

ALTERNATIVE REPORT

**THE 3rd ALTERNATIVE REPORT
ON THE IMPLEMENTATION OF CEDAW
AND WOMEN'S HUMAN RIGHTS
IN BOSNIA AND HERZEGOVINA
(2010)**

**WITH ANNEX ON CHANGES
IN LAW AND PRACTICE
(2013)**



**Presented to:
THE UNITED NATIONS COMMITTEE
ON THE ELIMINATION OF DISCRIMINATION
AGAINST WOMEN (CEDAW)**

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**The 3rd Alternative Report on the Implementation of CEDAW and Women's Human Rights in
Bosnia and Herzegovina, published in 2010**

with Annex on changes in law and practice, published in 2013

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The views expressed in this publication are those of the authors, and do not necessarily represent the views of CARE International in BiH, UNIFEM and Fondation Open Society Institute (Zug) that supported development and publishing of this Report.

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CONTENTS

THE 3rd ALTERNATIVE REPORT ON THE IMPLEMENTATION OF CEDAW AND WOMEN'S HUMAN RIGHTS IN BOSNIA AND HERZEGOVINA

EXECUTIVE SUMMARY	6
CONTEXT	8
INTRODUCTION	10
ECONOMIC STATUS OF WOMEN IN BiH	13
WOMEN IN PUBLIC LIFE AND POLITICS	25
VIOLENCE AGAINST WOMEN AND TRAFFICKING IN WOMEN	41
STATUS AND PROMOTION OF WOMEN'S HUMAN RIGHTS OF ROMA WOMEN IN BiH	55
FINAL RECOMMENDATIONS	67

ANNEX TO THE 3rd ALTERNATIVE REPORT ON IMPLEMENTATION OF CEDAW AND WOMEN'S HUMAN RIGHTS IN BOSNIA AND HERZEGOVINA

INTRODUCTION	75
ECONOMIC STATUS OF WOMEN	79
WOMEN IN PUBLIC AND POLITICAL LIFE	87
VIOLENCE AGAINST WOMEN	93
WOMEN VICTIMS OF WAR	97
TRAFFICKING IN WOMEN	103
MARGINALIZED WOMEN	107
WOMEN FROM RURAL AREAS	113
LBT WOMEN	117

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OCTOBER 2010

EXECUTIVE SUMMARY

BiH is still burdened by ethnic and national divisions, which hinder the social, economic and political development, and dominate the public discourse. Thus the issues of gender equality, realization of women's human rights in public and private spheres, and the application of domestic laws and international obligations, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) have been pushed into the background.

Despite the progress that has been realized in regards to development of the formal and legal framework and public policies in the field of promoting and protecting women's human rights, women in BiH do not have equal opportunities to participate and are underrepresented in political decision-making within the legislative, executive and judicial authorities at all levels. The State has failed to ensure the harmonization of the BiH Election Law with the Law on Gender Equality in BiH. Women have been excluded from the processes of negotiations, peace processes, post-war reconstruction and the European integration process, which remain exclusively reserved for men. Discrimination against women continues to be deepened and maintained by appointing men to managing positions in public companies and steering boards, as well as executive bodies in the economic sector. Institutional mechanisms for gender equality in BiH remain largely isolated within the institutions of the system due to a lack of understanding of their role and resistance to issues of gender equality and women's human rights. BiH has not invested real efforts to ensure the positioning of the Gender Equality Agency of BiH as the institution that would be directly responsible to the Council of Ministers. Additionally, there are no tangible results in practice regarding raising awareness and building capacity of government bodies at all levels on implementation of CEDAW.

BiH has failed to conduct a serious analysis of the effects of the global economic crisis on women and their economic and social rights. Women have limited access to the BiH labor market and make the most of the unemployed working-age population. Stereotyped gender roles continue to be the determining factor in choice of profession and employment of women, and there is a growing trend for women to get educated and employed in the services sector. The government has not planned any affirmative action measures in order to influence sex-based discrimination in the recruitment process. Programs implemented by the State to stimulate employment are not specifically tailored to women and have no real impact on increasing the number of employed women. Women have a limited access to entrepreneurial loans as they do not own any or enough property that could serve as security for loans. The State has adopted some programs to support women's entrepreneurship, however, the degree of their implementation in practice is extremely low. A large number of women in BiH is employed in the informal economy in catering, tourism, and trade industries, and have a limited access to managerial and other well-paid positions on the labor market. Although the State legally protects the rights of women to a paid maternity leave, there is a growing trend in practice that the employers hire young women on a fixed-term contract, and utilize other mechanisms of misuse and discrimination to facilitate termination of the employment contracts to women who attempt to exercise their legal rights. The State has also failed to create and implement measures to protect the rights of single mothers and provide services for working women, which encourages the trend of discrimination and marginalization of women, as the huge number of women in BiH is excluded from the economic, political and public life. The State has no special measures for effective protection from gender-based discrimination in the labor and

employment. In addition, knowledge and sensibilities of judges and prosecutors on the rights of women and gender-based discrimination in this field has been disturbingly low.

Discrimination against Roma women in exercising their right to education, employment, health and social care, as well as other rights contributes to their social exclusion in BiH. In general, a large number of Roma girls does not attend school and is mostly illiterate. Without formal education, Roma women have no chance to be employed, and therefore, have no chance to survive outside their communities, as they are totally economically dependent on their families, and very often exposed to various forms of violence. Public policies adopted by BiH in the field of gender equality and protecting women's human rights neither recognize the problems and needs of Roma women, nor provide for special measures aimed at prevention and elimination of double discrimination that Roma women are subjected to in BiH.

Violence against women, especially domestic violence, continues to be a widespread social problem in BiH, and serious violation of fundamental human rights and freedom of female violence victims/survivors. Despite intensive advocacy activities of NGOs across the country aimed at improving the legal and actual protection of women against violence in public and private spheres, this type of violence is still seen and tolerated as a "socially acceptable behavior", and is justified by the traditional and patriarchal conceptions of the role and status of women in BiH society. BiH still does not have a unified system of collecting and analyzing statistical data on domestic violence against women, both at the entity level and at the State level, as well as institutional services that would be able to provide comprehensive, sensitized, and professional support to women victims of domestic and other forms of gender-based violence. Although both entities adopted specific legislation on protection from domestic violence in 2005, the provisions of these laws have not been harmonized. Such situation causes legal insecurity, unequal treatment before the law, and inability to provide appropriate protection to women and children victims of violence. The State has failed to adopt a special law that would deal with the issue of protecting the rights of women victims of war, and the entities also have no laws governing this matter. Education on violence against women and mechanisms of protection have only recently become the focus of governmental institutions dealing with gender issues, but these do not have a continuous education or mandatory character for all professionals engaged in protecting women from violence.

Trafficking in BiH has not been eradicated, it only changed its mode of action since 2006, as the victims are now young girls, BiH citizens, who are sexually exploited in motels, private houses and cottages, or taken to foreign countries. Additional difficulty for the prevention of trafficking is also uncoordinated legal framework that regulates this matter, and the fact that the State failed to establish a system of effective prosecution of criminals responsible for trafficking.

CONTEXT

Despite the fact that BiH is a signatory to numerous international conventions, protocols and treaties that articulate and require actual application of principles of prohibiting sex-based discrimination, and that it has in place the legal framework and public policies that guarantee equal rights and freedom without discrimination on any basis, women in BiH are still not equal to men in exercising their rights in public and private spheres.

In the last few years, BiH has launched, as a contribution to the European integration process and with the support of the international community, a series of reforms aimed at reforming the armed and police forces, constitution and other important areas of economic and political life. Despite the recommendations of the CEDAW Committee that women should be involved in these processes, and continuing public pressure of women's nongovernmental organizations aimed at political leaders and representatives of the international community, women have been excluded from these processes, and their attitudes have remained invisible. Women also have a very limited access and influence in the creation and implementation of gender sensitive policies and reform processes at lower levels of governance in BiH, as the trend of having a rather small number of women participating in decision-making bodies and management has continued.

Over the past ten years, BiH has established a framework of government institutions, and adopted the Law on Gender Equality in 2003, and its amendments in 2009, as well as the Anti-Discrimination Law in 2009. Generally, in the formal and legal sense, this represents a significant improvement over the previous period, however, it is necessary to emphasize that governmental institutions in BiH are still failing or avoiding to harmonize a number of laws at state, entity and cantonal levels, in order to ensure the equal rights and equal treatment of women before the law. BiH still has different laws that govern domestic violence and funding of shelters for women victims of violence from the public budgets; do not recognize the right to social protection of women victims of violence and victims of war; insufficiently protect women victims/survivors of trafficking; prevent equal participation of women in politics, decision-making and public life; restrict their access to the media during election campaigns, etc.

BiH made a significant progress with the adoption of the Gender Action Plan in 2006, and the adoption of strategies and action plans at the state and entity levels aimed at promoting and realizing gender equality, and combating violence against women. These measures are supposed to lead to real changes in the status of women, and realization of their basic human rights in BiH. However, it is clearly evident from all the segments that the focus of this report that measures taken by BiH in terms of law adoption, establishing the institutional framework, and the adoption of public policies, as well as implementation of action plans have not been accompanied by substantial changes in attitudes and understanding of gender roles of women and men in BiH society. Gender roles and attitudes in BiH are still strongly shaped by patriarchal legacy, the Communist past¹, and the post-war transition process, which serve as an excuse to push the affirmation of women's human rights at the margins of the public discourse.

1 Find out more about this in: "Social Context for the Realization of Women's Human Rights in BiH", author: Jasna Bakšić-Muftić, PhD, in cooperation with Global Rights, p. 5, Shadow Report on the Implementation of CEDAW and Women's Human Rights in BiH, Global Rights in cooperation with NGOs from BiH, January 2004, available at: http://www.iwraw-ap.org/resources/pdf/Bosnia&Herzegovina_SR.pdf;

Women's NGOs believe that the current trends of promoting and supporting the realization of women's human rights provide only short-term results, as the changes are only visible at the legislative level, without having a real change happening in attitudes and understanding of gender roles in BiH society. Stereotypical and traditional attitudes, customs and cultural practices are deeply rooted in the collective awareness of the role of women in the society, which are primarily seen as mothers, wives and housekeepers, as they are "generously" granted the role of the "guardians" of the family. Such understanding strongly influences the attitudes and actions of women and men within the government institutions at all levels in BiH, which, despite affirmative actions aimed at preventing discrimination against women carried out by the key institutional mechanisms for gender equality - Gender Equality Agency of BiH, and Gender Centers of the FBiH and RS Governments - do not show a true commitment to support the fundamental and systemic changes aimed at realizing women's human rights in practice.

Such situation also causes that systematic efforts are not being invested sufficiently, as well as the lack of continuity in terms of gender-sensitive training for women and men within all government structures and governance at all levels in BiH, and the absence of gender analysis, control mechanisms and ensuring the implementation of laws and measures in the public policy framework directed at implementation of women's human rights.

INTRODUCTION

This Alternative Report is the result of a joint action of women's NGOs in BiH, under the coordination and support of the NGOs Helsinki Citizens' Assembly Banja Luka and "Rights for All" from Sarajevo. We jointly collected data, analyzed the situation and defined the key recommendations in the areas that require urgent, continuous, systematic and system-related actions by government institutions at all levels in BiH in order to improve the actual situation and provide women of BiH a non-discriminatory approach to exercising their rights.

Due to the continuous problem of the lack of data, research, and analyses in the field of women's human rights and gender equality in BiH, as well as the lack of resources, women's NGOs that participated in the preparation of this report limited this Report to the specific areas covered by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). These areas are the ones where it is possible to support the real problems in practice by relevant data – women's experiences and findings of NGOs that have been working for many years directly with the women whose rights are threatened, and point to the activities and results of advocacy actions aimed at improving the law, public policies and practices of governmental institutions in BiH, as well as change in the overall social and cultural attitudes about women and women's human rights in BiH. In this regard, the report has a particular value in terms of experiential and realistic addressing the issue of the position of women in BiH.

This is the 3rd Alternative Report prepared by women's groups and organizations in BiH², and it focuses on monitoring the situation by 2006 CEDAW Committee Key Recommendations, updating the data and findings from previous reports and analysis of specific positive aspects, difficulties and challenges in the protection and realization of women's rights in practice over the past five years. The Report also points out to the key aspects of women's human rights violations and contains recommendations of the BiH civil sector that are defined in terms of requirements for the active role of the State and government institutions at all levels in facilitating the improvement and the actual application of formal and legal principles and public policies, and achieving comprehensive protection of women's human rights in practice.

The periodic state report that BiH is obliged to submit to the CEDAW Committee in October 2010 had not been available during the preparation of this report³, and this report only partially references some parts of the Report on CEDAW implementation made by the FBiH Gender Center. Notwithstanding this limitation, non-governmental organizations that participated in the preparation of this report strongly believe that it will provide a valuable source of relevant facts in terms of assessing the status of women's human rights in BiH, in addition to the data presented in the Periodic State Report. This Report provides an independent analysis, illustrates the real difficulties and forms of discrimination that women of BiH are faced with in everyday life in exercising their rights, and gives the opportunity to women's NGOs in BiH to present the CEDAW

2 1st Report on the state of women's human rights in BiH was prepared in 1999, in cooperation between "Global Rights" and women's NGOs in BiH; 2nd Report was prepared in 2004, in cooperation between Global Rights and coalition of 16 women's NGOs in BiH.

3 At 146th session held on 10 June, 2006, the Government of the FBiH adopted a combined 4th and 5th Periodic Report on Implementation of CEDAW for the Federation BiH, which covers the period from 2006 to 2009. This report is available at the official web presentation of the Gender Centre of the Government of the FBiH: http://www.fgenderc.com.ba/bh/izvjestaji/CEDAW_2009_bos.pdf (last access: 1 October, 2010).

Committee with the key recommendations in the following areas:

- 1. Economic Position of Women**
- 2. Position of Women in Public and Political Life**
- 3. Violence against Women and Trafficking in Women**
- 4. Status and Promotion of Women's Human Rights of Roma Women in BiH**

ECONOMIC STATUS OF WOMEN IN BiH

Author: Fedra Idžaković

Concluding Comment of the Committee No. 34

The Committee urges the State party to implement the relevant sections of the Law on Gender Equality and the relevant recommendations from the project on implementation of this law and to bring to justice public and private employers who violate equality provisions under the Law on Gender Equality and labor regulations. The Committee also urges the State party to intensify its efforts to ensure that all employment-generation programmes are gender sensitive and that women fully benefit from all planned programmes to support entrepreneurship, including through favorable credit conditions. It recommends that efforts be strengthened to increase women's representation in the formal economy and to eliminate occupational segregation, both horizontal and vertical; to narrow and close the wage gap between women and men in the public sector; and to ensure women's access to vocational training.

Concluding Comment of the Committee No. 40

The Committee requests the State party to ensure that all national poverty alleviation programmes developed through the midterm development strategy for poverty reduction and implemented by the relevant ministries fully benefit women, in particular marginalized groups of women, according to their needs and circumstances, and to provide in its next periodic report information on the results of the measures taken.

INTRODUCTION

The BiH economy is uncompetitive⁴, with low productivity that is closely linked to technological obsolescence and a high proportion of the workforce in manufacturing. At the same time, inadequate education and lack of appropriate skills of the workforce negatively affects the proper functioning of the labor market⁵. Further on, research and development, as foundations of modern economy, are almost non-existent in BiH. After the period of post-war reconstruction and growth of the economy in which GDP had averaged at 6% per annum and the GNI *per capita* had reached \$ 4,530 in 2008, BiH was faced in 2009 with a sharp fall of GDP at 3.5%⁶, as the result of a poorly managed economic policy and the effects of global economic and financial crisis from the end of 2008. This negative trend has continued during 2009 and 2010. High government expenditures including high social transfers, which, at the same time, do not contribute to reducing poverty and social exclusion⁷, as well as continuous decline in tax revenues, caused a very high budget deficit of as much as 4% of GDP⁸. Actual measures to mitigate the economic crisis are negligible and the State generally continues the trend of borrowing to cover the high deficit. Unfortunately, the government has not conducted any serious analysis on the effects of the global economic crisis on women and their economic and social rights so far.

LABOR MARKET AND WOMEN

BiH has a high unemployment rate. According to the 2009 Labor Force Survey in BiH⁹ (LFS), the labor force (economically active population) is made of 1,157,940 people of which 24.1% are unemployed (23.1% for men and 25.6% for women), and this rate has been continuously growing¹⁰. At the same time, the unemployment rate registered in 2009 was 41.8%¹¹. The authorities have recognized in the Employment Strategy published in April 2010 that the “lack of opportunities for a dignified and productive employment resulted in large informal economy, which is reflected in the gap of 21% between registered and actual unemployment¹²”.

- 4 BiH is ranked 109 out of 133 countries according to the 2009-2010 Global Competitiveness Report, World Economic Forum; in its latest Competitiveness Report for 2010-2011, BiH was ranked 102 out of 139 countries that were the subject of this analysis, available at <http://www.weforum.org/documents/GCR10/index.html> ;
- 5 World Bank, Poverty Reduction and Economic Management Unit: “Are Skills Constraining Growth in BiH?”, December 2009, available at: http://www.firmaproject.ba/documents/finance/skills_constraints_study.pdf;
- 6 <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/BOSNIAHERZEXTN/0,,contentMDK:20629017~menuPK:362034~pagePK:141137~piPK:141127~theSitePK:362.026.00.html#ECON> ;
- 7 Policy Document: Policy Note, Social Transfers in BiH: Moving Towards a More Sustainable and Better Targeted Safety Net, World Bank, April 30, 2009 - According to this study of the World Bank, BiH has very high social transfers that amount to 4% of GDP;
- 8 BiH 2009 Progress Report, the European Commission;
- 9 The Agency for Statistics, 2009 Labour Force Survey for BiH, conducted by the methodology of the International Labour Organization, available at: http://www.bhas.ba/Arhiva/2010/sao/ARS_2010_001_001_01-bh.pdf ;
- 10 According to the 2010 LFS, the work force makes 1,157,940 people of which 27.2% of unemployed persons (25.6% for men and 29.9% for women). The data used in this report are from 2009 for the purpose of making as precise analysis as possible of other available data;
- 11 BiH Directorate for Economic Planning, 2009 BiH Economic Trends at: http://www.dep.gov.ba/dep_publikacije/ekonomski_trendovi/?id=1280 . Registered unemployment in the first quarter of 2010 increased to 42.6% - in accordance to BiH Economic Trends January - March 2010. Available at: http://www.dep.gov.ba/dep_publikacije/ekonomski_trendovi/?id=1282 (BiH version, English version not available);
- 12 Ministry of Civil Affairs in cooperation with the Coordinating Committee of relevant institutions in BiH and representatives of employers' and workers' organisations, Employment Strategy in BiH from 2010 to 2014, April 2010, available at http://www.mcp.gov.ba/zakoni_akti_strategy/Archive.aspx?template_id=19&pageIndex=1 . LFS is the primary source of information about the state of the labor market and is based on the method

Sex/gender still represents one of the important factors of (un)employment. Indicators show that despite the legal obligation to apply gender equality in providing access to the labor market, and despite the fact that women make up 51.7% of total estimated number of working-age population, only 37.1% of the employed are women¹³. The percentage of working women fell to 36.9% in 2010. Moreover, the worrying fact is that women prevail in the group of unpaid assisting family members in the highest percentage of up to 70.9%, and this percentage has been constantly growing in the last four years (Table 1). The unemployment rate of young women aged between 15 and 24 years amounts to high 52.5% in 2009 and is still growing¹⁴.

