

Analysis: stopping the trend of online /ICT violence against women

Experience – Challenges – Good Practices

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**The virtual world is a reflection of society, and information on the internet is spreading at the speed of light. Once an avalanche is triggered, the torrent of discriminatory comments is hard to stop. Although Bosnia and Herzegovina is a country that is caught up with the waves of globalization, when it comes to virtual violence we have mostly picked up negative trends. The use of IC<sup>1</sup> technology for the purpose of commitment of violence, such as threats with use of SMS or hacking of social network accounts, has become everyday life of the Bosnian online community. However, when it comes to the consequences of online violence, there is not much talk of them; on how devastating and catastrophic they can be.**

The use of networked computers, the availability of the Internet, and the relative anonymity of users have led to the elimination of time and space constraints and often to the liberation from moral, ethical, religious, social and legal norms of behaviour. The most vulnerable group of cyberspace are children, young people and women, those who most often move in these areas. The evidence is just below the surface, and even the superficial internet search shall reveal the cruelty that, in the comfort of our own rooms and under the disguise of anonymity, manifests itself against individuals and/or groups, and the consequences of such online violence can be far-reaching, even tragic. Online violence too often emerges under the veil of romance and love.<sup>2</sup>

One example of a case of virtual violence in Bosnia and Herzegovina, describes how the obsession was turned into aggression through digital platforms.<sup>3</sup> The victim (20) was photographed on one of his vocal performances. The perpetrator sent her messages later and all seemed harmless until the moment when he started sending messages containing also her (Facebook) photos. The victim learned that the "fan" was older than her and wanted to distance herself, but a video appeared, in which her FB photos were used and where the perpetrator placed the focus on forbidden love, using her real name and family name, as well as the place she came from. The victim has requested to remove the video from YouTube, but the administrators have not removed it. The girl then sought help at a local police station where one of the police officers said, "(...) do not worry, that's just love."

When it comes to online violence, the best-known example to the general public in BiH is when in November 2011, M.S. from Banovici gave a statement to the FBiH television regarding badly organized excursion and theft committed against her and her colleagues. In that statement, she says that it was "raining on her head" because of the bad bus. Her

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<sup>1</sup> Abbreviation IC stands for Information Communication Technologies (ICT);

<sup>2</sup> One World Platform & APC, Stop Violence: Women's Rights and Security on the Internet, 2015, 5.;

<sup>3</sup> One World Platform & APC, Stop Violence: Women's Rights and Security on the Internet, 2015, 22.;

statement was soon placed on the YouTube<sup>4</sup> (YT) channel, where people were ridiculing her accent. The video has over a million views, and there are many versions of her statement that ridicule the girl.<sup>5</sup> The girl was abused through Facebook since people were constantly sending her messages with offensive content. The clips have not been removed from the YT channel, and after the original video clip from FTV, a number of compilations have been made, which can still be seen on YT even after six years. After the release of the video, three FB profiles were created in her name, without her knowledge and consent. The media published allegations that M.S. dropped out of school (although she was a senior in high school), and that she attempted suicide.

During 2013 and 2014, the Centre of Legal Assistance for Women Zenica (CLAWZ)<sup>6</sup> mapped cases of women victims of violence through IC technology.<sup>7</sup> During this period CLAWZ provided 2168 legal services, of which 68.54% were in the area of family law. During 20 months, violence through the Internet and mobile telephony was experienced by a total of 1,201 clients or 55.40%, which is more than every other.<sup>8</sup>

During the period from September 2011 until October 2015, 3360 SOS calls were received through the SOS telephone of the Foundation "Associated Women of Banja Luka"<sup>9</sup> (AWBL), out of which 1820 calls contained some kind of threats via SMS messages or social networks. The most common threats through SMS messages or social networks were sent to partners at the moment when they leave the partner community.<sup>10</sup>

The Internet proved to be a new ground for violence against women, but also as an institution on which it is difficult to enforce laws. Examples of online violence against women, which are not adequately processed, have become frequent and lead to women being excluded from online and offline spheres. Although the freedom of speech is often placed as contradictory argument, examples of threats to women in social networks suggest that freedom of speech stops where threats begin.

