bound to these obligations in respect to human rights”.

In the case of the IFIs decisions are taken in one state (e.g. in the case of the World Bank, Washington, USA) and made operational in another state (for instance BiH).

What are the international obligations of International Financial Institutions? Each such institution (global and regional) is bound by the terms of its own governing documents. In the report, we take a closer look at the World Bank which is governed by the IBRD Articles of Agreement (as amended effective 27 June 2012) and a 1947 Treaty between the Bank and the UN. Under the terms of the latter the Bank has UN specialized agency status but is allowed to operate as an independent international organization. As an international organization the World Bank cannot be a party to the international human rights treaties; accordingly it can only be bound by human rights obligations if they can be construed as “general rules of international law” or customary international law. There are strong arguments that human rights, in particular non discrimination, now constitute general international law. Even if the “distancing” between the Bank and the UN means that the inclusion of promotion of human rights within the purposes of the UN is not directly applicable to the World Bank, as a specialized agency of the UN, the World Bank should at the very least ensure that its actions do not detract from this enabling environment.

2 Every member state of the World Bank for example is a party to at least one human rights treaty, the vast majority to CEDAW (189 states parties) and most to the ICESCR (164 states parties).

RECOMMENDATIONS

Supported by our analysis, the report proposes a series of concrete recommendations for governments, international organisations, international financial institutions and donors. While recommendations are derived from, and focus on BiH, many of them are general recommendations stressing the importance of prioritizing gender equality and socio-economic justice to achieve economic prosperity and sustainable and just peace in any given conflict and post-conflict society.

For the international/regional organizations, international funding institutions and donors we stress the need for designing inclusive processes of consultations with all relevant stakeholders so that meaningful participation of women and wider society is ensured; to take into account the post-war context of Bosnia and Herzegovina in ascertaining the impact of war on economic participation; to ensure that a gender and human rights impact assessment is carried out at all stages of IFIs process and to include gender, conflict and context expertise in the lead thematic and country teams. Furthermore, we stress the need to ensure specific gender analysis on all conditionalities linked to lending agreements with IFIs and introduction of a requirement for gender sensitive reparations programme as part of ‘positive’ conditionalities to ensure the post-conflict countries properly deal with their war legacies. Monitoring and evaluation mechanisms must include gender and human rights indicators and independent, effective and accessible complaint mechanisms for violations of economic, social and cultural rights and sex- and gender based discrimination should be established in the host country’s framework for economic restructuring.

The recommendations targeting BiH government(s) focus on the need to develop indicators for gender equality and women’s empowerment and consolidating them with baseline date on conflict, livelihoods and ecosystems in order to develop targeted, evidence-based policy and programming responses; the necessity to introduce measures that counter gender-based division of labour or asymmetrical power relations between women and men; to conduct mapping of the care-economy in order to inform reforms targeting labour market; to conceptualize and implement gender sensitive reparations programme for all civilian victims of war; to ensure monitoring and accountability mechanisms are set up with respect to BiH’s compliance with human rights obligations; and to conduct frequent gender impact analysis and introduce a plan for corrective measures in cases where adverse effects on gender and other inequalities are detected.
Since 2013 Women’s International League for Peace and Freedom (WILPF) is facilitating an initiative in Bosnia and Herzegovina that focuses on the importance of taking into consideration existing experiences and empirical knowledge of women who went through an armed conflict and struggled for human rights, in an attempt to change the dominant narrative of women as victims. The initiative Women Organizing for Change in Bosnia and Herzegovina advocates for women’s perspectives to be represented at all levels in the peace-building process, it puts the spotlight on the peace activism of women during war, defends the human rights of women and promotes social, economic and political justice.

Women Organizing for Change
Čekaluša 16
Sarajevo, Bosnia and Herzegovina

A PROJECT OF
WOMEN’S INTERNATIONAL LEAGUE FOR
PEACE & FREEDOM

www.womenorganizingforchange.org