EDUCATION AND LABOR MARKET

When talking about unemployment among women, we should take a look at indicators of the educational structure of the (un)employed women. The largest number of the unemployed women are (un)skilled and women with secondary education. Another concern is the continued trend of unemployment among women with higher education, as out of the total number of the unemployed, 10.4% were women with a higher education, compared to 5.6% of men in the same group¹⁵. This further discourages women to continue education at postgraduate and doctoral levels. Although, there is a slightly higher number of women studying and completing their studies at higher education institutions¹⁶, a much smaller number of women continue with their education at the postgraduate level¹⁷.

Young women still continue to choose the education profiles in accordance to the omnipresent stereotype. The largest number of women obtains their degrees from and is employed in the service sector. The State officials make a worrying conclusion within the programme document – the Employment Strategy for 2010-2014: “Low participation of women in the workforce is partly a consequence of low levels of education: it seems that they lack the range of skills and qualifications needed to meet the demands of the labor market, therefore, most women with the lowest levels of education do not even attempt to find a job”¹⁸.

Significant differences exist in the structure of employment by sectors. Industrial sector employs only 16% of women. Of the total number of women employed in the formal

established by the International Labor Organization (ILO), for more details see: <http://laborsta.ilo.org/applv8/data/c3e.html>. Since 2006, the survey for BiH has been done annually. LFS aims to show the real state of unemployment, as the respondents are expected to report their factual employment status. The registered unemployment rate is distorted by the number of persons who apply to receive benefits during unemployment, despite the fact that they are informally employed or inactive;

13 The Labor Force Survey for 2009, the Agency for Statistics, at: http://bhas.ba/Ankete/LFS%202009/Saopcenje_LFS_2009.pdf;

14 In the survey from 2010 this percentage grew to 61.3%. The Labor Force Survey for 2010, the Agency for Statistics of BiH;

15 The Labor Force Survey for 2010, the Agency for Statistics of BiH;

16 In 2007/8 the number of female students in BiH amounted to 58.624 out of the total number of 104,938 students; the same school year, 7168 women graduated out of the total number of 12,199 students that graduated that year. - Source: Bulletin No. 3: Women and Men in BiH, Agency for Statistics of BiH, Sarajevo, 2009;

17 Ibid. In 2007, out of the total number 427 of master's degrees, 182 were earned by women, and only 45 out of 136 PhDs;

18 Ministry of Civil Affairs, Employment Strategy in BiH from 2010 to 2014, April 2010;

sector, 71% work in trade, education, health, and social protection¹⁹. When observing the structure of employment by the economic sectors, women have no larger share in employment than men in any of them.

The State has not foreseen any affirmative action measures that would address the problem of gender inequality in employment. Although the State introduces various programmes to stimulate employment, these programmes are more general rather than tailored specifically to women, which is also indicated by data showing that they have no stronger effect on increasing the number of employed women. There are no special programmes to facilitate the selection of education and occupation for women that would respond to the perceived gender stereotyping in the choice of occupation and work, and subsequent advancement for women.

The State recognizes the problem of gender-based inequalities in access to labor and employment, structural stereotyping, and the problem of unpaid work in which women predominate. Unfortunately, current strategies at the State and entity levels are not seriously committed to the adoption of measures and programs aimed at increasing the competitiveness of women in the labor market and reducing gender-based discrimination in employment. Most of these programming documents are only concerned with women in general and often treat them within the vulnerable groups. Thus, the national strategy set as a goal: “to improve the employability of women and men, and especially the most vulnerable persons”; and as the measure to implement this it states the introduction of programmes for “self-employed aimed at disadvantaged youth and women, supported with tax alleviations and other incentive measures such as counseling and business training²⁰”.

Loans for Women Entrepreneurs

The effects of global financial and economic crisis also affected the banks in BiH, causing tightening of conditions and collateral to get loans. Although women legally have equal rights to inheritance and ownership, in the traditionally patriarchal country as BiH men are mostly owners of private property. Consequently, women have a limited access to entrepreneurial loans because they do not own any or enough property that might serve as security on loans.

The State has adopted some programmes to support women’s entrepreneurship, however, the degree of realization of these funds in practice has been extremely small. For example, in 2008, the women were using only 3.98% of funds allocated for development, entrepreneurship, and trade in the FBiH²¹.

The available analysis indicate that in addition to access to credits and assets that can serve as the collateral, women’s traditional roles and social values also pose an obstacle to female entrepreneurship in BiH²². Women entrepreneurs do not have enough skills, which is largely influenced by the lack of support of government agencies and business community. Women lack knowledge and contacts, only few of them are

19 Ibid;

20 Ministry of Civil Affairs, Employment Strategy in BiH from 2010 to 2014, April 2010;

21 FBiH Gender Centre, combined 4th and 5th Report under the Convention on the Elimination of All Forms of Discrimination against Women for the FBiH (2006 -2009), June 2010. Available at: <http://www.fgenderc.com.ba/bh/izvjestaji.html>;

22 Overcoming Obstacles: How Women Are Rebuilding Bosnia, Gayle Tzemach, Center for International Private Enterprise, March 2007. Available at: <http://www.cipe.org/publications/fs/pdf/031507.pdf> ;

aware of courses on entrepreneurial skills, has information about loans, or *know-how* on marketing, etc²³.

The Rights of Working Women and the Response of Institutions

The rights of women are frequently violated. Reports of NGOs and trade unions highlight various types of women's rights violations, which often happen cumulatively:

- women are employed on Fixed term contracts, almost one third of women (33.63%) are employed in this way²⁴;
- violations of the right to maternity leave, including illegal dismissals, assignment to other duties, failure to pay benefits during maternity leave, etc.;
- exposure to mobbing, which in the case of women contains aspects of sexual harassment and sex-based discrimination;
- working in the informal economy ("black market").

Women's rights were especially violated in the privatization process. *"In the process of privatization, no one cares what will happen to us - if we are going to be dismissed as redundant, or get the appropriate retirement benefits at all, as the contributions have not been paid for years²⁵."* Those who have been laid off in this process have little hope of finding a new job because the employers are looking for younger women, especially for working in shops and catering business. According to observations made by the trade union, it is estimated that a large number of women working in the informal economy is particularly prevalent in the hospitality sector, tourism, and trade. Thus, working women are not able to realize and protect their rights on the basis of employment and find themselves in the gap between the employer and the inspection, and are faced with the constant threat of job loss. Women who are employed on fixed-term contracts often service more jobs than those to which they are formally assigned. This is especially noticed in the retail and hospitality sectors.

Although mobbing has been banned by laws²⁶, reports of non-governmental organizations also speak about the increasing exposure of women to mobbing, gender-based violence and sexual harassment at work. According to some data, women are more exposed to various forms of violence in the workplace than men²⁷, and the abuser is in most cases the superior.

23 Ibid;

24 According to the Helsinki Citizens' Assembly, Banja Luka, "Through Women's Labor Rights," Banja Luka, May 2008, local version available at: http://www.hcabl.org/images/stories/pdf/Radna_prava.pdf;

25 A statement of one of the workers from the store "Boska" - Helsinki Citizens' Assembly Banja Luka, Project Links for Change: Support to the Implementation of Gender Equality Law in BiH, Report for 2009: "Discrimination against Women in the Workplace", January 2010, local version available at: <http://www.hcabl.org/images/stories/pdf/partnerstvo.pdf>;

26 Sexual harassment and gender-based violence is prohibited by the Law on Gender Equality in 2003, while mobbing has been finally banned on the entire territory of BiH by newly adopted Anti-Discrimination Law in 2009. Before that the RS Labor Law from 2007 RS had banned mobbing in just one part of the country.

27 According to the NGO "Budućnost" Modriča that conducted the survey on a sample of 800 women from the area of 8 municipalities of Dobož region in the period March-May 2009. According to these data for example: 28% of women and 14% of men were yelled at, humiliated and/or ridiculed; 27 % of women and 11% of men received threats of job loss, they were overworked, allocated meaningless tasks, continuously checked for mistakes; and 27% women compared to 17% of men were denied right to a break, sick leave, annual leave, and compensation for the work done;

Equal Pay

The Law on Gender Equality defines gender discrimination, *inter alia*, as denying equal pay and other benefits for equal workload, i.e. the work of equal value. Both entities' Labour Laws prohibit sex- and gender-based discrimination of employees. However, the available analyses indicate to the wage gap between men and women. "Women with elementary and high school education employed in manufacturing industry are exposed to the highest effects of discrimination, as well as women who completed vocational secondary schools (2-3 years) that are working in retail. These women have a one-third lower salary compared to their male counterparts²⁸." Based on data from 2006, the State has estimated that the effects of the wage gap between women and men amount to app. BAM 11 million (EUR 5.6 million) monthly²⁹.

Women with university degrees are moving to higher salary grades. However, men still dominate in the two highest salary grades. This indicates to the fact that women in BiH have limited access to managerial and other highly paid positions that are being offered at the BiH labor market³⁰. Women are faced with the invisible but omnipresent barrier of the "glass ceiling". Although there are no visible legal barriers, women are faced with obstacles to advance in their careers, or the to be appointed to the positions of directors, presidents, or even members of steering boards of large public companies that generate high profits and have a significant influence in economic and public life. Available data show that directors of ten top public enterprises in the FBiH are all men, while women are represented in the membership of the supervising boards of these companies with barely 12.5%³¹.

Maternity Protection

Labor Law provides for the right to maternity leave of one year without interruption. However, despite the legally regulated rights to maternity protection, and politically proclaimed campaign against the "white plague", a public rhetoric about protecting the family, mother and children as the highest values in the society, in practice, employers and the State violate the right to maternity protection in various ways.

Amendments to the FBiH Labor Law³² provide women with the right to use maternity leave in the duration of at least 6 weeks³³, and in the RS - 8 weeks after delivery. Formally, a woman can use the maternity leave for a period of one year, but the employers manage to find legal grounds to call them back to work before the expiry of that period. Women are exposed to different pressures to return to work after a maximum of 60 days³⁴. Although it is unlawful to fire a woman during her pregnancy and

28 "Gender Gap in BiH Income", authors: Samra Filipović-Spencer, Fahrudin Memić, Lejla Somun-Krupalija, Ana Abdelbasit, the Agency for Gender Equality of BiH, IBHI, UNDP, 2006;

29 FBiH Gender Centre, combined 4th and 5th Report under the Convention on the Elimination of All Forms of Discrimination against Women for the Federation of BiH (2006 -2009), June 2010;

30 "Gender Gap in BiH Income, authors: Samra Filipović-Spencer, Fahrudin Memić, Lejla Somun-Krupalija, Ana Abdelbasit, the Agency for Gender Equality of BiH, IBHI, UNDP, 2006.;

31 FBiH Gender Centre, combined 4th and 5th Report under the Convention on the Elimination of All Forms of Discrimination against Women for the Federation of BiH (2006 -2009), June 2010;

32 SN (Official Gazette) FBiH 32/00;

33 Amendments to the FBiH Labour Law- Article 26: "Women can use a shorter pregnancy, but not shorter than 42 days after giving birth". RS Labour Law -Article 74: "Women may on their own request return to work before the expiry of the pregnancy leave not before the expiry of 60 days from the date of giving birth";

34 Radio Free Europe, "Without a True Right to Maternity Leave", 20 October, 2008. Available at: <http://www>.

maternity leave, the unions confirm that women, due to various kinds of pressure or fear of losing their jobs, return to work from maternity leave after 1-2 months.

Employers have found loops in the law: when signing the employment contract, young women in childbearing age are forced to simultaneously sign a blank agreement on termination of employment. When they have a baby, the dismissal is activated expressly. It is almost impossible to prove a fraud or coercion³⁵ before the court. When employing most often young women, the employers ask them about their plans to have a baby, about their family situation, and status of their "serious relationships". The women on the maternity leave are expensive for employers, since despite the fact that the State legally covers (a part of) maternity leave benefits, the employer must hire someone for a certain time in order to temporarily replace the worker on maternity leave.

Maternity Allowance

The laws provide the right to salary compensation during the use of maternity leave. However, another reason for a large number of women to return to work much before the expiry of maternity leave is that benefits are insufficient and unstimulating³⁶. The amount of allowance is not equal for all women who use maternity leave, depending on the part of the country where the beneficiary lives. In RS, these allowances are paid from a single Public Fund for Child Care, while in the FBiH the level and payment of benefits varies by area and Cantons of the beneficiary's place of residence. Also, some cantons avoid to pay these benefits (in 2008 this trend was noticed in 2 out of 10 Cantons in the FBiH). Recently, the non-governmental organizations have reported that there are problems also in RS with the payment of benefits, as women wait up to three years to receive their maternity benefits.

A specific problem has been noticed with self-employed women who are practically unable to use maternity leave because of their status in which they are employers to themselves, for example, women lawyers, owners of independent retail shops, small businesses, etc. If these women want to use the right to maternity leave, they are placed in absurd situation in which they have to act as employers to themselves, and as such they have to pay obligatory contributions such as pension and health insurance and a part of maternity benefits. It is impossible to be on maternity and simultaneously accrue earnings for the settlement of all legal obligations. For that reasons the women in this group are practically blocked to use the right to maternity leave and benefits whereof. This puts them in a discriminatory position in relation to other women who are employed by regular employers.

Pregnant women who are unemployed are entitled to maternity benefits only to a limited extent. Although the law states that the right to this type of entitlement can be realized one year after giving childbirth, this right is only partially realized, depending upon the economic power of the individual cantons or municipalities. The situation is similar when realizing other entitlements from the field of protection of families with children.

slobodnaevropa.org/Content/Article/1331314.html ;

35 Helsinki Project Links for Change: Support to the Implementation of Gender Equality Law in BiH, Report for 2009: "Discrimination against Women in the Workplace", January 2010, local version available at: <http://www.hcabl.org/images/stories/pdf/partnerstvo.pdf>;

36 ICVA in cooperation with Rights for All, "Application of the European Social Charter, through Legislation and Practice in BiH", Sarajevo, June 2009;

Single Mothers

According to NGOs, this category of women is in a particularly difficult position³⁷. We could hear some alarming statements from some single mothers who said they did not have enough money to pay bills and occasionally lived on the verge of starvation. According to these data, a large number of women in this category is unemployed and depends on social welfare. Children of single mothers have difficulties to get a place in kindergartens. The public is not aware of the position these women are in, as they are struggling to survive on daily basis, while the State almost completely ignores this issue.

The Availability of Services for Working Mothers

An issue that should be especially pointed out is the huge problem of lack of quality and accessible public or private services, nurseries and kindergartens, which should assist the working mothers. High fees for these services limit women to pay for either private or public nurseries and kindergartens. This indirectly reduces the number of employed women, as some of them are forced to withdraw from the labor market to take care of their children, and later on, these women find it difficult to get a job due to lack of experience or a long absence from the working process. This in turn encourages the trend of discrimination and marginalization of women because the huge number of women gets excluded from the economic, political and public life, and participation in the society as a whole.

Judicial Protection

The State has no specific measures of effective protection from gender-based discrimination on the basis of sex. The courts are burdened with a large number of cases, there is no special department to deal with working legislation, and the level of knowledge and sensibility of judges and prosecutors for the rights of women and gender-based discrimination is worryingly low. On the other hand, women who want to take action against gender-based discrimination are faced with long-term legal procedures and difficulties in proving discrimination, have a difficult access to court in terms of litigation costs, including costs for attorneys, as well as problems in having access to free legal aid as it does not exist in some parts of the country. Only a limited number of NGOs and trade unions provide free legal assistance. Thus only a small number of women address the courts to protect their rights.

Gender-Based Poverty and Exclusion

Poverty and exclusion in BiH has a female face. BiH still has a high poverty rate of 18.6%, and 22.9% of the population is under the risk of poverty³⁸. According to the

37 Human Rights Bureau Tuzla and Helsinki Citizens' Assembly, Banja Luka - "Socially Excluded Today and What about Tomorrow?", 2010. The research was conducted on 806 persons, 362 focus group participants and 18 social workers, a total of 1186 people in 5 municipalities and 7 focus groups of socially excluded people. According to this survey, 58% of single mothers stated that during last year they could not pay bills for housing and utilities, and 42% said they were occasionally living on the verge of starvation because they had no money for food. Only 1% of children of working single mothers is placed in kindergartens and 7.5% of children stays home alone;

38 Social Inclusion in BiH, Human Development Report 2007, UNDP Mission in BiH;

UNDP Mission in BiH, the social exclusion index suggests that over 50% of the population is excluded in some way, and 47% of the population is at risk of a long-term social exclusion. Among the most vulnerable are the elderly, persons with disabilities, displaced persons, Roma, families with two or more children, unemployed, and young people without qualifications. Women are particularly vulnerable in all the categories³⁹.

Social exclusion, as well as gender inequality is not inevitable, but is the result of social and cultural processes. Common features of social exclusion based on sex are: “invisibility” poverty, stigmatization, and cumulatively disadvantaged position in the society⁴⁰. The power gap is the core of stigmatization, and together with poverty and deprivation resulting from social exclusion creates extra space for discrimination⁴¹.

By analyzing the economic status of women through the high percentage of the (long-term) unemployed, a large number of women who work in the informal sector or unpaid work in households that is exclusively a female phenomenon, lack of education or level of skills among women, gender-based discrimination at work and the barriers facing women entrepreneurs, we can conclude that women are exposed to a high risk of falling into poverty. We should also add to this a low representation of women in political and other decision-making processes, and the fact that the rights and problems of women in general are rarely discussed at the centers of decision making (such as political parties, unions or parliaments / governments). Taking all that into account, it is not surprising that many development programmes that have been adopted in BiH only superficially and declaratively deal with the position of women. Women are once again mostly treated within the general discussion on the problems of “excluded” such as children, youth, persons with disabilities, minorities. It seems that BiH always has some “more difficult” issues to address than those involving more than half of the population.

RECOMMENDATIONS:

- The State shall urgently create realistic, easy-to-implement and financially supported programmes that will aim to increasing the number of working women through: unique and widely accessible programmes across the country for retraining, additional training or continuing education for women in order to increase their skills and knowledge required in the labor market. Such programmes must take special care of women who have been unemployed for a long period, and women who have been discouraged to look for work for various reasons, especially middle-aged women. Also, the State shall develop and adopt specific employment-generation programmes intended for women victims of domestic violence and trafficking to ensure and assist them to achieve economic independence and thus provide them the right to choose an independent and dignified life.
- The State shall urgently create programmes and measures that will reduce the share of women in the group of unpaid assisting family members, take actions to identify and put a value to this “invisible” work of women, and provide programmes that will stimulate this group of women to start small businesses or to work from home.
- The State shall subsidize and thereby stimulate local banks to open special credit

39 Ibid;

40 Ibid;

41 Ibid;

lines for women entrepreneurs and to ensure that these loans are adequately presented in public. The State shall stimulate opening of business incubators for women entrepreneurs, and ensure that these women entrepreneurs assembled in such way or otherwise organized, are offered specific and professional training programs targeted at developing their entrepreneurial skills. The State shall organize a regular exchange of information and data via web pages and media, and direct meetings between women entrepreneurs and the relevant ministries, chambers of commerce, foreign investment agencies, bank representatives, etc.