## Women in the Public Domain and Digital Violence

In January 2017 the One World Platform (OWP) organization mapped cases of digital violence when it comes to women in the public domain. The OWP team has conducted four case studies on women in public life in Bosnia and Herzegovina who have experienced some form of online violence. All four women are from the world of journalism and online violence was conducted via Facebook.

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<sup>4</sup> Video: <https://www.youtube.com/watch?v=mpVr2wRY1O4> ;

<sup>5</sup> Video processing: <https://www.youtube.com/watch?v=rQrW3caqto8> ;

<sup>6</sup> Web site of the Centre: <http://cenppz.org.ba>;

<sup>7</sup> As part of the FLOW project one of the activities was mapping online violence; [mapirajnasilje.net](http://mapirajnasilje.net);

<sup>8</sup> One World Platform & APC, Stop Violence: Women's Rights and Security on the Internet, 2015, 20.;

<sup>9</sup> Website of the Foundation: <http://unitedwomenbl.org/new-page-1/>;

<sup>10</sup> Associated Women of Banja Luka, mapped cases, IT violence;

Borka Rudic, secretary general of the Association of BH journalists, was verbally attacked on the street in Sarajevo after being charged for being "a lobbyist of the Gülen Movement" and a person who is "defending the Chetniks" in the form of an aggressive Facebook status from Salmir Kaplan, a member of the Democratic Action Party. The Association of BH journalists filed a lawsuit against Salmir Kaplan, and the process is ongoing.

Online violence was also committed against journalist Irma Antonia Plavcic via Facebook. The journalist suffered threats after her author text on list candidates came out, just before local elections were held. The perpetrator was not prosecuted for online crime, claiming his profile was hacked, but shortly after this incident, an investigation was launched regarding his illegal actions of tracking, intimidating and insulting candidates from the list for the elections that were to be held.

In 2016, after expressing her own opinion in the form of Facebook status, in which she criticized the nickel and burqa, journalist Lejla Colak began to receive serious threats. Shortly thereafter, the pro-Islamic portal "Saff.ba" published an article about Lejla and her status, which was a driving force behind the public lynching of this young journalist on all social networks. After a large number of people shared a "screenshot" of Lejla's status, besides the fateful names, they also called for rape, sprinkling with gasoline and burning. One of the perpetrators of online violence was a member of the Armed Forces of BiH. Although she received support from various non-governmental organizations, and representatives of the law promised protection, a member of the Armed Forces of BiH said his profile was hacked and the public had never been informed of the continuation of the investigation against this perpetrator. Lejla requested asylum outside BiH.

Sanela Prasovic-Gadzo is a prominent journalist and editor of the "Interview 20" show, a show that deals with various topics and interviews public figures from the whole Balkan region. In April 2015, after hosting Nikola Karabatic, a well-known handball player from Serbia, she received a series of threats on Facebook. Threats were sent by Asim Tabakovic, one of the viewers of the interview. Chief Prosecutor of the Prosecutor's Office of the Canton Sarajevo, Dalida Burzic, said that solving cases related to threats via social networks is not easy and cannot be treated quickly. The Federal Police Administration informed Mrs Prasovic-Gadzo that the location of the perpetrator was in France and that the whole case was forwarded to their competent authorities. Thereafter, Sanela did not receive any information about further action regarding her report, nor was any support provided by the Government.

In addition to the fact that all the above-mentioned cases were sharing the same online perpetration channel (Facebook), they all have in common that the executors were signed with their real name and surname. Two of the four executors claimed that their accounts on this social network were hacked.

One of the perpetrators is a member of the Armed Forces of BiH, while one of the perpetrators is politically active in the most prominent political option in Bosnia and Herzegovina.

No executor is punished for online violence. One victim was forced to seek asylum.

Is the capacity of social networks exhausted when women on Facebook and/or Twitter are threatened with rape or when groups of like-minded people are formed, whose aim is physical violence which is initially *tested* on social networks? When does the Law occur?

## Legal Framework

The Criminal Code of Bosnia and Herzegovina does not tackle nor process violence, violation of reputation and causing other forms of damage via ICT, nor it prosecutes perpetrators criminally.

