

## DISCUSSION PAPER

### DELEGATION OF BOSNIA AND HERZEGOVINA

During the recent war in Bosnia-Herzegovina, at least an estimated 30.000 women were victims of acts of enforced pregnancy (or to use previously negotiated UN language ) and rape.

We support the proposition to include within the definition of war crimes the acts of enforced pregnancy because we believe that this crime has to find a proper qualification under this statute, distinct from other forms of sexual abuse. In our view, a specific criminalisation of these acts is needed as they have a different criminal purpose than other forms of sexual assaults.

It is our experience that victims of this crime and any children born out of such consequences were subject to greater stigmatization unless offered the proper legal status by explicit recognition of this crime.

This stigmatization not only could have negative social consequences, but also end up discouraging all available options for the female victim and the potential offspring. The crime of enforced pregnancy given its particular purpose, does not depend on whether or not women have access to abortion. While women under the national laws of Bosnia and Herzegovina had and have legally available to them the full range of options, it is our experience that recognition of the legal status of victims of such crimes would not encourage termination of pregnancy but to the contrary.

It is of the utmost importance that the crime of enforced pregnancy is included in the list of offenses within the jurisdiction of the Court, both as a war crime and as a crime against humanity.

It would be appropriate in our opinion, to also qualify this crime as a crime against humanity, as such offenses do not necessarily arise only within the context of an armed conflict.