- The State shall urgently reinforce the capacities of labor inspections, introduce high penalties and fines for abusers of the law, and introduce continuous inspection of all private and public companies, as well as drastically reduce the number of women who are employed on fixed-time contracts or work in the informal sector, those who get paid less than men for work on the same or similar jobs and for work of equal value, who have been unlawfully discharged because of the use of maternity leave or exposure to mobbing.
- The State shall consider the introduction of special departments in prosecutor's offices or courts, which would deal with the economic rights, right to work and rights that originate from labor relations, as well as violations of economic and social rights of citizens. Judges and prosecutors in these departments would be able to continually acquire specialized knowledge in these areas and be additionally sensitized for cases of discrimination based on sex / gender and women's rights. The State must urgently introduce and harmonize the right of all citizens to access justice system through the establishment of sustainable services that would provide free legal assistance and provide support to existing capacities in the State and non-governmental organizations.
- The State shall urgently equalize compensations for wages paid to all women during the use of maternity leave, and ensure that the duration of maternity leave is in accordance to the legally prescribed period. It is necessary to urgently amend labor laws and other relevant laws regulating the working conditions and status of the self-employed women in order to facilitate use of their right to maternity leave.
- The State shall regularly collect data and report on statistical information in all areas pertaining to economic and social rights of women.
- Women have to be actively involved in law-making and policy-development processes, so that these documents truly reflect the needs of women and ensure equal opportunities and rights of women. The State must adopt policies that will contain clearly stated objectives, measures and specific actions with deadlines and clearly identified accountability of the State institutions for their implementation, and accurately determine the amount of budgetary resources and clearly identified sources of financing such activities.

Table 1: Comparative statistics by the method of LFS in 2007, 2008, 2009 and 2010⁴²

	LFS 2007	LFS 2008	LFS 2009	LFS 2010
Population estimates ¹ (Female)	3,315,000 1.703 million (51.4%)	3,211,000 1.645 million (51.2%)	3,129,000 1.605 million (51.3%)	3,842,566
Working age population (Female)	2,725,000 1.408 million (51.7%)	2,649,000 1.371 million (51.7%)	2,594,176 1,342,299 (51.7)%	2,596,701 1,336,938 (51.5%)
Employed persons (Female)	850,000 292 000 (34.4%)	890,000 317 000 (35.6%)	859,218 318 478 (37.1%)	842,831 311 368 (36.9%)
Unemployed persons (Female)	347,000 144 000 (41.4%)	272,000 116 000 (42.6%)	272,339 109 832 (40.3%)	315,110 132 583 (42.1%)
Inactive persons (Female)	1,529,000 972 000 (63.6%)	1,486,000 938 000 (63.1%)	1,462,619 913 989 (62.5%)	1,438,761 892 987 (62.1%)
Unpaid assisting family members (Female)	37,000 26 000 (69.3%)	48,000 33 000 (68.9%)	58,039 41 165 (70,9%)	47,542 34 678 (72.9%)

42 Source: Agency for Statistics, available at <http://www.bhas.ba/new/default.asp?Pripadnost=1&mode=dark> ;

WOMEN IN PUBLIC LIFE AND POLITICS

Author: Gordana Vidović

Concluding Comment of the Committee No.20

The Committee recommends that the State party strengthens the Gender Equality Agency by giving it greater authority vis-à-vis relevant ministries and the Council of Ministers in its assessments of laws, acts and by-laws from a gender perspective, as well as with additional human and financial resources. It also recommends that the State party review the appropriateness of the location of the Gender Equality Agency in the Ministry of Human Rights and Refugees and consider establishing it as a body that would directly report to the Council of Ministers of BiH. The Committee further recommends that the State party continue to raise awareness and build capacity of all Government agencies at the State, entity, cantonal and municipal levels with respect to their collective responsibility to implement the Convention.

Concluding Comment of the Committee No.24

The Committee urges the State party to disseminate information on the Convention in programmes in the educational system, including human rights education and gender training, with a view to changing existing stereotypical views on and attitudes towards women's and men's roles. It recommends that awareness-raising campaigns be addressed to both women and men and that the media be encouraged to project positive images of women and of the equal status and responsibilities of women and men in the private and public spheres.

Concluding Comment of the Committee No.30

The Committee urges the State party to harmonize the Election Law with the Law on Gender Equality and to strengthen and implement measures to increase the representation of women in elected and appointed bodies and in decision-making positions in public administration, the judiciary and in positions in state-owned companies through, *inter alia*, the implementation of temporary special measures, in accordance with article 4, paragraph 1, of the Convention and general recommendation 25. The Committee also encourages the State party to sensitize private enterprises, trade unions and political parties as to the promotion of women in decision-making positions.

INTRODUCTION

Despite the fact that BiH is a signatory of numerous international conventions, protocols and agreements that articulate and impose the non-discriminatory principle in, among other things, public and political life, and that it also has a developed legal framework that guarantees equal rights and freedom without discrimination on any basis, women in BiH are still not equal with men in exercising their right to participate in political and public life. Although we have institutional and legal mechanisms in place that should lead to increasing number of women in politics, the real change has not happened yet in terms of changing attitudes and understanding of gender roles in the society, which are largely shaped by the patriarchal legacy, communist past, as well as the post-war transition process. Women's political rights continue to be placed on the margins of public discourse.

Therefore, women's NGOs believe that it is very difficult to apply the current trends in promotion and support of women in politics in BiH.

SOCIAL CONTEXT FOR THE AFFIRMATION OF WOMEN IN BIH POLITICAL ARENA

Stereotyped and traditional attitudes, customs and cultural practices are deeply rooted in the collective consciousness on the role of women in society, which sees them primarily as mothers, wives and housewives. In other words, they have been generously "assigned" the role of the "guardian" of the family, which represents a stumbling block in spite of all affirmative actions aimed at preventing discrimination against women⁴³. Involvement of men in politics is never called into question, nobody asks them whether they have a family, and how do they succeed to manage family obligations with political engagement. On the other hand, women are expected never to "forget" the obligations towards the family upon entering into the world of politics.

Tradition and culture have a significant influence on the behavior of men and women. The myth of the man as the inviolable authority of the family, the owner of the family property, i.e. the masculine approach as the standard for defining every relation between

43 "Although politically active, and although most of them are professionally engaged in the Assembly, the majority of women MPs still take care of household and family responsibilities. The organization of family life is their responsibility always, even when they are away from home. When they talk about home and family, most of them express their gratitude towards the husband or mother or grown up children who "help them", indicating clearly that those are exclusively their responsibilities that someone else only helps them with at the moment. The unmarried interviewees talk about their "freedom" as an advantage in the way that it is easier for them to get organized and be dedicated to the political career without marital and family obligations that might inhibit them. On the other hand, there are so-called "super-women" among women MPs, those that manage to do everything in time, and are proud that they manage to be everything that society expects of them to be - good mothers, wives, workers. One of the interviewees even compares herself to a machine. It is interesting that even eight MPs mentioned experience in housework as an important prerequisite for a successful political career, which indicates that gender roles learned in the patriarchal society (at home) are transferred in the working environment, including politics. Another interviewee considered that since women do not-so-heavy work in the house, these types of activities are also replicated in their political engagement. She puts it like this: "Women stick to their professions and some softer, less-important issues", referring to the issues to family, children, education, etc., while those "hard" topics such as European integration and privatization are reserved for men. All the women MPs consider that family is the key indicator of success of each person, and even 15 of them stated that a successful politician, male or female, must have a successful family behind him or her." (taken from the report made upon interviewing 18 MPs of the RS National Assembly, made by Tijana Arambašić-Zivanovic, 2008);

men and women, is being transferred from generation to generation. Preferences of some men to lead a double life (to have a mistress on a side, in addition to a wife) are ignored by a typical patriarchal recipe, just because “he is a man”. Unlike men, women that are single and have no children experience various difficulties, are being tagged by derogatory terms, and are exposed to various comments on account of their physical appearance. At first glance it seems that women who have realized themselves as wives and mothers are as such welcomed in politics, as the focus of questions that media are interested in is concentrated around their family matters. It is a scenario in which women regardless of their position or actions are pushed back into their traditional role, and at the same time ignoring or minimizing their views about political issues that the public should hear.

When it comes to their functions and titles, women are still represented in masculine versions of the words representative, consultant, director, MA, etc., in spite of the fact that our language has the grammatical gender. Another fact is that even women politicians still do not see that they should refer to themselves in feminine gender, as well as that they should become more aware of discriminatory situations so that they can react to them.

Women who are currently present in politics have broken down prejudices that politics is exclusively “men’s work” through their commitment, responsibility, and conscientiousness. Nowadays we can hear some positive reviews about women politicians, however, it is still puzzling why women do not gain enough support at the crucial moment and get elected. It is necessary to continue to affirm the positive examples of women in public space that would make way to other women, as they all have demonstrated with their dedication that women can perform the highest state functions, in spite of the fact that they themselves confirm they are not immune to the patriarchal norms⁴⁴.

Despite numerous indicators that testify to the presence of highly patriarchal attitudes and norms, we can not ignore the presence of some positive developments, as well as willingness and interest to invest efforts in work for achieving equality, which has certainly been the result of raised awareness that it is necessary to integrate the equality principles from *de jure* to *de facto* state.

HARMONIZATION AND ENFORCEMENT

In 2003, BiH adopted the Gender Equality Law. With this step, and by taking a number of other legal and institutional measures, the government has shown a formal interest in promoting gender equality. However, these actions have not been confirmed in practice so far, as the position of women in public and political life in BiH has not changed significantly since then. One of the major weaknesses and the causes of such situation is the fact that other laws still have not been harmonized with this Law. In that regard, the Committee on the Elimination of Discrimination Against Women (May 16, 2006)

44 “On one hand, women politicians condemn the tradition of patriarchy as the main cause of the marginalized position of women in society, while on the other, they reaffirm those very standards, by pointing out exactly those typical traits and “feminine” view of the world that surrounds us, and which, in their words, clearly differs from the “male” world. This is the result of patriarchal upbringing and traditional roles of women in their private sphere, whereof exists a high level of awareness, but not the initiative to change the situation.” (taken from an analysis of interviews with women MPs of the RS National Assembly conducted during February-March 2008 by Tijana Živanović-Arambašić);

expressed its concern that adoption of the Law on Gender Equality had not led to the harmonization of existing legislation with this Law, therefore the Committee gave the recommendation in Article 16 that BiH should comply with the obligations stipulated by the Gender Equality Law and establish procedures for successful implementation and execution of these laws.

At the end of 2009, amendments to this Law have been adopted, which set a mandatory minimum quota of 40% of less represented sex, in accordance with international standards. The conclusion that can be drawn here is that BiH has ensured equitable participation of women and prohibition of discrimination only fictitiously, as it is not enough only to prescribe a minimum quota of 40%, it is necessary to create the political will, cultural environment and social conditions so that this quota can be adequately met. Bearing in mind that the general elections are held in BiH in October 2010, it has been crucial to harmonize BiH Election Law, above all, which still states that the lists of candidates must have at least 30% of under-represented sex⁴⁵. Once more, the State showed “its true face” as it failed to respond to the concerns of the Committee (2006). These concerns were not met since aspects of gender equality have not been incorporated in the Election Law, as well as the request of the Committee (par. 30) that the State party harmonizes the Election Law with the Gender Equality Law as soon as possible, and to strengthen and implement measures for greater representation of women in elected and appointed bodies. In other words, the recommendations and requirements made by the Committee were ingeniously avoided by the State, producing only apparently expressed willingness to change this situation in favor of women in real life.

NGOs have continuously pointed to the violation of the Gender Equality Law of BiH and international obligations of BiH. In addition to numerous appeals to relevant national and international institutions, they have sent open letters, organized press conferences, round table discussions where conclusions were made on the continuous violation of the Gender Equality Law of BiH and international obligations taken by BiH in the process of changing the BiH Election Law, requiring that this process is implemented transparently. In addition, they have been requesting that all lists of candidates include the same number of men and women candidates that would be alternately arranged on the list, and that the compensatory mandates are occupied by persons of under-represented sex in the institution for which elections are made; and equal representation of both sexes in all the bodies responsible for conducting elections at all levels⁴⁶.

It is clear that BiH authorities have been avoiding to make amendments to the Election Law in the part that covers ensuring of gender equality for the purpose of establishing a more humane relationship between the sexes in the society that is still largely traditional and patriarchal, and where women do not have equal rights and opportunities as men, particularly in political life where their marginalization is absolutely obvious. The only possible reason for obstructing this process can be found in personal interests

45 Every list of candidates shall include candidates of male and female gender. The minority gender candidates shall be distributed on the candidates list in the following manner. At least one (1) minority gender candidate amongst the first two (2) candidates, two (2) minority gender candidates amongst the first five (5) candidates, and three (3) minority gender candidates amongst the first eight (8) candidates et seq. The number of minority gender candidates shall be at least equal to the total number of candidates on the list, divided by three (3) rounded up to the closest integer. (Section 4.19, Paragraph 3, BiH Election Law - <http://www.oscebih.org/documents/25-eng.pdf>).

46 An open letter addressed to all relevant institutions, dated 26 February, 2008, sent by the NGOs Helsinki Citizens' Assembly and United Women Banja Luka;

and positions of people in government institutions, as well as the bodies that are responsible for the implementation of elections.

PRESENCE OF WOMEN IN LEGISLATIVE AND EXECUTIVE BODIES AT ALL LEVELS AND JUDICIARY

The Committee has also identified in its recommendations the marginalization of women in the context of exercising their political rights and relevant participation in the political process. Once again, inadequate representation of women in elective political institutions was authoritatively pointed out, as well as their insufficient participation in political, economic and transformation processes at the state, entity, cantonal and municipal levels of government. In addition, other highlighted issues are: ignoring demands of women and women groups in the process of adoption of the Election Law, and constant insistence on ethnic identity, while neglecting the importance of gender identity. This remark is very significant if one bears in mind that the absolute ethnic mobilization is one of the main factors that prevent adequate political mobilization of women as a collectivity, which should be done across entity and ethnic boundaries. In addition, it is emphasized that the processes of formulating strategies and policies do not take sufficiently into account gender dimension of development, and the need for equal protection of the rights and interests of both women and men. Analyzing policies and practices of political representation of gender in BiH through documents and personal stories of women who currently occupy positions in the highest legislative bodies, it can be concluded that women in politics in BiH are only numbers, a consequence of the general government policy that aims only to “please the international community” by introducing electoral quotas and signing international conventions, but in fact not making a real change in our daily lives.

Legislative Authorities

At the first post-war general elections in BiH held in 1996, only 2.3% of women were elected in the House of Representatives of the Parliamentary Assembly of BiH, 2.4% in the National Assembly of RS, and 5% of women occupied positions in the House of Representatives of the Federal Parliament. After general elections of 1998, BiH became a leading country in Central and Eastern Europe in the number of elected women in national parliaments. From around 2% of women that were elected to the House of Representatives of the Parliamentary Assembly of BiH in 1996, the number of women increased to 30.2%, i.e. 13 out of 42 MPs, which has remained the highest percentage of women in the highest state legislature body of BiH.

	1996	1998	2000	2002	2006	1998
House of Representatives of BiH Parliamentary Assembly	2.3%	30,2%	7,1%	14,3%	11,9%	30,2%
RSNA	2.4%	22,9%	18,1%	16,9%	23,0%	22,9%
FBiH House of Representatives	5%	15%	17,1%	21,4%	25,5%	15%

Table 1: Data on women elected in the highest legislative bodies in BiH from 1996 to 2006.

The elections held in 2006 did not bring any progress when it comes to the number of women who represented us until October 2010 in the highest legislative body of BiH, the House of Representatives of BiH Parliamentary Assembly, given that 5 women were selected from a total of 42 candidates, which is only 11.9%. A decrease of 2.4% is registered compared to the elections from 2002. On the other hand, we have some encouraging data on the numerical representation of women at the entity levels of legislative authorities. In the 2006 elections, Federal House of Representatives got 25 women from the total of 98 candidates, i.e. 25.5%, representing an increase of 4.1% compared to previous elections. After the 2006 elections, RSNA had 19 women out of 83 MPs or 23%, which is 6.1% more than the previous elections⁴⁷.

Executive Authorities

So far, there has not been a single woman within the three-member Presidency at the position of the head of the State or in the position of BiH Prime Minister, and only three women held the ministerial position within the Council of Ministers. The same trend continues at the lower levels of governance. So far, there have not been any women in the position of the Prime Minister, Deputy President or Deputy Prime Minister in either of the two entities in BiH.

Based on elections held in October 2006, not a single woman was nominated for one out of 9 ministerial positions or the position of the Chairperson in the Council of Ministers, the highest executive authority in BiH⁴⁸. NGOs United Women Banja Luka and Helsinki Citizens' Assembly Banja Luka reacted on the occasion of the election of the Council of Ministers, and warned the Central Election Commission of BiH that by verifying ministerial mandates out of which all of them were men, it was in violation of Article 15 of Gender Equality Law of BiH. A request for investigation was submitted to the Gender Equality Agency of BiH to check for violations of the Gender Equality Law in connection with this case. They answered that this was not in their mandate, so these two organizations filed a lawsuit against the Central Election Commission for illegal verification of the mandates to the members of BiH Council of Ministers BiH, which has been submitted to the Administrative Department of BiH Court, and has not been finalized yet.

The highest number of women in the entity governments was - one or two women ministers out of 16 (RS) or 17 (FBiH) ministries. Men have also dominated as the presidents of all ten cantons in the Federation.

Local Authorities

As the local level of governance is closest to the citizens, it is to be expected that there are more women participating in the decision-making process in their local communities. At the local elections held in 2008, the response of the voters was higher (55.3%) compared to the previous elections. Out of 140 mayor seats, women won four (2.85%), and out of total of 3147 candidates, women won 469 seats (14.9%) in local assemblies / councils. Such result is insufficient for any kind of influence on decision-making in local communities, where issues of importance to local residents both women and

⁴⁷ Information on the current composition of BiH and Federal Parliaments, and RSNA are available at: www.parlamentbih.gov.ba/index.html ; www.parlament.ba ;www.narodnaskupstinars.net.php;

⁴⁸ Data are available at: www.vijeceministara.gov.ba/Serbian/ministry/index.php;

men are being addressed, and even the minimum standards have not been met. Not a single woman was selected for the position of assembly/council member in eight municipalities of BiH. Election results from the last elections have shown a slight drop compared to the previous elections, when it comes to mandates won by women candidates (18% in 2000, 17.21% in 2004; 14.9% in 2008)⁴⁹.

Discrimination against women is being deepened and maintained by appointing men at managerial positions in public companies and board of directors, as well as executive bodies within the economic sectors.

Judiciary

Gender structure of the judiciary also reflects a similar situation. Among the presidents of the courts, 25% of them are women, and among chief prosecutors only 16%, which again suggests that the minimum standard of 40% has not been met.

Diplomacy and International Relations

Despite all the existing activities and the implementation of UN Resolution 1325 and the gender perspective that the Resolution promotes, women are still excluded from the negotiations, adoption of agreements, establishment of interim and transitional governments, planning and carrying out humanitarian assistance in post-war reconstruction planning, and policy development. In general, the peace processes remain to be exclusively men's work, where men impose power and establish post-conflict regimes. In order that democratic principles and good governance take hold in countries that come out from a conflict, it is of vital importance that both men and women have equal opportunities to participate in the upcoming processes.

According to the Ministry of Foreign Affairs, the percentage of women ambassadors amounted to 24.5%. Five men and not a single woman have been appointed Consul-General so far.

Armed and Police Forces

The data show the armed forces of BiH have among the officer's ranks (ranging from lieutenant to colonel) – 51, noncommissioned officers - 200, and the total of 471 or 4.5% of women. BiH Ministry of Security has 48.73% of women, out of which 26.47% of them hold managing positions. The Federal Ministry of Interior employs 56.50% of women, excluding police administration, out of which 3.56% of them hold managing positions. The Police Department as part of the Federal Ministry of Interior has 18.8% of women; Cantonal Ministry of Interior, police and cantonal government has 10.43% of women, out of which 6.29% of them hold managing positions, while the RS Ministry of Interior has 21% of women, with 5% of them at managing positions⁵⁰.