Apart from the Criminal Code of Bosnia and Herzegovina, neither the Constitution, the Criminal Code of the FBiH, the Law on Protection from Domestic Violence, Law on Gender Equality and the Law on Prohibition of Discrimination deal with online violence issues.

Legislation in BiH does not have clearly defined provisions when it comes to violence through modern technologies.

Attempts to satisfy justice (in the case of online violence), in the framework of the legal and administrative system, generally do not have success. Offenders are not prosecuted or they are punished by a parole and/or fined financially because their violations are linked to other illegal acts.

The Foundation AWBL has mapped 43 cases of domestic violence that were carried out through IC technology. Described cases contain threats through SMS messages and/or social networks. All cases were reported to the police, 43 of them. Seven perpetrators were punished by a suspended sentence. Seven perpetrators were also fined. One perpetrator has already been serving a prison sentence for other criminal offences, while one perpetrator has been sentenced to three months in prison for threats to his minor children. Out of 43 perpetrators, only one was sentenced to one-year imprisonment. Several perpetrators are returnees in domestic violence. The perpetrators' arrests are not carried out on the basis of online harassment, but because of the incident of violent behaviour.

Activists of the CLAWZ Zenica have learned how (un)known the Law is to citizens and have published the answers in the Legal Manual, which contains an analysis of the problem of violence against women through modern technologies.

To the question "Violence through information-communication technologies is sanctioned:".

Six laws and options "I do not know", "none of the above" or "all of the above" were offered as possible reply. Only 18% of respondents know that none of the listed laws directly sanction ICT violence. More than half of the respondents (56%) stated that they do not know, while the rest of 26% of respondents chose one or more laws, out of 6 which were offered (Constitution, Criminal Code of BiH, Criminal Code of FBiH, Law on Protection from Violence in the Family, Law on Gender Equality, Law on Prohibition of Discrimination).<sup>11</sup>

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<sup>11</sup> A legal manual, with an analysis of the problem of violence against women through modern technologies, CZPPZ Zenica, 2016, 16.;

Victims often seek help from telecommunications operators or social network administrators. Tele-operators in BiH offer blocking of callers only if the victim is called more than three times a day. Perpetrators mostly know this rule and often change SIM cards, which are inexpensive and available for purchase without signing identity.

Report of abuse to social network administrators when "damage has already been done" is not a solution. Social network owners and/or editors react only when the problem of victim becomes the problem of their public relations. Although the problem of violence against women on the internet spreads as an *epidemic*, many non-governmental organizations are persistent in turning the public's attention to this complex scourge of the modern age, and are working on promoting, educating and advocating new or amendment of existing laws. The Internet has brought great potential and it is difficult to regulate, but basic moral and ethical rules have not changed, and anonymity should not be an excuse for online violence, and virtual "exposure" to women is not a call for bullying.

### Positive examples and practices: how to reduce internet violence against women, lobbying for law

The adoption of holistic and comprehensive legislation is of crucial importance for countries that want to take responsibility for violence against women. The fact is that the laws lay down the necessary obligations and implementing measures. Efficient implementation and enforcement are an effective prevention strategy, especially if the perpetrators are certain that their actions will not go unpunished.<sup>12</sup>

The state has the responsibility both in prevention and protection of women from violence which is done through information-communication technologies. If one of these two segments fails, government measures should focus on punishing perpetrators, which is not the case in Bosnia and Herzegovina. Laws in BiH are outdated and courts rarely prosecute, and even less often convict perpetrators. Executors of online violence are punished only when online violence is connected with some other form of violation of the existing Law (direct threats to juveniles, most often children, or when it comes to attempting to commit online threats). Misappropriation leads to a constant increase in the number of online violence executors and gives them an opportunity of broad action.