49 Report of the Helsinki Citizens' Assembly Banja Luka.;

50 www.zenezenama.org/bos/dokumenti/Finalni_izvjestaj_1325_UNSCR.pdf ;

GENDER MECHANISMS

One of the stages of introducing the gendering concept in BiH was the establishment of “gender” institutional mechanisms for the state, entity and local levels. The Agency for Gender Equality of BiH was established in 2004, Gender Centre of the Federal Government in 2000, and Gender Centre of the RS Government in 2002. In addition, advisory bodies for gender equality issues have been established within the RSNA, Federal and BiH Parliaments. Local municipal assemblies and cantons in Federation have also established Commissions for monitoring the status of gender equality.

The achievements of institutional mechanisms in recent years are unquestionable, however, there have been numerous barriers to their work due to a lack of understanding of their role and resistance to gender issues by institutions⁵¹. Cooperation and support of gender mechanisms is very impressive and visible in public, and could serve as positive example to entity and state institutions that do not like to go for a visit to the “other” entity, and very rarely cooperate with each other.

Based on research done in the last period, it can be said that the representatives of legislative authorities are not sufficiently familiar with the work of all institutional mechanisms (national, entity and local) that are making the integral part of the state apparatus, whereto they also belong. It is necessary to focus the attention and activities to those who occupy decision-making positions, so that once their level of consciousness in these issues is raised, they would be the ones that would continue to spread the idea of non-discrimination on any basis⁵².

The local authorities, following the instructions “from above”, have set up Gender Equality Commissions, but have not taken any actions that these Commissions really subsist and carry out activities defined by rulebooks on the work of the Assemblies. In addition, they have not shown any interest in improving the situation of gender equality and quality of life for all citizens, except that they established the Gender Equality Commissions within Municipal Assemblies without providing any support for their work⁵³. Local authorities do not attach any importance to the Gender Equality Commissions, as they do not request them to do any work, nor they ask them to

51 Reports on activities of entities’ Gender Centres are available at the following sites: [www.vladars.net / sr-SP-Cyrl / Government / centers / gendercentarrs / Action / Documents / GCRS Report on the work 2009.pdf](http://www.vladars.net/sr-SP-Cyrl/Government/centers/gendercentarrs/Action/Documents/GCRS_Report_on_the_work_2009.pdf) , www.fgenderc.com.ba/bh/godisnji_izvjestaji/o_radu_2009/izvjestaj_o_radu_GCFBIH_za_2009_BOS.pdf ;

52 As regards to institutional support, and specifically the institutional mechanisms for gender issues, all eighteen women MPs stated that they were familiar with the mission and work of the RS Gender Centre, while only one woman MP mentioned the existence of local Gender Equality Commissions as mechanisms for the implementation of gender equality in the society. Interestingly enough, none of the women MPs mentioned the existence of the Agency for Gender Equality, and when asked if they were aware of its mandate, five of them said that they knew about its existence, but had no knowledge of its mandate. The other thirteen women MPs stated that they had never heard of this institution. (Interviews of 18 women MPs in the RSNA conducted by Tijana Arambašić-Zivanovic, 2008);

53 Analysis made by the NGO “Budućnost” Modriča showed that the administrative services of municipalities and cities in the process of drafting and implementation of certain decisions, general documents, strategies, programmes and plans did not analyze their impact on women and men, nor included the gender component in financial planning or execution of the budget. The analysis of the percentage of women and men in all the committees/commissions that operate within the municipal administrations in BiH showed that there was a negligible number of women in all other committees/commissions except within the Gender Equality Commissions, where women were majority, as these Commission were not of any interest to men. Therefore, the local governments are in violation of the Gender Equality Law of BiH, as they take no account of the equitable representation of men and women in all the committees, commissions, working bodies, etc., and so it is no surprising that they are not dedicated to resolving problems of vulnerable groups or individuals.

submit reports on their activities.⁵⁴ It is therefore not surprising that the members of the Gender Equality Commissions at the local level have no knowledge of the mission and mandate of the entity and state institutional mechanisms. A very important issue that the entity institutional mechanisms should seriously address in the future is how to reach out to all local communities and improve the knowledge of the representatives of legislative and executive authorities, and to sensitize members of the Gender Equality Commissions, provide them with the appropriate “tools” and empower them to be more efficient and to develop effective programmes of measures for gender equality.

The conclusion can be drawn that there is a lack of awareness of female politicians regarding institutional and legal mechanisms of support and protection of women in BiH. The task of raising the public awareness should start from the political leadership, so that the promotion of gender equality flows from top to the lower levels of governance, and continues towards all the citizens, wherefore these mechanisms exist in the first place.

The second conclusion is that institutional mechanisms should implement synchronized actions throughout BiH, and demand more forcefully from competent institutions to adopt and implement national and international mechanisms.

WOMEN IN POLITICAL PARTIES

In recent years, there has been more intensive dialogue on the deficit of women in BiH politics, but somehow it seems that this whole story gains its importance only before elections, i.e. at the time when the lists of candidates are to be submitted in preparation for elections. Election Law that is in force in BiH stipulates quotas of 30%, and owing to that a large number of women get included at the lists of candidates shortly before elections, just to satisfy this policy on quotas⁵⁵.

The influence of women in policy-making within parties and on the structure of party electoral lists of candidates is non-existent or very low. Positions of power in political parties are exclusively reserved for men.

Although it seems that most political parties accept the equality of women, in reality women are not seen by their male colleagues as serious political actors, i.e. worthy to occupy the top position of the party hierarchy. In BiH, women are faced with a number of obstacles in their work within the political parties, and they are the reflection of the traditional relations of society towards women’s participation in public and political life. The reasons of such situation can be found within political structures, which generally ignore the problems of women’s human rights, as well as in the State itself that is obliged to take effective measures to influence the changes of traditionalist attitudes and promote gender equality. The actual causes of discrimination against women in political parties are deeply rooted traditionalist conceptions of gender roles that are not recognized as an area of activity within parties of either left or right orientation.

Analysis of the current composition of the main boards and presidencies of the major political parties in BiH shows very discouraging results. Namely, besides two parties

54 A survey conducted by the NGO “Budućnost” Modriča which included 67 members of the Gender Equality Commissions in 8 municipalities of Dobož region, and ten municipalities of Visegrad region and Canton of Goražde.

55 See the subheading of this section entitled “Law Harmonization and Enforcement”;

out of which the first one has 34% of women within its main board, and the second one has 19%, all the other parties have about 10% of women members within their main boards, as the highest body of any political party⁵⁶. As regards to the parties' presidencies, the Party for BiH has the highest percentage of 26% or 5 women out of 19 members, the SDP has 18% women, PDP 14%, and SDA has 4%.

By analyzing the statutes of the largest political parties in BiH, the first impression is that the party policy is open and equal to all, although the language in which they are written is gender unsensitized. The exception is one party that is the only one that uses gender-sensitive language in its statute, and by that sends a clear message that both men and women can equally perform all the functions and roles within the party. As for the positive measures promoting women's political participation, which are important for analyzing the gender dimension of political parties' documents, only two statutes explicitly define the minimum number of women (and the youth) within the party bodies.

Women are only being specifically referred to in the provisions of the statutes when providing options for organizing the political interests of marginalized groups, such as women and youth. Women's branches of political parties generally have no influence or importance in the structures of the party, nor do they participate in committees for policy development, which in terms of improving the status of women lack a visible strategy for achieving gender equality, as well as clear objectives directed towards the fight against discrimination and violence against women. Activities of women in these branches are reduced to humanitarian work, collecting clothes for vulnerable groups of population, organizing public debates on the issues of domestic violence, alcoholism, drugs, etc. Some expectations of their male counterparts in some parties even go so far that they expect that women should also take care for cleaning party offices and making coffee and sandwiches for the activists during the election campaign⁵⁷:

"The culmination of my dissatisfaction happened when a colleague, a member of the party's Main Board, said that the women's branch should have introduced a roster for women volunteers to maintain and clean the party's offices."

"My task during the election campaign was to make coffee and bring drinks to the members of the campaign staff in the afternoon hours."

"I do not even know the number of sandwiches I made in the election campaign that we distributed in refugee centers and poor neighborhoods during public debates. This task was assigned to me by the campaign staff, even though I was a candidate positioned high up on the list. My male fellow candidates did not have that obligation and that was why I felt bad all the time during the campaign." (D.R.)

56 Social Democratic Party (SDP) in its Main Board has 34% of women (28 women out of 83 members) and the Alliance of Independent Social Democrats (SNSD) has 24 women or 19% out of total number of 127 members of its Main Board, other political parties have about ten percent of women members within its Main Boards. Democratic Action Party (SDA) has 109 members within its Main Board, out of which 12 of them are women or 11%. Party of Democratic Progress (PDP) has 67 members in its Main Board, out of which 7 women or 10%. Party for BiH does not have a Main Board, but its Presidency has 19 members, out of which 5 of them are women or 26%. The data on the composition of the above-mentioned parties' Main Boards are taken from their official web pages: http://www.zabih.ba/index.php?option=com_content&task=view&id=16&Itemid=77; http://www.pdprs.org/glavni_odbtor.html http://www.sda.ba/sekcije.php?cat_id=4 <http://www.sdp.ba/Default.aspx?categoryid=111&sub1=2> .

57 Statements politicians noted the training was held in November 2008. in Doboj held immediately after the local elections in BiH

Women do not have the same chances as their male counterparts due to the lack of experience in running or participating in electoral campaigns, and the parties do not give any significance to the further education of women politicians on the basic political knowledge and skills that could contribute to improving the quality of the party itself. Lack of interest to invest in women capacities within political parties is largely result of 'forced' introduction of the quota principle.

Political parties are the policy creators, and therefore they have the responsibility to contribute to changing traditional attitudes, empower and educate women and provide genuine support for the elected women. These are just some of the instruments that could be easily applied if there is a true willingness to respect women's political rights, which, unfortunately, for now, still poses a challenge not yet accepted by the political parties in BiH⁵⁸.

NON-GOVERNMENTAL ORGANIZATIONS

When talking about women and politics we must not forget to mention all the forms of women's activism that take place outside the formal institutional policy, popularly known as "women's NGOs" that bring together a large number of women around their mission, following the same feminist goals as any other female groups in the world. As a public space, women's NGOs represent an important factor of women's involvement in formal politics, the place where the trust and identity of the modern woman has been created. They were the first ones to cross entity lines and carried the messages of peace by organizing conferences, campaigns, lobbying actions for changes to legal regulations related to the position of women in society, i.e. their harmonization with international and democratic standards.

Focus on women in political and public life has been recognized by non-governmental organizations, and what certainly contributed to this change was also the shift of the international community's focus, following the adoption of Resolution 1325 by UN General Assembly, to incorporation of the gender aspects within its policies, which in practice meant persistence on creating equal opportunities for both women and men in all spheres of the society⁵⁹. From the very beginning, women's groups appealed to the importance of their involvement in the reconstruction of the country in terms of providing equal opportunities and possibilities to women that make more than 50% of

58 "Women MPs in the RSNA stated that they had never felt disadvantaged because they were women, however, during further discussion it turned out that there had been many situations that were discriminatory, but that the MPs simply did not recognize (or did not want to recognize) them as such. As some of them say that sometimes it happens that various comments are made, such as in one situation when a male colleague addresses the women all the time as "the little women", but they could not see anything wrong in it, and they even justify men by saying that they do not do it on purpose, and that is just the part of their upbringing. Therefore, patriarchal upbringing is re-emerging once again as the main culprit of humiliation and exclusion of women, when and if (judging by their attitudes) it happens at all. Them being aware or not, their responses have largely shown that they have been excluded as women. In addition to their responses, the analysis shows some typical examples of the positioning of women in society through where they are placed in the parliamentary committees or the rows in which they sit during sessions."- From the text written by Tijana Arambašić-Zivanovic who conducted interviews with women participating at the highest levels of government and women MPs within RSNA, as part of her research for MA theses titled "Recruitment, Promotion and Support of Women in BiH Politics in BiH", published in 2008;

59 Resolution 1325 is the Security Council resolution adopted at the 4213th meeting held on 31 October, 2000, which requires from all member countries to ensure greater participation of women at all levels of decision-making in conflict resolution and peace processes Available at: www.peacewomen.org/1325.pdf ;

BiH population. The work of women's organizations in peace-building has not been recognized neither by the State, nor by international organizations, as women are left out of peace negotiations and agreements.

“Women's organizations in BiH continue to work actively with women elected at different levels to make them sensitized for women's issues, which makes their contribution to peace building and dialogue through these projects indisputable. Together with women politicians - members of different political and ethnic groups – they participate in the preparation of draft amendments of certain laws relating to women, and by that they are participating in campaigns and cross ethnic barriers more efficiently than men, which is of crucial importance. It is indisputable fact that the amendments of legal regulations that have contributed to the achievement of better opportunities for women in BiH society, lobbied for jointly by the women's organizations and women politicians, have left their mark in the process of rebuilding peace and post-war society⁶⁰. Finally, it is very important to point out in the context of BiH that women activists belong to various ethnic and religious groups, as the ethnic identity still maintains its importance in our reality.

MEDIA

The role of media is of great importance in the realization of complex goals in this area, which was explicitly pointed out by the CEDAW Committee in its recommendations for BiH. In the context of the role of the media, it is stated that it is necessary to encourage the media to “project positive images of women and of the equal status and responsibilities of women and men in the private and public spheres “(par. 24).

Election campaigns present rare opportunities for women politicians to address to their voters. But even then, other than local public debates, the voice of a woman candidate does not reach the wider public because the media are more inclined to first candidates on the lists, which are almost always men.

Media monitoring made by the NGO Helsinki Citizens' Assembly Banja Luka in the pre-election period for local BiH elections in 2008, which included monitoring of four television stations and four daily newspapers, showed a very low representation of women in electronic media - 17% as compared to men - 55%, and remarkably small percentage of reports in daily newspapers that focused on women – only 2% compared to men - 53%. Consequently, during the election campaign women could not reach their voters, which is illustrated by the fact that 99% of billboards and posters promoted male politicians. Women candidates, as well as gender issues are completely marginalized during the election campaign. In spite of having specific regulations and rules in place, they are operating only partially, and daily newspapers are full of unbalanced reporting.

During the election campaign for the 2006 general elections, some television stations broadcasted programmes with only women candidates. The good thing about that was that the women were given space to present themselves to their voters. However, it was not good that they were invited to participate in these particular programmes as a separate group only because they were women in the world of politics, and not as politicians and experts in their field of work regardless of gender. The MPs covered by the analysis never blamed their colleagues or parties for such attitude of the media

⁶⁰ Some of the laws are the RS Criminal Code adopted in 2000, which for the first time incriminated domestic violence, the Gender Equality Law (2003), Law on Protection of Family Against Violence in the FBiH and RS, and many other amendments and supplements to the laws;

towards women in politics⁶¹.

Media content analysis conducted under the regional project of Media Centre Sarajevo in 2006 shows that despite the general socio-political transformations, there has not been any visible transformation of the media discourses of gender, media presentation and “performance” of gender subjects, methods and policies of constructing gender identities and gender relations within the media discourse of BiH newspapers⁶².

Although the media can not be held responsible for the actions, attitudes and behavior of individuals, they are undoubtedly powerful in shaping public awareness and defining the public discourse. As such, the media play a crucial role in maintaining gender roles and their associated stereotypes. By maintaining negative and stereotypical images of women, the media do not provide accurate and realistic picture of the multiple roles of women in social and political life. In order to correct the previous gap in political representation of men and women, the media can help to instill in public the idea of political participation of women as an indivisible part of democracy, inform on the need for equal representation of men and women in decision-making processes, and portray the role of both genders in a non-discriminatory manner and without stereotypes. In other words, they can ensure that women are not assigned negative attributes, that they are not treated as objects, but as equal political protagonists, not to undermine the political capacities of women and their contribution to economic, social and political life, and in the development process in general.

RECOMMENDATIONS:

- BiH shall ensure harmonization of all laws with Gender Equality Law on as soon as possible, especially the Election Law, and strengthen and implement measures for greater representation of women in elected and appointed bodies and positions in decision-making processes in public administration, judiciary as well as positions in state companies, including through the implementation of temporary special measures in accordance with article 4 paragraph 1 of the Convention and general recommendation 25. Further on, BiH shall ensure

61 All 18 interviewees state that there such kind of exclusion and putting barriers in political parties is absent, since, according to the words of one of the interviewees: “People in the parties are aware that they must have women in their ranks, that they can not be without women because otherwise it would be impossible for the party to participate in elections.” Again, this is a typical example of covert discrimination against women that the women MPs do not recognize as such, i.e. as a problem. This confirms the conclusion that women find their place on the list of candidates and later on in the highest legislative bodies only because political parties would not be allowed to run for elections otherwise. (Tijana Arambasic-Zivanovic, 2008);

62 *The paper deals with gender stereotypes and marginalization of women in the ethnically ambivalent society of BiH. During two weeks, the authors analyzed the content of Dnevni Avaz and Glas Srpske, the two influential newspapers when it comes to socio-political mainstream and the insistence of each on the ethnic preference in a given entity of BiH, namely the FBiH (Dnevni avaz) and RS (Glas Srpske). The results of content analysis showed that the appearance of women is minor comparing to men in sections that cover political, ethnic, economic and social issues, while it is only equated on the pages that cover entertainment and the last page of the newspapers. In terms of roles and subject positions that women occupy in the contents of these media, using critical discourse analysis we identified argumentative strategies of dissimulation and paternalism, and we noticed inequality in representation of foreign and local women. Besides the conventional narratives on woman as a mother, victim or model, we also encountered the emergence of so-called ‘hybrid narratives’, especially when women should be ‘placed’ in some of these traditional moulds, which proved to be insufficient. This study shows that, in addition to traditional patriarchy and conservatism, marginalization of women and gender stereotypes can be interpreted by the duality of the BiH society in which the main actor role in public life is entrusted to the ethnically ‘aware’ men. (downloaded from the web site: www.mc.rs/stereotipizacija-reprezentacija-zena-u-stampanim-medijima-u-jugoistocnoj-evropi.792.html).*

implementation of measures to sensitize private enterprises, trade unions and political parties as to the promotion of women in decision-making positions.

- BiH shall provide and adopt appropriate legislative and administrative measures to ensure full participation and representation of women in the structures of political parties, provide access to managing positions in political parties, influence on policy-making within the parties, participation in election campaigns, promote the nomination of women candidates for direct elections or high positions in the executive branch, encourage additional education on fundamental political skills for women candidates, and changing of traditionalist attitudes.
- BiH shall ensure the introduction of budget lines within the ministries and local authorities to implement the Gender Action Plan and ensure consistent gender training and sensitization of the government representatives at all levels of government, with special emphasis on positioned officials at all levels, to raise their awareness about the importance of a balanced participation of women and men at all levels of decision-making and the inclusion of gender issues into all development strategies and policies, and shall take effective measures to influence the changes of traditionalist attitudes in the society, and promote gender equality in order to reduce barriers to women exercising their rights to political and public life.
- BiH shall ensure that the Agency for Gender Equality of BiH and entities' Gender Centres become recognizable and important factors for achieving full gender equality in all aspects of the society, to gain greater powers for the evaluation of laws, acts and regulations in terms of gender, and to conduct activities to raise awareness and develop capacities of all government agencies at state, entity, cantonal and municipal levels to be implemented in cooperation with relevant NGOs.
- The Agency for Gender Equality of BiH and entity Gender Centres shall ensure to develop partnerships with the NGOs dealing with gender issues based on understanding and support, and to jointly with them conduct synchronized strategically planned actions with the aim of sensitizing and gender education for all levels of government on human rights, incorporating the perspective that would change the existing stereotypical attitudes about the roles of women and men and treatment of these roles; coordination of plans and strategy documents and undertakings for applying the Law on Gender Equality and CEDAW Convention in order to create conditions for the establishment of effective systems to integrate the principles of gender equality, the advancement of the position of both women and men, and the application of international and national gender-based standards. The recommendation is to create strategies and measures to achieve full gender equality, develop mechanisms for keeping sex-disaggregated statistical data and gender-sensitive analysis, and encourage research into gender issues, the implementation whereof shall be provided with funds from the state and entities' budgets.
- BiH shall provide funding to NGOs to carry out their continuous activities in regards to understanding gender regimes in BiH, discrepancies between the normative and actual situation, creation of affirmative actions and policies that will open doors of institutional and political life to women, which, as a principle of equality, is the starting basis of a democratic society; to conduct campaigns for encouraging and training women for political action and use of mechanisms in case of violation of their rights as established by the Convention; campaigns focused on public and different target groups to raise awareness about the importance of gender-balanced representation

in political and public decision making as a prerequisite for true democracy; and campaigns focused on the equal sharing of responsibilities between women and men.

- BiH shall adopt measures to ensure that the media, which play an important role in the process of establishing democratic values in society, and therefore have the key responsibility for the realization of gender equality in the BiH society, is obliged to present a positive image of women and equal status and responsibility of women and men, both in public and private sphere, within the domain of breaking up the prejudices that politics is a male sphere of activity in which women are only passers by.

VIOLENCE AGAINST WOMEN AND TRAFFICKING IN WOMEN

Author: Natalija Petrić
(with recommendations for Trafficking in Women by Mara Radovanović)

Concluding Comments of the Committee No. 13 and 14

13. Although all international human rights treaties, including the Convention, are directly applicable in the State party, the Committee is concerned that the Convention has yet to be invoked by women in domestic litigation and applied by the judiciary.

14. The Committee urges the State party to ensure the *de facto* justiciability of the Convention's rights in all domestic courts and other mechanisms. It calls upon the State party to take additional measures to disseminate information about the Convention and implement programmes for prosecutors, judges, ombudspersons and lawyers that cover the application of the Convention and, in particular, its concepts of direct and indirect discrimination and of equality. It also recommends that sustained awareness-raising campaigns and legal training targeting women and non-governmental organizations working on women's issues, be undertaken to encourage and equip women to avail themselves of procedures and remedies for violations of their rights under the Convention.

Concluding Comment of the Committee No. 25

While recognizing the State party's legal and other efforts to address violence against women, the Committee is concerned that the legal texts adopted in both entities may allow for differing judicial interpretations and inconsistent application of penalties due to the fact that in the Federation of BiH domestic violence is defined as a crime while in the RS it is defined both as a crime and a misdemeanor. In addition, the implementation of the law is hampered by the lack of necessary by-laws and structures. The Committee is also concerned about the absence of statistical data on acts of domestic violence against women and that such acts continue to be underreported and viewed as a private matter.

Concluding Comment of the Committee No. 26

The Committee calls upon the State party to harmonize the laws of the two entities and to speed up the formulation and adoption of by-laws and the establishment of relevant structures and institutions needed for implementation. In addition, it recommends that concrete measures be undertaken to empower women to report incidences of domestic violence and to ensure, through training programmes, that public officials, especially law enforcement personnel, the judiciary, health-care providers, social workers and teachers, are fully familiar with applicable legal provisions, are sensitized to all forms of violence against women and are skilled to respond to them in an adequate manner. The Committee also encourages the State party to collect data on incidences of domestic violence against women and, based on such data, continue to develop sustainable strategies to combat this human rights violation.

INTRODUCTION

Violence against women, especially domestic violence, continues to be a widespread social problem in BiH and a serious breach of fundamental human rights and freedom of women victims of violence. Despite intense public advocacy activities of NGOs across the country aimed at improving the legal and real protection of women against violence in public and private sphere, this type of violence is still being considered and tolerated as a “socially acceptable behavior”, and justified by the traditional and patriarchal conceptions of the role and status of women in the BiH society.

The legacy of the war and the problems of the transitional society, difficult economic situation in the country and the impact of the global economic crisis are some of the most frequently used excuses for the lack of continuous, systematic and efficient approach to solving the problem of violence against women. Women in BiH are still invisible in the decision-making processes on all important political, social and economic issues. Although, the government institutions in BiH have made efforts to establish a framework of laws and public policies in the field of combating domestic violence, the use and results of these measures are insufficiently visible in practice, especially in terms of ensuring effective protection and safety of women victims of violence and their access to justice.

Experiences of NGOs working with women victims of domestic violence indicate that most women stay silent about the violence they survived, and do not even think to report it to government institutions that are authorized and obliged to provide assistance and protection. It is often pointed out that one of the primary reasons why women stay in the relationship with the abusers is their economic dependency upon them. Most women in BiH, especially in rural areas have no control over any economic resources – they are unemployed, without any property, and completely dependent on their violent partners. Women usually seek help only after long exposure to violence, when it leaves a visible effect on their physical and psychological health, and have limited access to information about their rights and possibilities of protection from violence.

It is alarming that the vast majority of women victims of violence does not have confidence in the institutions of the system, for the following reasons: it is impossible to get physical protection or surveillance by the police; unsensitized approach of the social workers; slowness in processing and resolution of cases by the courts; and frequent and continuous threats and intimidations by the abuser that affects on accumulation of fear in women victims of violence. The practice of institutions points to deep-rooted stereotypical attitudes that domestic violence is a private matter that should not be pried into, that women are often blamed for the violence because it was caused by their own behavior, and that the main priority and necessity is to keep the whole family together for the “benefit and needs of children” regardless of the consequences.

An additional problem is the fact that physical violence with visible physical injuries is predominantly recognized by government institutions as the main and only form of violence against women, while sexual, psychological and economic abuse of women victims of violence is neglected and under-recognized in practice.

FACTUAL SITUATION ON THE VIOLENCE AGAINST WOMEN IN BiH STATISTICAL DATA AND FORMS OF VIOLENCE AGAINST WOMEN

BiH still has no unified system for collecting and analyzing statistical data on domestic violence against women, neither at the entity nor state level. Data available from the government institutions that are the first ones to come into contact with women victims of violence (police and prosecutors) are incomplete and contradictory, and point to different interpretations and approaches to addressing the problem. According to official data of the entity Ministries of Interior in BiH, the number of reported and prosecuted crimes of domestic violence in RS has been in constant decline, while that is not the case in the FBiH.⁶³

Differences in terms of reported crimes of domestic violence between the entities in BiH are largely a consequence of unharmonized laws in the field of protection against domestic violence at the entity level⁶⁴, the trend that a large number of reported cases of domestic violence in the RS is processed within the misdemeanor procedure, and that domestic violence perpetrators are punished by fines.⁶⁵ In addition, the available official data suggest that in practice the police in BiH does not forward reports on all crimes committed to the relevant prosecutor's offices, which is their legal obligation, but essentially independently evaluate whether reported, i.e. registered cases of domestic violence contain elements of a felony or not.

In contrast to the available official statistics, the data of NGOs working to assist and support women victims of violence point to a continuous increase in the number of victims of domestic violence. Non-governmental organizations in BiH collected data by keeping record of the number of women beneficiaries of free legal and psychological support⁶⁶, SOS phone⁶⁷ and safe houses for women and children victims of violence in

63 According data from the Ministry of Interior and district prosecutor's offices in RS for 2006 and 2007, the number of registered felonies of domestic and family violence (Article 208 of the Criminal Code of RS) in 2006 was 609, while in 2007 it was 523. The district prosecutor's offices in RS initiated investigation on 554 cases in 2006, and in 2007 they received 301 criminal charges and initiated 234 investigations (Source: Report on the Status and Activities in the Fight against Domestic Violence in RS with the Initiative to Declare 2008 and 2009 as Years of Fight against Domestic Violence, RS Gender Centre, April 2008). According to data from the RS Ministry of Interior there were 373 cases of domestic violence reported in 2008, and 250 in 2009. (Source: RS Ministry of Interior, Report on the Safety Situation for January - December 2009, dated January 27, 2010) According to the cantonal Ministries of Interior, in respect of the criminal offense of domestic violence (Article 222 of the Federal Criminal Code), the number of reported cases of domestic violence in 2006 was 1384, in 2007 it was 1093, in 2008 it was 2272, and in 2009 it was 1631, while the number of submitted reports on the committed crime to the authorized prosecutor's offices in 2006 was 639, in 2007 it was 647, in 2008 it was 889, and in 2009 it was 689 (Source: Statistics on Domestic Violence, FBiH Gender Centre, April 22, 2010);

64 See the section that relates to disharmonization and lack of implementation of legal regulations in the field of combating violence against women in BiH;

65 According to information obtained from the Misdemeanor Division of the Basic Court in Banja Luka, in the period from September 1, 2006 to December 31, 2009, this department received 1104 requests for initiating legal proceedings in the field of domestic violence. Just in 2009 the number of applications amounted to 307, of which 32 were resolved within the regular procedure by sentencing a pecuniary fine to the defendant, 6 proceedings were terminated, and 269 cases have remained unresolved;

66 In the period January 1 - December 31, 2009, lawyers of United Women Banja Luka and Helsinki Citizens' Assembly Banja Luka have provided free legal advice and information to 214 women, and legal assistance to 70 women. In 2009, a team consisting of a psychologist, pedagogist, social worker and lawyer that work within the counseling service for victims of violence run by NGO Zena BiH from Mostar provided assistance and support to 188 women victims of violence, and psychosocial and legal assistance for 98 victims of violence, of which there were 2 men. Center for Legal Assistance to Women from Zenica provided legal aid for 175 women victims of domestic violence in 2007, for 180 women in 2008, and for 252 women victims of violence in 2009;

67 In the period between January and October 2009, the total of 1572 victims of violence called the SOS phone -1264- in RS, out of which the majority were women aged 19-60 years. During the same period, the total of

BiH⁶⁸. These NGOs have no unified system for collecting and processing data on cases of violence against women, except statistical data regarding the number of emergency calls and the work of Safe Houses that are available at the entity level. Other data are part of periodic⁶⁹ and special reports⁷⁰.

The NGOs' data indicate that violence against women in BiH in most cases is manifested as a mix of physical, sexual, psychological and economic violence⁷¹. Public perception of domestic violence in BiH is still stereotyped and reflects the wrong perception of the problem. It is very often the case to find articles and reports in BiH media in which the journalists, or their conversationalists, that are very often professionals that work directly with women victims of violence, say that the key causes of violence against women are low social and economic status, alcohol and drug abuse, and similar. These statements made by professionals in the media often indicate directly to the lack of sensitized approach in working with women victims of violence and the absence of real support, as well as the existence of a practice by which the acts of violence against women are tolerated, and the abusers are neither prosecuted nor sanctioned⁷².

THE AVAILABILITY OF ASSISTANCE AND SUPPORT TO WOMEN VICTIMS OF VIOLENCE IN BIH

BiH still does not have proper institutional services that would be able to provide comprehensive, sensitized and specialized support to women victims of domestic violence and other forms of gender violence. Free legal aid services and Centers for Social Work that exist at the municipal level in BiH have neither the staff nor expertise for qualified legal and psychological counseling and support to women victims of violence. The staff employed in these services and Centers for Social Work do not have continuous access to education about violence against women and domestic violence, and they are not able to provide efficient and sensitized support for victims of violence. It is often the case in practice that government institutions send women victims of violence to seek legal and psychological support and protection at the local women's NGOs,

2120 victims of violence called the SOS phone -1265-, which covers the area of the FBiH;

68 During 2008, the Safe House / Shelter for women and children victims of violence in Modrica provided safe accommodation and support for 253 persons, and in 2009 for 158 women and children victims of violence. During 2007, the Safe House for women and children victims of violence in Banja Luka provided support for 48 women and children victims of violence, in 2008 for 70 women and children, and in 2009 for 93 women and children. During 2008, the Safe Houses in FBiH provided accommodation and support for 244 women and children victims of violence, and in 2009 the accommodation and assistance was provided to 317 women and children victims of violence;

69 The Helsinki Committee for Human Rights of BiH publishes annual reports on the State of human rights in BiH, which, *inter alia*, indicate to specific violations of women's human rights and violence against women;

70 For example, in March 2008, Helsinki Citizens' Assembly Banja Luka published a report "Gender Equality and Judicial Practice in BiH" (<http://www.hcabl.org/images/stories/pdf/Sudska-praksa-e.pdf>) which indicates to the lack of application of Gender Equality Law in BiH, and analyzes the cases of violence against women in BiH under this law;

71 Data by United Women Banja Luka on the work of mobile teams for providing assistance and support for victims of domestic violence in Banja Luka for 2008 and 2009 indicate that over 70% of reported cases of domestic violence involved multiple forms of violence;

72 For example, in an article entitled "Poverty Causes Domestic Violence," published in the daily newspaper "Glas Srpske", on 2 June, 2010, a legal officer of the Center for Social Work from Prijedor was cited as follows: "Only last month, we had four cases in which victims were four women and four children. As the first step we try to give them shelter in our reception centre, where they can stay up to 72 hours. During this time, we try to resolve the case by talking to the abuser. In some cases we return victims to their homes. If she/he does not want that, we place them in the Safe House, where they can stay up to four months", says M.T. adding that the main causes of violence are alcohol and poverty;

which do not receive adequate financial assistance from government entities or local communities for this form of support to women victims of violence⁷³. Women victims of violence that turn to NGOs for assistance are themselves the proof that they are not able to exercise their basic rights and that the state institutions have a passive attitude towards the abusers⁷⁴.

Currently, in BiH there are nine Safe Houses for women and children victims of domestic violence⁷⁵, in which teams of professional staff provide psychological, medical and legal assistance, support in the rehabilitation and resocialization, and support in finding the “exit” (reintegration) strategy. Amendments to the Law on Protection from Domestic Violence in RS (January 2008) introduced the obligation of providing funds for temporary housing and care for victims of domestic violence in the Safe Houses from the entity budget to the extent of 70% of the funds necessary for the work of Safe Houses, and from the budgets of municipalities and cities up to 30% of the resources necessary for the proper functioning of Safe Houses. Placement of women and children victims of domestic violence in the Safe Houses in RS is carried out by the police and Centers for Social Work. Since the introduction of this legal obligation, the Safe Houses in RS have not been receiving regular funding from the entity budget, making it difficult to adequately meet the needs of the beneficiaries. Additional problem is the fact that apart from the city of Banja Luka, other local communities in RS do not plan or allocate funds for the work of the Safe Houses.

The Law on Protection from Domestic Violence of FBiH does not provide for the obligation of funding Safe Houses for women and children victims of violence from the public budget, and they subsist almost entirely on donations from international organizations, one-off donations from the entity budgets, with an almost complete absence of support from local communities⁷⁶. This example speaks in favor of the claim that the RS and FBiH governments do not recognize the obligation to fund the law enforcement and public policies in the actual practice.

Most women victims of domestic violence are forced to stay in marriage, as they are economically dependent on the abuser. In addition, most women victims of violence do not own property and have no access to a joint property acquired in marriage with the abuser, as the property is often registered to his parents or close relatives. Women victims of violence who have minor children have great difficulties to provide financial contribution from the abusers for child support, because the State has neither provided effective mechanisms for payment of these funds nor the adequate protection of rights

73 For example, a project of free legal and psychological assistance for women and children victims of violence “Women and Law” implemented by United Women Banja Luka and Helsinki Citizens’ Assembly Banja Luka, which includes free legal counseling and legal assistance for women victims of violence, and emergency SOS telephone that has been in function since the mid-1997, exclusively with the financial support of Kvinna till Kvinna Foundation from Sweden. The Foundation supports similar projects run by women’s organizations “Buducnost” Modriča, “Center for Legal Assistance to Women” Zenica and other NGOs throughout BiH;

74 In the call to emergency phone of United Women Banja Luka, a woman victim of domestic violence said: “The police came countless times. Six charges were filed against him. Prosecution has never submitted a request to initiate proceedings. I went to seek help to Center for Social Work countless times. The social worker told me: “Why did you choose such men to get married to?” (From the book “Why Didn’t You Choose Somebody Better? United Women, Helsinki Citizens’ Assembly Banja Luka, 2007 - http://www.hcabl.org/images/stories/pdf/zasto_nisi.pdf);

75 Safe Houses / Shelters for women and children victims of violence exist in Sarajevo (Local Democracy Foundation), Banja Luka (United Women), Mostar (Mirjam-Caritas Mostar and Margeruite – Zena BiH Mostar), Prijedor (Foundation for Education and Social Protection of Children), Bihac (Zena sa Une), Modriča (Buducnost), Tuzla (Vive zene), Zenica (Medica);

76 The exception is the Safe House/Shelter for women and children victims of violence in Sarajevo that is run by the Local Democracy Foundation and is co-financed by the Ministry of Social Affairs of Sarajevo Canton;

of women and children to whom the support is denied⁷⁷. Victims of domestic violence are not legally recognized within the categories of beneficiaries of social protection, and the Safe Houses for women and children victims of domestic violence do not have the same status as other institutions of social protection.

In BiH, there are no programmes of economic empowerment of women victims of violence supported by State institutions. After staying in the Safe House (which lasts on average for three months) women victims of violence generally remain unemployed and without housing, and because they have nowhere to go, in most of the cases they return to their violent environment⁷⁸.

INCOMPATIBILITY OF LEGISLATIONS AND LACK OF THEIR APPLICATION IN THE FIELD OF COMBATING VIOLENCE AGAINST WOMEN IN BIH

Although during 2005 both entities adopted specific laws on protection against domestic violence⁷⁹, the provisions of these laws are not harmonized with each other, which causes legal insecurity, unequal treatment of the law, and makes it impossible for women and children victims of violence to seek for appropriate protection. In the FBiH, domestic violence is legally treated as a criminal offense, while RS treats it as both as a criminal offense and minor offence, i.e. misdemeanor.

Both entity laws on protection against domestic violence provide for the imposition of protective measures in the minor offence procedure - removal from the apartment, house or other residential premises, restraining order, prohibition of harassment or stalking victims of violence, the obligation of psychosocial treatment, the treatment of addiction, ensuring the protection of victims of violence, and measures of community service exist in the law of RS.

Available studies suggest a number of problems in applying these laws in practice in both parts of BiH.