Bosnia and Herzegovina is a member of the Council of Europe (CoE), which in 2014 gave recommendations in the Guide to Human Rights for Internet Users. Member States of the CoE have the obligation to provide all their citizens with the human rights and fundamental freedoms set out in the European Convention on Human Rights. This obligation is in force also in the context of using the Internet.<sup>13</sup>

The CoE Guide is based on the European Convention on Human Rights and other conventions and instruments of the CoE dealing with various aspects of human rights protection. All member states of the CoE are obliged to respect, protect and exercise the rights

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<sup>12</sup> Framework of Obligations and Guidelines: State Responsibility in Eliminating Violence against Women; Zarizana Abdul Aziz, 2;

<sup>13</sup> Recommendation CM/Rec(2014) 6 of the Committee of Ministers to the Member States on the Human Rights Guide of Internet Users;

and freedoms contained in the instruments they have ratified. The Guide is inspired by the continual interpretation of these rights and freedoms by the European Court of Human Rights. The Guide does not establish new human rights and fundamental freedoms. It relies on existing human rights standards and implementation mechanisms.<sup>14</sup>

Bosnia and Herzegovina does not have a well-defined legal framework when it comes to using the Internet, but since its goal is entering the European Union, and since it is a member of the CoE, it should follow the guidelines of the CoE.

### Campaign "Wireless – invisible, but painful"

As violence which is carried out through information-communication technologies is more present, need to point to its complexity becomes greater. Given that the legal framework cannot adequately respond to this problem, the NGO sector is getting better organized and is initiating advocacy for changes within the law that should regulate this issue.

The Women's Legal Aid Centre has in 2017 created the campaign "Wireless - invisible but painful". This campaign aims to acquaint the public with the problem and severity of the consequences of violence against women and children who use the Internet and/or mobile telephony. On the occasion of the presentation of the Campaign, the Centre organized a meeting with non-governmental organizations from 13 cities across the Federation of BiH, which will in their local communities, through the organization of various activities, encourage the creation of a critical mass of supporters to adopt amendments to the criminal legislation.

This Campaign is part of a wider advocacy process as part of which the first meeting of the Expert Working Group was simultaneously organized, which is preparing the text of the draft amendments to the Criminal Code, as a prerequisite for sanctioning the perpetrators of ICT violence.<sup>15</sup>

### Stop Violence: Women's Rights and Security on the Internet

#### Prevention of violence

The "Stop Violence: Women's Rights and Security on the Internet" Project (2012-2015) is a global project, which was led by the Association for Progressive Communications (APC) and was focusing on capacity building of human rights activists and women's organizations regarding utilization of technology in their spheres of action, in order to adequately respond to the growing virtual violence against girls and women. The project relied on long-lasting efforts and the path in the fight against virtual violence against girls and women. Prevention of violence through technology is an important component of stopping violence against girls

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<sup>14</sup> Ibid;

<sup>15</sup> Retrieved on 20 September 2017 from: <http://cenppz.org.ba/2017/07/05/kampanja-bezicno-nevidljivo-a-bolno/>;

and women and contributes to creating a safe environment for girls and women in every sphere of their lives. APC has run the project in partnership with seven countries: Bosnia and Herzegovina, Colombia, the Democratic Republic of Congo, Kenya, Mexico, Pakistan and the Philippines. The project's Strategy includes five different activities:

- Collecting evidence of the existence of this kind of violence;
- Establishing of a strong community of women leaders, whether they are individuals or women's organizations, which will affect on and cooperate with legislators
- Creating a dialogue with internet providers, i.e. corporate sector
- Leading campaigns with the aim of crating online culture that will ensure everyone the right to freedom and security on the Internet
- Strengthening institutional capacity of women's rights organizations<sup>16</sup>

### Law amendments

When it comes to the Draft Amendments to the Criminal Code in 2015, the One World Platform organization within the FLOW project (Stop Violence: Women's Rights and Security on the Internet) has made a proposal for amendments to the Law, in co-operation with the legal expert.

The amendments would, inter alia, imply fines or imprisonment for the damage to the reputation of another and/or anonymous communication with minors using IC technology. OWP has no capacity to advocate this Law, because at the time when it was written, nobody in Bosnia and Herzegovina was dealing with this issue since there was not enough critical mass to advocate.

### Advocacy process

In September 2017 an initiative to amend the Criminal Code of the FBiH was initiated with the aim of creating a legislative framework for sanctioning persons who are committing criminal offences through information-communication technologies.