In some areas of the FBiH, several cases were identified that classified domestic violence as a misdemeanor, in accordance to cantonal laws on public order and peace, which penalize indecent behavior in public, or abuse or assault of another person in a public place. Police officials confirm that the qualification of domestic violence acts are done in cooperation with public prosecutors, while prosecutors claim that the police make qualification of domestic violence acts without prior agreement. In other parts of the FBiH, domestic violence does not qualify as a misdemeanor, and the police files

77 An officer of the Center for Social Work Banja Luka confirmed in a media statement that in addition to non-payment and irregular payments of child support, there were cases in which parents presented their monthly income lower than it had been, in order to pay a smaller amount for the alimony: "It happens that the person obliged to pay for the alimony presents in agreement with his/her employer to have much lower salary than it is the case, in order to pay less for the alimony. In such situations those who need money the most are the ones that suffer the most...", *Nezavisne novine*, 9 May, 2009;

78 According to the Safe House / Shelter for women and children victims of violence run by the NGO Buducnost Modriča, in the average, less than 4% of beneficiaries of the Safe House had their own property during 2008 and 2009. About 45% of the beneficiaries went back to live with the abuser after they had left Safe House. According to data from the Safe House / Shelter for women and children victims of violence, more than 50% of beneficiaries went back to live with the abuser in the period from 2007 to 2009. The vast majority of the beneficiaries did not have their own property, or any access to joint property acquired in the marriage with the abuser;

79 The Law on Protection from Domestic Violence of FBiH, Official Gazette of FBiH no. 22/05 51/06, and Law on Protection from Domestic Violence of RS, Official Gazette of RS, no. 118/05 and 17/08;

requests to basic courts' magistrate divisions for imposing protective measures against the abuser, without reporting the committed crime to the competent public prosecutor⁸⁰. This practice, in fact, indicates that protective measures are used as a kind of substitute to prosecuting acts of domestic violence in criminal procedure, and a form of sanction against the abuser. The intention of avoiding prosecution of domestic violence is clearly evident from this practice, which represents both violation of laws and international standards. The practice also indicates that the focus of police and courts' actions is not to protect women victims of domestic violence and to assist them to realize their basic human rights.

Studies also indicate that the RS Law on Protection from Domestic Violence is used more for lenient punishment of the abuser, than to ensure real protection of women victims of violence. Judges at basic courts' magistrate divisions often receive requests for initiating legal proceedings on the grounds of domestic violence, without receiving requests for imposition of protective measures. A growing trend in RS has been that the acts of domestic violence are prosecuted by minor offence proceedings, where the fines are sentenced to the abusers in spite of clear indications that in practice such a form of punishment has no effect on the abusers to stop repeating the acts. In addition, fines affect the victim of violence more than the abuser.

Another problem is present in RS, and that is failure to recognize the line between prosecuting acts of domestic violence as a criminal offence and as misdemeanor. Practice shows that the police, public prosecutors and courts consider that domestic violence with severe consequences, such as bodily injury, or repeated acts of violence should be treated as a criminal offence, while milder forms of violence and verbal abuse should be treated as misdemeanor. This demarcation has no support in applicable laws and represents exclusively the views of practitioners⁸¹.

In terms of imposition and application of special protective measures under the laws on protection against domestic violence in practice, studies also suggest that many courts still have not received any requests for the imposition of the measures (FBiH), but only requests for legal proceedings for domestic violence. Many police officers, prosecutors and judges of magistrate divisions have not yet had the opportunity to apply protective measures in practice, while some of them believe that many institutions that should apply these measures will not be able to implement them in practice⁸².

EDUCATION OF PROTECTION INSTITUTIONS ON VIOLENCE AGAINST WOMEN AND PROTECTION MECHANISMS

Education on violence against women and mechanisms to protect has only recently become the focus of governmental institutions dealing with issues of gender equality. Government policies in this field define framework guidelines for providing education

80 OSCE report "Response to Domestic Violence and Coordinated Victims Protection in Federation of BiH and RS - Preliminary Findings on the Implementation of Laws on Protection from Domestic Violence", July 2009. Available at: <http://www.oscebih.org/documents/16324-eng.pdf>;

81 Ibid;

82 Ibid - "In a small town in Federation, a basic court's magistrate department imposed a compulsory measure for psychosocial treatment in connection with three cases of violence that should have been implemented by the Centre for Social Work. The Center was not able to implement the measure because it did not have the capacity to provide professional counseling for the abusers and the staff were not familiar to the rulebook on execution of this measure, whereof they informed the court that imposed the measure." This example from practice suggests the lack of mechanisms within institutions for working with the abusers;

to the institutions with the mandate to provide protection in cases of violence against women and protection mechanisms that are ensured by domestic laws and international regulations, particularly CEDAW. These trainings are conducted periodically by BiH Gender Equality Agency, and RS and FBiH Governments' Gender Centers.

Despite undoubtful value of any form of education on the existing regulations and mechanisms to protect women from violence, it is important to emphasize that these trainings are neither continuous nor mandatory for all professionals dealing with the protection of women against violence. In addition, the problem is the content of the trainings, which is often based only on theoretical lectures and presentations, without the use of practices and very little involvement of activists of the NGO sector, who have extensive experience working with women victims of violence.

This situation also contributes to deepening the gap between formal and effective legal protection of women against violence and reduces the possibility of direct application of domestic regulations and international standards in practice⁸³.

WOMEN WAR VICTIMS

BiH has not adopted a special law that deals with the issue of protecting the rights of women victims of war, nor are there any adequate entity laws in place governing this matter. The FBiH adopted an umbrella entity law⁸⁴, as well as cantonal laws on social protection, protection of civilian war victims and families with children that do not mention women victims of war as a separate category, but in an indirect way, through defining the concept of civilian war victims, suggest that abuse of persons, as the cause of the occurrence of damage to health, as a consequence of which a person falls into the category of civilian war victims⁸⁵. RS adopted the Law on Protection of Civilian Victims of War⁸⁶, which does not recognize women victims of war as a special category of persons who are entitled to protection, but in an indirect way, through defining the concept of civilian victims of war indicates a sexual assault as one of the forms of abuse on the basis of which a person can be considered a civilian victim of war⁸⁷.

83 For example, the Centers for Education of Judges and Prosecutors in RS and FBiH are legally authorized government institutions involved in the planning and implementation of training programs for judges and prosecutors. According to current regulations in this field, all judges and prosecutors are required to attend four training modules annually. However, judges and prosecutors are neither obliged to acquire knowledge from the field of application of national regulations and CEDAW in practice, nor these topics are included in the offer of the Centers every year. Persons who work as trainers to judges and prosecutors in BiH on CEDAW and other international regulations, and domestic laws and policies in the field of preventing and combating violence against women, are by rule judges and prosecutors appointed as educators by the Centers for Education of Judges and Prosecutors in RS and FBiH. These trainers are preparing themselves individually for the courses, and have no access to training sessions on knowledge transferring, facilitation, leadership, running working group discussions or work on case studies skills, as well as other types of training that is important for the preparation and implementation of good-quality trainings in this field;

84 The Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children, Official Gazette of FBiH, no. 36/99, 54/04, 39/06 and 14/09;

85 The Federal Law on Social Protection, Protection of Civilian Victims of War and Families with Children defines the "civil victim of war" as the "person with physical damage of at least 60% due to wounds or injuries (hereinafter referred to as a person with disability) sustained by abuse or detention during a state of war or imminent threat of war ... " (Article 56, paragraph 1);

86 RS Law on Protection of Civilian Victims of War, (Revised text) Official Gazette of RS, no.24/10, March 15, 2010;

87 RS Law on Protection Civilian Victims of War defines the "civil victim of war" as the "person who suffered a damage to the body due to abuse, rape and captivation (prison, concentration camp, internment, forced labor) or refugees' group, by sustaining a wound or injury from the enemy, as well as the person with a physical

In mid-2010, the Ministry of Human Rights and Refugees of BiH with the support of UNFPA initiated the development of BiH Strategy for Providing Aid to Women Victims of Sexual Violence during the War, which, above all, should provide a basis for social, economic and psychological support to women victims of war, and efficient prosecution of perpetrators of violence against women during the war in BiH.

GENDER-BASED VIOLENCE IN ADOLESCENT RELATIONSHIPS

BiH is facing the problem of gender-based violence in adolescent relationships, as indicated by studies of non-governmental organizations in BiH⁸⁸, and cases of brutal violence and killings of women reported by the media in BiH⁸⁹. BiH NGOs are warning that young people in adolescent age do not recognize the dangers of violent relationships and do not know how to deal with these problems and, at the risk of staying in a violent relationship, enter into a marital relationship in which violence culminates.

Studies of NGOs have identified some characteristics that contribute to greater propensity of boys to engage in sexual abuse in a relationship, such as: frequent use of alcohol – a higher percentage of boys stated that the reason for their violence was consummation of alcohol or drugs (3.07% : 0.7%), and almost a third of them considered that the person who abuses another under the influence of alcohol or drugs is not responsible for their behavior (29.11%); followed by agreeing with the stereotypical attitude about gender roles of women; lack of emotional communication with the partner and the lack of negotiation skills in relationships, socializing with a group of friends out of which some of them are in violent relationships; and susceptibility to the effects of media programmes on their sexual behavior⁹⁰.

damage of at least 60%, and person who under these circumstances got killed, died or went missing (Article 2 Paragraph 1);

- 88 The NGO "Vesta" from Tuzla, within the project "The Prevalence of Gender-Based Violence in Adolescent Relationships," conducted a research which included a sample of 1032 students and 30 pedagogists of 32 secondary schools in Tuzla Canton. The results show that both boys and girls evaluated that the important characteristics of relationships were honesty, love, trust and communication. However, differences in responses according to sex showed that sexual relations were far more important for boys (63.8%, compared to girls -20.3%), as well as intimacy, girl wanting to have sex, control and dependence on a partner; while the girls stated closeness, attention, friendship, compromise and talk about feelings as more important in a relationship. In order to examine the current situation regarding the prevalence of certain manifestations of violence in adolescent relationships in secondary schools from the perspective of pedagogists, the questionnaires for pedagogists included questions that directly covered this segment of the problem. Asked about what is the sex of the abuser in most cases of adolescent violence in schools in which they work, the data show a tendency of increased aggressive behavior in both sexes. Two-thirds of pedagogists (20) stated that both boys and girls behaved as violently, 7 of them stated that only boys were violent, and 3 of them stated that the violent ones were the girls;
- 89 In mid-February 2010 in Prijedor, S.M. (aged 29) killed his ex-girlfriend D.G. (aged 18) and himself with a hand grenade. D.G.'s aunt testified that S.M. had threatened for a long period of time to D.G. and her family, because she had broken up with him. (Nezavisne novine, 24 February, 2010);
6 October, 2008, in Tuzla, D.H. (aged 23) killed a girl A.M. (aged 19) and then committed suicide. (Portal Sarajevo-x.com, 6 October, 2008);
22 February, 2007, in Bijeljina, J.B. (aged 25) shot from a gun through the closed doors of the apartment, killed D.K., a secondary school teacher and activist of the Helsinki Committee for Human Rights in RS, and wounded his daughter N.K. (21). D.K. had repeatedly asked for police protection from the assaults of J.B., who had intimidated his daughter, with the intention to force her into relationship;
26 September, 2006, in Omarska, near Prijedor, B.M. (aged 24) shot S.T. (aged 20) from the vicinity of Banja Luka, and caused her life threatening injuries. She refused to renew a relationship with B.M. (Portal - banjalukalive.com, 26 September, 2006);
- 90 The study "Prevalence of Gender Violence in Adolescent Relationships", NGO "Vesta" Tuzla, 2009;

Studies of NGOs in BiH also indicate that adolescent boys and girls are exposed to the strong influence of gender stereotypes, which shape their thinking about the opposite sex, and affect the level of tolerance for gender-based violence in adolescent relationships⁹¹.

Despite the willingness of government institutions to address this problem by developing public policies⁹², there are still no programs in practice that would educate young men and women on gender-based violence, and influence on the prevention of this kind of violence in BiH society in a comprehensive, gender-sensitized and continuous way.

TRAFFICKING IN WOMEN (CEDAW Article 6 and General Recommendations No. 15 and 19)

Since 2000, the NGOs engaged in protecting women's human rights in BiH have been trying to indicate to a problem of human trafficking, especially women in BiH. More than 500 nightclubs in which more than 2000 girls from Eastern Europe were kept in servitude and were sexually exploited had been a good-enough reason to seriously tackle this problem.

Women's NGOs in BiH organized support to women victims of trafficking, led campaigns to raise public awareness about this issue, educated the police and pressured the government to establish institutional mechanisms to prevent trafficking, and to harmonize laws in this field with international standards. These activities are implemented with very modest donor funding and volunteering work of the NGO activists.

During 2001, BiH has established the Office of State Coordinator for the Prevention of Human Trafficking that has developed a very successful collaboration between the institutions working directly on the prevention of trafficking and NGOs dealing with the same problem.

The NGOs that have had much more experience in working with the victims of trafficking than the state institutions also suggested the framework for legal documents that BiH adopted in this field, such as the Rules on Identification and Providing Assistance to Foreign Victims of Trafficking.

The result was that by 2006 night clubs had been closed down, and the foreign victims of trafficking were safely repatriated to their countries. However, BiH has failed to implement an effective procedure for prosecuting criminals who are responsible for organizing human trafficking in BiH. In the last ten years, only three persons (Miladinovic,

91 During 2009, the NGO "Women to Women" from Sarajevo conducted a study titled "Violence in Adolescent Relationships", which surveyed 20 boys and girls aged 16-17 in secondary schools in Sarajevo. The survey results indicate the following: 35% of boys and girls responded "yes", while 45% said "no" to the following statement: "When a couple resolves their conflicts by using physical force, it is their thing and nobody should interfere"; 55% of boys and girls responded "yes" and 30% said "no" to statement: "Jealousy is the way we can show love"; 35% of boys and girls responded "yes" and 55% said "no" to statement: "Women should be careful not to provoke a man", and "When women say NO, they mean YES".

92 Strategic Plan for the Prevention of Domestic Violence in Federation BiH for the period 2009-2010, adopted by the FBiH Government as planned activities includes supplementing the curricula for primary and secondary schools by compulsory inclusion of issues related to non-violent behavior (1.9), development and printing of educational and informational material about non-violent forms of behavior and conflict resolution (5.1), a joint campaign for the area FBiH, and the distribution of educational and promotional materials (5.2);

Ćupina, Kučević) have been prosecuted and convicted, and in only one case (Ćupina), the unlawfully acquired assets were confiscated. The vast majority of criminals managed to remain unpunished or received a suspended sentence. None of the victims have been indemnified.

Trafficking in BiH has not been eradicated; it only changed its mode of action since 2006. The victims are now young girls, BiH citizens, who are sexually exploited in motels, private homes and cottages, or are taken to foreign countries. Criminals often attract victims by using “rape drugs”, and afterwards they blackmail them by threatening to release video recordings made during orgies while the victim was drugged. Criminals also exploit poor economic status of victims, as the very poor girls get attracted by occasional gifts, but there are also cases that criminals give small sums of money to fathers of the victims.

Very often, victims are young Roma woman, sold to other countries to be married, although it is the case of classic trafficking, but the prejudices about the Roma tradition that girls get married young are only used to disguise the real situation. Unfortunately, people who work in institutions for the prevention of human trafficking have a bias against the Roma population, and they do not put much effort in investigation cases of trafficking that involve Roma children.

In 2007, the BiH Ministry of Human Rights and Refugees adopted the Rules on Protection of Victims and Witnesses of the Victims of Trafficking that are BiH citizens⁹³. This act regulates the procedure of identification, assistance and re-socialization of domestic victims of trafficking. Women’s NGOs, members of BiH NGO network “RING” for prevention of trafficking in human beings had many objections to the text of these Rules, arguing that this document does not establish a legal framework for the protection of victims that would be appropriate to the current situation in BiH.

The main objection relates to the fact that protection is provided only to victims who agreed to testify in proceedings against criminals, as well as that Centers for Social Work are responsible for identification and assistance to victims. The Centers have neither human nor material resources for such activities, and no legal mandate to perform them (based on the Law on Social Protection). The result of applying these rules is almost complete absence of identification of victims. Some cases come to the surface because the information reach the media, as is the case “Derventa⁹⁴” from 2007, or the case “Bratunac⁹⁵” from 2010. These cases are clear indicators that the sexual

93 Rulebook on Protection of Victims of Trafficking in Human Beings and its Witnesses, Citizens of Bosnia and Herzegovina, Official Gazette no. 3 / 01;

94 The “Derventa” case: on 18 December, 2007, in Derventa, Special Unit of the RS Ministry of Interior for Combating Trafficking in Women for Purposes of Sexual Exploitation arrested nine people from Derventa and Prnjavor on suspicion of sexual exploitation of three under-aged girls, among whom were local businessmen, two employees of the Centre for Social Work and director of Vocational School. The girls have been placed in the Safe House. After the hearing, all the arrested were released, which caused a revolt of the mothers who organized a protest in front of the high school requiring the prosecution and punishment of those responsible. BiH Prosecutor’s Office have taken this case and all the defendants were allowed to defend we granted provisional release, which enabled them to blackmail and threaten the parents and girls victims of trafficking. In the mid of 2010, the Court issued a first instance verdict, which sentenced M.N., B.N., and C. M. to one year in prison, S.V. to four and a half years in prison, while the D.C. was released. One of the accused, G.J. was not convicted because he had been in prison in Croatia for smuggling drugs. The case against the workers of the Centre for Social Work Derventa and director of the high school has never been processed, even though there were grounds to suspect that they had been aware of the sexual exploitation and trafficking, but they blackmailed and threatened girls to keep quiet;

95 The “Bratunac” case: In early March of 2010, the RS Ministry of Interior arrested 17 people from Bratunac

exploitation 12-16 year-old girls is still a harsh reality in BiH.

The difficulty in the prevention of trafficking is also posed by uncoordinated legal framework that regulates this matter. In 2007, BiH ratified the Council of Europe's Convention on Action against Trafficking in Human Beings, but it was only this year that the Criminal Code was harmonized with this Convention⁹⁶. The criminal laws of the entities and Brcko District have not been harmonized yet. The result of such unharmonized legal framework is that some trafficking cases are being prosecuted as soliciting cases (an offense with milder sanctions), even in cases when the victim was under 18 years old.

RECOMMENDATIONS:

- BiH shall develop a unified database on all forms of violence against women, which would also include a custom-made methodology of data collection, and ensure its implementation in practice by organizing training sessions on this methodology in institutions that provide protection from violence.
- BiH shall provide continuous institutional support for the activities of NGOs in providing assistance and support to women victims of violence, notably through regular planning and allocation of funds from public budgets at the entity, cantonal and municipal levels for Safe Houses for women and children victims of violence, activities to provide free legal and psychosocial assistance to women victims of violence, and SOS telephone for women victims of violence.
- BiH shall ensure that all institutions of protection of women against violence, especially the Centers for Social Work, Police, Public Prosecutors and Judges have continuous access and obligation to attend gender-sensitive education regarding the problem of violence against women, which will include good practices of countries that have developed and implemented effective models of combating violence against women.
- BiH shall ensure that all institutions of protection of women against violence also have an obligation to directly apply domestic laws and international conventions, particularly CEDAW, which is part of the legal system of BiH and has to be directly applied in BiH, have continuous access to education about these mechanisms to protect women of violence and their application in practice.
- BiH shall harmonize entity laws on protection against domestic violence and ensure that domestic violence cases are prosecuted in criminal proceedings and in accordance with international standards, as well as effective implementation of protective measures, so as to provide adequate protection of women victims of violence.
- BiH shall ensure the active participation of women NGOs in the development of BiH

and Srebrenica, on suspicion that they participated in the sexual exploitation of a 17-years-old girl from Bratunac. Among those arrested were high municipal officials, secondary school teachers, policemen, and a catechism instructor, and even a minister from the BiH Council of Ministers was questioned during the investigation. According to data from the investigation, during the period from 2006 until early February of 2010, the grandmother of the under-aged girl in collaboration with another person forced the under-aged M.M to have sex with customers, for which she took money, or asked for favours for her and the other person involved for the case. In May 2010, the Prosecutor's Office took over the investigation into this case from the District Prosecutor's Office Bijeljina. The girl was placed in the Safe House;

96 Amendments to the Criminal Code of BiH, Official Gazette no. 8 / 10;

Strategy for Providing Assistance to Women Victims of Violence during the War, especially the organizations engaged in direct support to women victims of war and the organizations that advocate for the adoption of public policies and laws that will allow full and effective systemic protection of women against violence in public and private sphere.

- BiH shall ensure the creation, integration, implementation and budgeting for gender-sensitive education programmes for boys and girls in primary and secondary schools for the purpose of developing continuous and sustainable approaches to preventing and combating gender-based violence in adolescent relationships, and prevention of domestic violence, with active contribution of NGOs dealing with women's human rights, gender equality and peer violence.

TRAFFICKING IN WOMEN:

- RS, FBiH and Brcko District shall ensure the harmonization of their criminal laws with the Council of Europe's Convention on Action against Trafficking in Human Beings, to facilitate the prosecution of all acts of sex trafficking in BiH and provide a legal framework to protect women victims of trafficking.
- BiH shall ensure the adoption of special legislation to regulate that criminals indicted for the crime of human trafficking at the time of issuance of the indictment are banned to dispose of their property, and upon the final verdict to confiscate assets acquired through criminal acts which should be directed to a fund for indemnifying the victims and support to the organizations dealing with rehabilitation of victims.
- BiH shall improve the mechanisms for education of the institutions of protection from human trafficking, especially the police, public prosecutors and judges, and to ensure that this becomes part of mandatory training and regular training programs carried out by Centers for Training Judges and Prosecutors in RS and FBiH, i.e. training programs for police officers through the cooperation of the Ministries of Interior.
- BiH shall reorganize its judicial authorities so that all prosecutors' offices at the state, entity and cantonal level each appoint one prosecutor who specializes in conducting proceedings of violence against women including trafficking in women.
- Federation of BiH, RS and Brcko District shall ensure that the regulations on social protection include the trafficking victims as a category that has the right to a social protection, as well as make the Centers for Social Work responsible to fully follow guidelines stipulated by the Rulebook on Protection of Victims of Trafficking in Human Beings and its Witnesses, Citizens of Bosnia and Herzegovina.
- BiH shall ensure that the trainings for the institutions that deal with protection from human trafficking include a sensitized approach in working with women and girls victims of trafficking, in order to avoid inflicting further trauma to victims, and ensure efficient and adapted support for the protection of their fundamental human rights.
- BiH shall provide ongoing system of support to the NGOs dealing with the problem of trafficking in women, and ensure that they are involved in the process of identification, assistance and resocialization of the victims of trafficking.

**STATUS AND PROMOTION
OF WOMEN'S HUMAN RIGHTS
OF ROMA WOMEN IN BiH**

Author: Diana Šehić

Concluding Comment of the Committee No. 32

The Committee recommends that the reform process be continued in order to ensure consistency in educational opportunities for both sexes in both entities of BiH, including in rural areas, and for marginalized groups of women and girls, in particular of the Roma minority. It also recommends that the State party encourages diversification of educational and professional choices for women and men.

Concluding Comment of the Committee No. 40

The Committee requests the State party to ensure that all national poverty alleviation programmes developed through the midterm development strategy for poverty reduction and implemented by the relevant ministries fully benefit women, in particular marginalized groups of women, according to their needs and circumstances, and to provide in its next periodic report information on the results of the measures taken.

INTRODUCTION

Data on the number of the Roma minority in BiH are controversial, as there are no official data since the last official census in BiH that was conducted in 1991. In 2007, several leading Roma organizations in BiH worked together, led by the Council of Roma and financial support by the World Vision, as they conducted a significant research on the position of Roma in Bosnia. One of the most important data of this research is the number of Roma minority, which amounted to at least 76,000 Roma for 2007. This is currently the most accurate data on the actual number of the members of this national minority in BiH⁹⁷.

However, all agree that Roma are the largest national minority in BiH and that their position is most vulnerable because they are continuously exposed to violations of civil, political, economic, social and other rights as a result of their position as the second-class citizens and discriminatory constitutional provisions.

Discrimination against Roma in exercising their right to education, employment, realization of health and social care, as well as other rights, contributes to social their exclusion. Extremely low levels of education impedes their access to employment, and insufficient social support, which only covers a limited number of Roma, classifies them into the category of the poorest population groups. The main source of income for the Roma population is the collection of secondary materials, waste recycling, or sale of used textiles in open markets, and, very often, begging. This speaks in favor of the claim that the largest number of Roma is in the state of social need and that they are struggling from the very bottom of human existence.

Dervo Sejdić, the representative of the Roma Information Centre “Kali Sara“ from Sarajevo, said: *“The level of discrimination against Roma in BiH is best seen in numbers. Nearly 99% of Roma are unemployed, more than 60% of the population has no health insurance, and only 28-30% of Roma children are included in the process of education, which is not at all satisfying for our community, and should not be either for any local governmental or educational institution.”*⁹⁸

Living conditions for most Roma settlements in BiH are very poor and inadequate because they lack the necessary infrastructure such as sewers, running water, electricity, street lighting, and the like. Often because of such poor housing conditions, these settlements pose a danger to public health. Roma women and Roma children spend much more time at home, which makes them more exposed to a far greater percentage of serious health risks due to such poor housing conditions.

In July 2008, on the proposal of the Ministry for Human Rights and Refugees, the Council of Ministers adopted the Action Plan to address the problems of Roma in the areas of employment, housing and healthcare. In September 2008, by adopting the Action Plans, BiH has fulfilled the conditions for accession of BiH into the international initiative “Decade of Roma Inclusion 2005-2015”. BiH signed the access declaration for the program “Decade of Roma Inclusion 2005-2015”. The Decade of Roma has 4 priority areas: education, employment, health and housing. In addition to these four priorities, a set of sub-priorities have been also defined, which include fight against discrimination, poverty reduction and gender equality.

⁹⁷ Action Plan of BiH to address the problems of Roma in employment, housing, and healthcare from 2009;

⁹⁸ Dnevni Avaz, 25 August, 2010;

Action Plan for Roma Education was signed in 2004 by the line Ministries of Education in BiH, which was revised in 2010 and adopted by the Council of Ministers in July 2010. However, these documents are lacking essential implementation instruments, as well as monitoring of their implementation in practice. Furthermore, deadlines, specific objectives, and budget for full implementation are also lacking, while there is too many institutions identified as responsible for the implementation, which is in turn used for transferring mutual accountability between them. It is especially worrying that most of these action plans are gender-neutral and do not recognize the problem of double discrimination against Roma women, to which they are exposed both as members of the Roma national minority and as women, as well as their specific needs in order to ensure protection of human rights.

EDUCATION

All laws in BiH regulating the sphere of education and access to education prohibit discrimination on any grounds to all persons in BiH. In addition, primary school is compulsory for all children in BiH, and the parents are legally accountable in case of failure to comply with these legal obligations.

However, a low number of Roma children enroll and complete the primary school⁹⁹. One of the key obstacles for their access to education is certainly a difficult financial and material situation of families who can not buy necessary textbooks and school supplies. Although a number of Municipalities and Centers for Social Work as part of the implementation of Action Plans relating to education allocate certain funds for the purchase of textbooks, this still does not meet the actual needs on the ground. For example, if a family has more children that go to school, it is very often the case that only one child receives free textbooks, while other children are left out.

Another big problem is the transportation of children to school, nutrition in schools, lack of proper clothing for children, and finally the growing trend of conducting tests on children's readiness for school, which poses a huge problem for Roma children mainly because of language barriers and social exclusion. In addition, the obstacle to access the education is the lack of necessary personal documents such as birth certificates, registration of residence, and degrading treatment by other pupils, teachers and parents of non-Roma children.

Discrimination and harassment of Roma children and their parents is widespread, which is visible in the prejudices of teachers, school authorities, and local communities. Although primary education is compulsory by law, this does not happen in practice. A very prominent problem is also that Roma children in vast majority of cases leave school in the period when crossing from class teaching (one teacher is teaching all the subjects) to subject teaching (each subject is thought by a specialized teacher).¹⁰⁰

O.G. from Kiseljak near Tuzla said: "My son was beaten in front of school by non-Roma children, and even their parents joined in. When I went to the headmaster to complain, he did nothing to protect my child. This was not the first time that he was harassed by students, some teachers had done it too, and even the cleaning ladies at

⁹⁹ Action Plan of BiH to address the problems of Roma in the areas of employment, housing and health care in 2009;

¹⁰⁰ FBIH Combined 4th and 5th CEDAW Report (2006-2009)

the school forced him to clean toilets. ¹⁰¹

F.A. from Bukinje near Tuzla says: *“My five children go to school in Bukinje, but they are constantly harassed by other children and some teachers, I turned to the headmaster who promised to investigate but he made no action.”*¹⁰²

When it comes to Roma girls, the situation in practice is totally devastating. The most of Roma girls generally do not attend school, and they are mostly illiterate. In addition, they are limited by the tradition according to which they generally marry very early, have children in the earliest age, and either do not go to school at all or they leave it after several years. More Roma girls compared to boys leave school at some period of their education, and it is a proven fact that the educational status of Roma women is inferior to Roma men.¹⁰³

Uneducated Roma women have no chance to be employed, and without work they have no chance to survive outside of their communities, which makes them completely economically dependent on members of their families, and they are frequently exposed to different forms of violence.

According to preliminary data that had been generated by conducting field surveys in over 20 largest Roma community in BiH, which was implemented by a team of 12 Roma women leaders, representatives of Roma NGOs during 2010¹⁰⁴, under the coordination of the NGO “Rights for All” from Sarajevo, 609 Roma women were interviewed on different fields of life. One of the questions was related to the level of education.

This question was answered by 607 Roma women. Of these, 45.13%, had no education whatsoever, while 31.13% have completed only primary school.

Such a high percentage of Roma women who had not completed even primary school, which is legally obligatory for all children, is unacceptably tolerated by the state institutions that do not implement the law in practice. None of the authorized institutions poses a question why is it that children do not attend school, or what is needed to be done to change this situation. When parents of Roma girls come to school to sign them out for any reason, the authorized persons do not ask any questions or take legal action against them.

All data from the ground indicate that it is urgently necessary to adopt specific policies and measures that focus exclusively on the inclusion of Roma girls in education. Although this problem has been recognized by the competent authorities to some extent, so far nobody has addressed it or initiated any step to improve the situation.

In addition, the problem of Roma women is also the patriarchal tradition within Roma families, which is based on the idea that girls do not need education, because they will marry and take care of family and household, and very often the family keeps them

101 Data from the Roma NGO “Bolja buducnost” from Tuzla;

102 Data from the Roma NGO “Bolja buducnost” from Tuzla;

103 “Socially Excluded in Bosnia Today, and What About Tomorrow?”, published by the Human Rights Office Tuzla, in 2009;

104 “Kali Sara”-Sarajevo, “Romska suza”-Srebrenica, Roma Association of Prnjavor Municipality-Prnjavor, “Veseli brijeg”--Banja Luka, “Bolja buducnost”-Tuzla, “Romano Centro”-Zenica, Centre for Mothers “Utjeha”-Zenica, Centre for Mothers “Palma”-Vitez, Centre for Mothers “Nada”-Kakanj, Ponjir-Kljuc, “Budi mi prijatelj”-Visoko;

home to assist their mothers with housework and to take care of their younger brothers and sisters.

Preliminary data from the above survey that relate to the age in which the Roma women marry shows that out of 527 Romani women interviewed 44.21% were married before they turned 18, and most frequently they marry between the age of 14 and 16.

According to the Roma NGO “Bolja buducnost” from Tuzla, although BiH Action Plan for Education is in place, which aims at the inclusion of Roma children in education system, it has been only partially implemented. Specifically, when parents enroll their children to school expecting to get free textbooks and meals, it does not happen and the parents are forced to sign their children out from school, because they themselves are not able to bear these costs. If, however, the family should decide which child will continue their education then it is usually a boy.

EMPLOYMENT

Low educational status of Roma women is directly related to their unemployment. Without completed school, they have no chance to find work at all, and to provide the necessary independence and resources to survive. All data indicate that the highest number of the unemployed registered at the Employment Institutes in BiH is the unqualified labour force, and that they wait the longest for or are at least able to find employment. Due to such data, it can be concluded that the Roma women, which in the highest percentage belong to this group, have almost no chance of employment, as in their search for work they are exposed to double discrimination.

O.R. from Tuzla: “I was looking for work, even just to clean the halls of buildings, but they even rejected me there because I had not elementary school education.”¹⁰⁵

Roma women have a very difficult access to employment also because of the ubiquitous direct discrimination by employers.

G.M. from the vicinity of Zenica: “Oh, I stopped to look for work because whenever I came as soon as they saw me they immediately told me that there was no work for me.”¹⁰⁵

Previously mentioned survey conducted by the NGO “Rights for All” also included the investigation of the status of employment of Roma women in BiH. On the question of whether they work or not, a total of 595 Roma women responded. Of these, 81.18%, were unemployed, 9.08% said they were working in the informal sector, and 7% of them indicated that they begged and thus “earned” for survival.

The Council of Ministers has allocated a total of € 351,000 for the Action Plan for Employment of Roma in the year 2009, specifically for the employment and self-employment as follows:

- FBiH - € 220,000
- RS - € 110,000, and
- Brcko District - € 21,000

¹⁰⁵ Data from the Roma NGO “Bolja buducnost” Tuzla;

According to data collected from the FBiH Employment Institute, a total of 59 Roma was employed by the programme of co-financing self-employment in 2009. However, these data have not been sorted by gender, which makes it impossible to see if there are any Roma women employed within this programme. Furthermore, 39 Roma was employed by the co-financing programme by employers, but again data was not sorted by gender.

In RS, 12 Roma have been employed within the programme of getting employed by an employer, out of which three are Roma women. Within the programme of self-employment, a total of 5 Roma are employed, of which one is a Roma woman.

Distrikt Brcko has not implemented any of these employment-generation programmes. The Council of Ministers allocated the total budget of € 350,000 for the Action Plan for Employment of Roma in 2010, as follows:

- Federation € 220,000
- RS - € 110,000
- BD - € 20,000

These funds are earmarked for the same employment and self-employment programme as it was made for 2009.

For example, the co-financing self-employment programme of Roma for the period of 24 months includes the amount of BAM 12,000. However, all contributions and taxes and employee wages must be paid for that period, which makes that amount insufficient for starting a business, and at the same time, it is not profitable for any employer to employ anyone under this programme.

This is especially important to note because the Roma women who are not employed in the formal sector, in fact, do not generate a secure income, as well as entitlements based on disability and health insurance. This greatly affects their construction of a sense of personal worth and economic independence to be able to make independent decisions on how to run their lives. The economic dependency and inability to survive outside the family are the true reasons why Roma women are forced to suffer various forms of violence for most of their lives.

There are no national statistics on the number of employed Roma women, nor there are analyses conducted of the situation in this area focused on the Roma women. This proves that, in this crucial concern, the government has ignored the alarmingly endangered status of Roma women.

VIOLENCE AGAINST ROMA WOMEN

BiH has adopted several important laws and policies to ensure gender equality and prohibit violence against women and domestic violence.¹⁰⁶ The State has established mechanisms for the promotion and protection of gender equality in BiH and its entities. However, there are numerous problems in the application of these laws and policies, and in the work of established mechanisms.

¹⁰⁶ Gender Equality Law in BiH, and laws prohibiting domestic violence in both BiH entities;

BiH Government adopted the Gender Action Plan in 2006, but this document does not address the specific situation and needs of Roma women who mainly live in closed Roma communities.

Draft National Strategy for Preventing and Combating Domestic Violence in BiH also does not recognize or address the vulnerability of Roma women and their exposure to double discrimination. The State has failed to include Roma and Roma NGOs in establishing policies and legislation to combat violence, which further contributes to the marginalization of Roma in BiH society, thus enabling the continuation of the various forms of violence against Roma women.

Roma women in BiH are currently the most vulnerable population group, which is continuously faced with double discrimination in the exercise of their human rights in access to education, health care, housing, employment, etc.

The State has no reliable statistics or research on the problem of violence against women and domestic violence. Also, there are no comprehensive studies or specific statistics on violence or domestic violence against Roma women. However, a study was conducted in 2003 in the area of Zenica that showed that a significantly larger number of Roma women was exposed to domestic violence in relation to non-Roma women. According to this study, 33% of Roma women reported they were abused by their partners continuously and for long period of time, compared to 24% non-Roma women. The study showed proofs of multiple discrimination against Roma women on the basis of their social status, sex and gender, race, etc., as well as the existence of multiple forms of violence against Roma women because they are women, members of minority groups, and because they are marginalized by the State institutions.¹⁰⁷

Roma women are particularly vulnerable because of the widespread belief that violence against women is part of the Roma culture, which also influences the state institutions to ignore this issue and fail to provide appropriate assistance and support for Roma women - survivors of violence.

According to data from the NGO "Bolja buducnost" from Tuzla, Roma women are particularly vulnerable because of widespread prejudice in accordance to which violence against women is part of Roma tradition, thus causing the institutions responsible for implementation of laws prohibiting violence to fail in enforcing the law consistently. The State has failed to build an environment in which the Roma women victims of violence can turn to relevant institutions for help and to provide support to victims of violence, so that they are able to report violence and get the appropriate assistance.

Roma women usually live in rather closed communities and are unable to leave them when they want. In addition, Roma women rarely report cases of violence due to illiteracy, lack of information about where and how they can seek protection and assistance, but also because of children and financial dependence on the husband. When violence happens, they simply neither expect nor receive support or assistance from family, community or the competent institutions.

X.Y.: "I have been enduring violence by my husband and father-in-law for years. After 10 years I've managed to escape, the parents did not want to take me because I'm married and they told me to go back to my husband because they no longer have

¹⁰⁷ Jennifer Erickson, University of Oregon, "Reflections on fieldwork with Romani women: race, class and feminism in BiH", 2003;

*anything to do with me. .. they say that I am his to the end of my life ... and it would be a disgrace if I stay with them ...*¹⁰⁸

Roma women rarely seek medical help because of violence that they suffered, as they are not insured, have no identity cards, but also because of feelings of shame and fear that violence will again be repeated, because the violence is happening in most cases by the husband or his family members mainly for a continuously long period of time.

J.S. from the vicinity of Tuzla: *"I suffer violence from my son-in-law as my daughter left him because of violence he did against her. Now, he's always coming to my house and beats me and her. When we call the police they told him to go away, or they come and take him away, but he comes back and continues as usual."*¹⁰⁹

X.Y. from Sarajevo: *"I have been suffering violence from my husband for years, he slaps me, throws me on things, and all that in front of the kids, and I have to have intercourse with him whenever he wants."*¹¹⁰

Neglecting of this problem by government officials is reflected primarily in the absence of appropriate specific measures to combat violence against Roma women, as well as to work on this issue in Roma communities. Furthermore, the lack of appropriate response by those who are responsible for law enforcement, capitulation before the pressure of family and community, and, finally, widespread public prejudices towards Roma women by which poverty, illiteracy, and the like is the "lifestyle" of Roma people, pose an additional burden for the fight against violence of Roma women in BiH.

The organization "Rights for All" from Sarajevo points out that according to preliminary data from the conducted survey, a total of 609 Roma women answered on the direct question whether they have ever suffered or still suffer some kind of physical violence. Of these, 43.19% responded affirmatively. A total of 606 women answered to the question whether they personally know a woman who has suffered or is suffering physical violence. Of these, even 76% of them responded that they knew, and it was most often a mother, sister, cousin or friend. Also, there is a disturbingly high number of women - 46.52% that stated they personally knew a woman or they themselves suffered some kind of sexual violence. The most common was the rape in marriage, or coercion to sex in a way that they do not want or consent to.