The Initiative is initiated by the Women's Rights Centre of Zenica, together with the Association of Women's Judges in BiH, with experts: Ombudsman Dzumhur Jasmina, Judge of the Cantonal Court Sarajevo Zahiragic Adisa, Judge of the Cantonal Court Zenica Malicbegovic Enesa, Judge of the Supreme Court of FBiH Begic Jasmina, Federal Prosecutor Hadziomerovic Muftic Hajrija, representative of the MOI ZDC Glavas Nedeljka, Dean of the Faculty of Criminology and Security Studies Korajlic Nedzada, and a representative of the Federal Ministry of Justice.<sup>17</sup>

Although there is no clearly determined and defined law which would solve the issue of online violence, at the proposal of the Ministry of Justice of BiH, the Council of Ministers of

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<sup>16</sup> One World Platform, Stop Violence: Women's Rights and Security on the Internet, 2015, 7;

<sup>17</sup> Retrieved on 20 September 2017 from: <http://cenppz.org.ba/2017/09/21/pokrenuta-inicijativa-za-sankcionisanje-pocinitelja-nasilja-putem-informaciono-komunikacionih-tehnologija/>;

BiH has established a Proposal of the Law on Amendments to the Criminal Code of BiH, which defines the concept of public incitement to violence and hatred.

It states that "anyone who, by means of press, radio, television, computer systems or networks, at a public gathering or otherwise publicly promotes or publicly makes accessible leaflets, pictures or other material invoking violence and hatred directed against a group or member of such a group, determined in relation to race, colour, religion, origin, national or ethnic origin, gender, sexual orientation, birth identity, disability or any other characteristic, in the event when the offense was committed in a manner that would encourage violence and hatred against the group of persons or a member of a group, which is to be decided by the court, shall be punished by imprisonment for at least one year".<sup>18</sup>

## Conclusion

Only a couple of years ago, the problem of online violence against women among the Bosnian society was not recognized and perceived as a serious threat. The Internet is a polygon in which there is very little law, but the State is obliged to provide protection and prevent online violence against women. If the system does not react and does not prevent the occurrence of online violence, it is obliged to punish the perpetrators. Although there is no comprehensive law in Bosnia and Herzegovina which would regulate the issue of online violence, non-governmental organizations work on strengthening and advocating to reduce the trend of increasing online violence.

Bosnia and Herzegovina is a member of the Council of Europe since 2002. In November 2014, the Committee of Ministers of the EC proposed guidelines to member states in the Guide to Human Rights for Internet Users. The member states of the Council of Europe are obliged to provide all their citizens with the human rights and fundamental freedoms set forth in the European Convention on Human Rights. This obligation is also effective in the context of using the Internet. Other conventions and instruments of the Council of Europe related to the protection of the right to freedom of expression, access to information, the right to freedom of assembly, the protection from cybercrime and the right to private life and the protection of personal data are also applicable.

In order to ensure equal application of human rights and fundamental freedoms offline (outside of network) and online (on network), in accordance with the Article 15b of the Statute of Council of Europe, the Committee of Ministers recommends that Member States (inter alia): ensure that internet users have access to effective legal remedies when it comes to limiting their rights and freedoms or in cases where they believe that their rights have been violated. This requires higher co-ordination and cooperation among relevant institutions, entities and communities. It also requires engagement and effective cooperation with private sector actors and civil society organizations. Depending on the national context, this may also include assistance and remuneration mechanisms, such as mechanisms provided by data

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<sup>18</sup> Retrieved on 20 September 2017 from:  
<http://www.mpr.gov.ba/aktuelnosti/vijesti/default.aspx?id=6294&langTag=bs-BA>



protection institutions, national human rights institutions (for example, ombudsmen), court proceedings and telephone help lines.

In addition to advocating for amending the law, many organizations provide legal and psychological assistance to victims. Disastrous online violence has made this problem more recognizable, and the NGO sector is increasingly organizing and proposing and lobbying for laws that may help in the prevention and protection of women, as well as in punishment of the perpetrators.