Such a high percentage of women who stated they have suffered violence or that they personally know a woman who suffered some kind of violence goes in favor of the conclusion that violence against Roma women is widespread, and that there is a legitimate fear that this percentage is considerably higher. Namely, it is very difficult for a victim of domestic violence to publicly admit and speak about it. We have to have in mind that women victims of violence in many cases perceive violence as their personal disgrace or dishonor to the family, and think that they can hide it from others by denying it in public.

This can also be concluded from the observations of the interviewers who conducted the research in the field. Namely, in most cases when Roma women answered negatively to the question whether they were victims of domestic violence, later on, upon

¹⁰⁸ Data from Roma organization "Kali Sara" Sarajevo;

¹⁰⁹ Data from Roma organization "Bolja buducnost" from Tuzla;

¹¹⁰ Ibid;

completion of the survey they would say that they actually were victims of violence, but because of fear and shame they did not want to say it publicly, though they were guaranteed anonymity during the interview.

Also, such a large number of women who have suffered some kind of violence or is still suffering, or personally know a woman victim of violence indicates that violence against Roma women is widespread, systemic, and that usually happens within the family or the Roma community. In most cases Roma women reported their husbands as the abusers or another member of his family.

Many of the Roma women who have suffered violence did not call the police to report violence made against them.

The interviewees stated the following as basic reasons for not reporting to the police:

“They just come, talk for a little bit with the abuser and leave, and then I get battered again.”

“I know from before that they would not come.”

“Even when they come they just say – let them be – it’s Gypsy business.”

“Why should I call them, it is a disgrace that other people find out about that.”

There is a lack of trust in the institutions of the system to timely and adequately act to protect the rights of Roma women in case they report violence, and that is the reason why violence repeats, continually spins in circles, and transmits through generations. Mistrust is based on the experiences of Roma women who had been reporting violence, and did not receive adequate support and protection by neither the institutions of the system nor the family. Feelings of shame and fear dominate among Roma women when it comes to reporting incidents of violence due to deep-rooted feeling that women are solely to be blamed and responsible for the violence that happens to them.

The situation is no better when it comes to relevant treatment by Centers for Social Work. Many Roma women are not even aware that these institutions exist, and those who know say that when they came for help they did not receive adequate support and did not want to go over there any more.

N.N. from Tuzla: *“I went to the Centre for Social Work to ask for their help because I suffered violence by my husband, and an officer there said: ‘So, what do you want, we all suffer, and your mother had suffered, so you have to suffer too’, so I do not go there anymore.”*¹¹¹

XY from Zenica: *“The police does not do much when they know the abuser, and the staff of the Centre also do not do much when they know what type of person is the abuser, they are themselves afraid.”*¹¹²

From all of the above-mentioned it can be clearly concluded that violence against Roma

111 Data from Roma NGO “Bolja buducnost” Tuzla;

112 Data from Roma NGO “Bolja buducnost” Tuzla;

women has become even worse, because there is no cooperation with the institutions responsible for combating violence and providing protection to victims of violence. Roma women victims of violence have no confidence in the police, the Centre for Social Work, and therefore, rarely opt to report violence when it happens to them. They are virtually on their own and destined to life in isolation.

It is of crucial importance that all relevant institutions get immediately and actively involved in determining the status of human rights of Roma women, primarily in the field of domestic violence, education, and employment. Only after the analysis on the ground is conducted, it will be necessary to start adopting urgent measures and specific programs to protect the human rights of Roma women and to facilitate then in a life without violence, and to improve their position within the Roma communities and society as a whole.

ROMA WOMEN IN POLITICAL AND PUBLIC LIFE

All the challenges and obstacles that stand in the way to women just because they are women when they want to become actively involved in political life are mentioned in the part that refers to political and public life of women in BiH. Roma women are in even more difficult situation since they are exposed to additional discrimination because they are Roma. When one takes into account their low level of education and employment and rigid traditional patriarchal way of life in Roma communities, then it is not difficult to conclude that Roma women have almost no chance to get actively involved in public life.

Therefore, it should not be surprising to know that in 31 municipalities in BiH out of 33 elected council members of national minorities, only 2 of them are Roma women.

Unfortunately, even various government bodies dealing with issues of protecting the rights of Roma have no women employed, as they are dominated exclusively by men. Extremely small number of Roma women organizations in BiH is also an indicator of a very difficult position of Roma women. Even when Roma women are involved in the work of NGOs, those are organizations managed by men, and Roma women mostly deal with issues of care for mothers with children.

While in the last ten years, women organizations in BiH have developed as the strongest ones in the civilian sector, this has not happened within the Roma sector. There are only a few so-called Roma women organizations in BiH. However, we can say that lately there is increased interest and involvement of Roma women activists to work in the NGO sector. This is primarily a result of support from international organizations and funds from international donors who have recognized the problem of human rights violations of Roma women and enable the implementation of various programs that include education of Roma women and activism in Roma communities. Also, although still not strong enough, the cooperation has been established between Roma women's organizations and Roma women leaders with women NGOs, which will greatly contribute to further strengthening of Roma women sector in BiH.

RECOMMENDATIONS:

- The State shall urgently adopt specific programmes and specific measures supported by the necessary financial resources to ensure Roma women the access to

education process at all levels, including special programmes for adult education focused on the Roma women.

- The State shall ensure that the national programmes, action plans and other policies that treat the improvement of Roma position, violence against women and gender equality incorporate specific measures to respect the status and needs of Roma women, with an aim to protect the human rights of Roma women.
- In principle, the State shall establish and provide financial support for specific educational programmes for Roma women on human rights, especially on women human rights including the right to live without violence, and these trainings should be conducted in Roma communities in collaboration with Roma NGOs.
- The State must ensure that records and statistics on reported cases of violence against Roma women are kept, as well as other important statistics necessary to determine their position in the society and community.
- The State in particular shall provide specific and comprehensive training programmes for the police, officers of the Centers for Social Work, healthcare institutions, and organs of the judiciary with the aim to ensure the adequate training and sensitizing for the law enforcement and protection of human rights of Roma women. It is necessary to connect all actors in the process of protection against domestic violence, and in particular to establish a coordinated action of institutions to adequately deal with the problem of violence in the Roma families and communities.
- It is necessary to establish and ensure implementation of specific training programs for the police with the aim to sensitize and prepare them to work in Roma communities in cases of violence against Roma women.
- The State shall establish and ensure implementation of specific measures that will protect the Roma girls from early and forced marriages, as well as found the counseling centers within relevant institutions and NGOs for young Roma women that will include, *inter alia*, the prevention of juvenile marriages.

FINAL RECOMMENDATIONS

Author: Aleksandra Petrić

In order that the governmental institutions of BiH become more responsible in the implementation of commitments undertaken by the State of BiH by signing and adopting the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the organizations 'Rights for All' and Helsinki Citizens' Assembly, together with women's NGOs that have participated in the preparation of this Alternative Report, propose to the CEDAW Committee to make the following recommendations to the BiH Government:

GENERAL RECOMMENDATION

Women shall be actively involved in adoption process of all laws and developing policies, with the purpose that these documents truly reflect the needs of women, and ensure equal opportunities and rights for women. The State shall develop and adopt policies that will include clearly stated objectives, measures and specific actions with deadlines and clearly identified accountability of state institutions for their enforcement, as well as precisely allocated budget funds and clearly identified sources for financing these activities.

ECONOMIC POSITION OF WOMEN

BiH shall take appropriate legislative and other measures to ensure that women have equal access to the use of economic rights, including the right to employment and protection in regards to work and labor relations under the same conditions and without discrimination, the right to adequate remuneration, right to retraining, additional training, additional education, and access to and use of loans and information.

These measures shall, among other things, include the establishment and continuous funding of widely available programs for women's employment, with particular focus on middle-aged women who are unemployed for a long time, Roma women, women victims of domestic violence, and women victims of trafficking; measures for reducing and putting appropriate value to women's unpaid work; measures for stimulating and subsidizing support programs for women entrepreneurs; strengthening the role and capacities of the labor inspection, and introduction of adequate sanctions for employers in order to combat violations of women's rights in regards to work and labor relations; establishment of special courts and departments in the area of violations of labor rights and working relations; the establishment and continuous funding of easily accessible legal aid services within the governmental and non-governmental sectors; improvement and standardization of the status and compensations for working women on maternity leave and self-employed women; regular collecting and publishing statistical data in all areas pertaining to economic and social women's rights; as well as undertaking other affirmative action measures aimed at promoting and ensuring a true equality between women and men in the field of economic life and development.

WOMEN IN PUBLIC AND POLITICAL LIFE

BiH shall take appropriate legislative and other measures to ensure that political parties, state companies, governmental institutions, as well as organizations and bodies of governance and decision-making at all levels, create strategies and actions to achieve gender equality, with the active participation of women and promotion of

women's rights for equal participation in political and public life and decision making.

These measures shall, among other things, include: harmonization of the BiH Election Law with the Law on Gender Equality of BiH; encouraging greater participation of women at the appointed positions within the executive and judiciary authorities, and diplomacy, as well as participation of women in negotiations and other reform processes of importance for the future of BiH; ensuring women's access to leadership positions and their influence in the processes of creating strategies of political parties, public companies and public administration; measures aimed at equal participation of women candidates in election campaigns; political measures to support education and skills development for women in political parties; introduction of budget lines within ministries and local authorities to implement the Gender Action Plan of BiH; implementation of continuous and systematic training and sensitization for gender equality and women's human rights of the representatives of all levels, with the emphasis placed on officials at all levels; as well as undertaking other measures of affirmative action aimed at promoting and ensuring a true equality between women and men in public and political life in BiH.

VIOLENCE AGAINST WOMEN

BiH shall take appropriate legislative and other measures to ensure that women victims of gender-based violence, including domestic violence, have access to and receive protection from violence.

These measures shall, among other things, include the harmonization of the entity laws on protection against domestic violence in BiH, ensuring that domestic violence cases are prosecuted in criminal proceedings, in accordance with international standards, and effective implementation of protective measures; creating and managing a single database of all forms of violence against women at the state level; ongoing institutional support to nongovernmental organizations in providing assistance and support to women victims of violence, especially through regular planning and allocation of funds from public budgets at all levels to operate Save Houses for women victims of violence and provide free legal and psychosocial aid; ensure that all institutions responsible for protection of women against violence, specifically the centers for social work, police, public prosecutors and judges have a continuous access and the obligation to attend gender-sensitive education on the problem of violence against women and mechanisms to protect women from violence included in domestic laws and CEDAW; ensuring active participation of women's NGOs in the development of BiH strategy for helping women victims of violence during the war; development, integration, implementation and budgeting of gender-sensitive education for boys and girls in primary and secondary schools, with the aim to create a continuous and sustainable approach to prevention and combating gender-based violence in adolescent relationships, and domestic violence prevention; as well as undertake other measures of positive action aimed at preventing and combating violence against women.

TRAFFICKING IN WOMEN, AS A SPECIAL FORM OF VIOLENCE AGAINST WOMEN

BiH shall take appropriate legislative and other measures to ensure that women victims of trafficking have adequate assistance and protection.

These measures shall, among other things, include the harmonization of criminal codes of the entities and Brcko District with the European Council Convention on Action against Trafficking in Human Beings; recognition of victims of trafficking as a category that is entitled to social benefits in accordance to the law on social protection; adopting a special law that would restrict access to assets to the criminals charged with the crime of human trafficking, and to seize their assets acquired through criminal acts upon the binding judgment, which would be directed to a fund for indemnification of victims and support for organizations dealing with rehabilitation of victims; improving education and sensitization of institutions that deal with protection from trafficking, especially the police, public prosecutors and judges, and ensuring that this training becomes a part of the compulsory and regular training programs; ensuring that the prosecutor's offices at all levels appoint one prosecutor who would specialize in processing the cases related to violence against women including trafficking of women; supporting NGOs dealing with the problem of trafficking of women and their participation in the procedures of identification, support and resocialization of victims of trafficking; as well as undertaking other measures of affirmative action aimed at preventing and combating trafficking in BiH.

STATUS AND PROMOTION OF WOMEN'S HUMAN RIGHTS OF ROMA WOMEN IN BIH

BiH shall take appropriate legislative and other measures to ensure access, and full realization and protection of women human rights of Roma women, including the right to education, employment, health and social protection, and protection from gender-based violence.

These measures shall, among other things, involve the incorporation of specific measures of affirmative action that shall include the status and needs of Roma women in all state strategies, public policies, and action plans that are used for improving the status of Roma, as well as issues of gender equality and respect of women's human rights; introduction and continuous funding of widely available education programmes for Roma women, with a focus on facilitating access to special programmes of adult education sensitized to the needs of Roma women; financial support of and cooperation with Roma NGOs in the implementation of education programmes on women's human rights for Roma women, with a focus on the right to live free of violence; keeping statistics on cases of violence against Romani women, as well as other data necessary for creating programmes to improve the position of Roma women in the society and community; special education programmes for the police, officers of centers for social work, health and judicial institutions on the law enforcement and protection of human rights of Roma women, in particular protection from violence; develop and ensure implementation of special programmes designed to protect the Roma girls from forced marriages; as well as undertake other measures of positive action aimed at promoting and ensuring a true equality and respect for human rights of Roma women in BiH.

**ANNEX TO THE
3rd ALTERNATIVE REPORT ON
IMPLEMENTATION OF CEDAW
AND WOMEN'S HUMAN RIGHTS
IN BOSNIA AND HERZEGOVINA**

JULY 2013

INTRODUCTION

Author: Aleksandra Petrić

The Annex to the Third Shadow Report¹ is a result of joint efforts invested by the group of experienced female and male activists of non-governmental organizations in Bosnia and Herzegovina² with a long experience in working with women whose rights are either threatened or directly violated as well as in advocacy of the adoption of gender sensitive and gender responsive legislation and policies in the field of women's human rights and gender equality.

This Annex aims to direct attention to changes that happened in key areas addressed by the Third Shadow Report that took place after 2010 as well as the new data and analysis that were not included in the Third Shadow Report, referring to the state of protection and enforcement of rights of especially and multiply marginalized categories of women in Bosnia and Herzegovina, in a following order:

1. Women with disabilities,
2. Women in rural areas,
3. Lesbian, bisexual and transgender/transsexual women (hereinafter LBT women).

The data and analysis presented in this Annex are indicating the consequences of a long-term and continuing political and economic crisis in Bosnia and Herzegovina and their direct impact to the state of protection of fundamental women's human rights as well as the potential of women to equally enjoy their rights both in terms of formal and legal protection and in terms of access to and the enforcement of fundamental rights in everyday life and in need.

Relevant alternative data and researches made by non-governmental organizations in Bosnia and Herzegovina illustrate the specific forms of discrimination and violations of women's human rights at all levels – from local communities to the state level in Bosnia and Herzegovina – this provides an opportunity for organizations which participated in drafting of the Third Shadow Report and its Annex to further substantiate the need of adoption of the key recommendations of the CEDAW Committee in those fields where the state of Bosnia and Herzegovina failed to or did not act adequately to protect the women's human rights.

1 Non-governmental organizations working in the area of promotion and protection of women's human rights in Bosnia and Herzegovina, up so far have prepared three shadow reports. The first report on the state of women's human rights in Bosnia and Herzegovina was prepared in 1999 in cooperation between the *Global Rights* organization and the women's NGOs in BiH. The second report was prepared in 2004 in cooperation between *Global Rights* and the coalition of 16 NGOs in BiH, and the third report was made in 2010 with support and in coordination of organizations *Prava za sve (Rights for All)* from Sarajevo and *Helsinki parlament gradjana (Helsinki Parliament of Citizens)* and with contributions from *CURE Foundation* from Sarajevo, *Udružene zene (United Women)* from Banja Luka, *Buducnost (Future)* from Modrica, *Lara* from Bijeljina, *Forum zena (Women's Forum)* from Bratunac and *Zene zenama (Women to Women)* from Sarajevo.

2 *Rights for All* from Sarajevo, *Lara* from Bijeljina, *Medica* from Zenica, *United Women* from Banja Luka, *Sarajevo Open Center* from Sarajevo, *Future* from Modrica, *Collective – Initiative for experiential learning of the Lotos Association* from Zenica, and *CURE Foundation* from Sarajevo and *Women to Women* Sarajevo as the advisory organization.

ECONOMIC STATUS OF WOMEN

Author: Fedra Idžaković

WOMEN AND LABOUR MARKET

No significant changes occurred in this field in the 2011-2013 reporting period. Bosnia and Herzegovina still has neither detailed, official statistics nor the specific research regarding the status of women at the labour market and in economy. The women are still facing inequality in terms of access to labour market and the level of their participation in labour force is still low. According to data from the Labour Force Survey, the employment level slightly increased, and dropped again in 2011 and 2012. However, the participation of women at the labour market (of 41.2%) and the level of their employment (of 28.7%) remain extremely low.³

A concerning percentage of women (of about 60%) are inactive at the labour market. These are the women who, for different reasons do not seek or cannot find a job.⁴ What is also worrying is the high percentage of women (some 70%) who are unpaid assisting family members (unpaid family workers), i.e. women working in family establishments or at farms (for more details, see Table 1). In the past period, the state adopted measures aiming to provide for gender equality in employment policies.⁵ Other relevant strategic documents also recognized and planned measures to reduce the discrimination of women in this field.⁶ Unfortunately, these policies have not led to a more significant change in this regard. The implementation practice for incentive programs for the employment or self-employment of vulnerable population categories shows that women are not informed on programmes and pre-requisites they need to meet in order to obtain these funds, i.e. that they lack skills needed to apply for and get these incentives.

PARENTAL LEAVE

The labour related discrimination with regard to maternity rights is still widespread.⁷ The legal framework in Republika Srpska is partially satisfactory, but the existing legal solution indirectly discriminates women when it comes to employment since the employer is obliged to pay the part of the maternity pay.⁸ The budget lacks funds

3 BiH Statistics Agency, Labour Force Survey in BiH 2011, conducted in line with the ILO methodology, available at: http://www.bhas.ba/tematskibilteni/LFS_2011_001_01_bh.pdf

4 Due to lack of data, NGOs assume that this category consists of women who lost their jobs during the privatisation process or for other reasons; they are older than 40 and represent a group of persons that face extreme difficulties in terms of finding a job. This category also includes women from vulnerable groups: women with disabilities, Roma women, victims of violence, etc. Due to lack of qualifications, job skills, long absence from the labour market, it is almost impossible for these women to find jobs.

5 Employment Strategy in Bosnia and Herzegovina 2010-2014, Employment Strategy of the Federation of BiH 2009-2013 and the Employment Strategy of Republika Srpska 2010-2015

6 *Development Strategy of BiH*, available at: http://www.dep.gov.ba/razvojni_dokumenti/razvojna_strategija/Archive.aspx?template_id=71&pageIndex=1, and the *Strategy of Social Inclusion*, available at: http://www.dep.gov.ba/razvojni_dokumenti/socijalne_ukljucenosti/Archive.aspx?template_id=71&pageIndex=1.

These documents highlight the need for specific incentives intended for women and for development of small and medium size enterprises and the need to improve the flexibility and improve the functioning of the labour market along with the policies aiming to align personal (private) and professional life, provision of equality between men and women at the labour market and the prevention of discrimination in employment and in terms of working conditions.

7 Bosnia and Herzegovina 2012 Progress Report Accompanying the document Communication from the Commission to the European Parliament and the Council Enlargement Strategy and main Challenges 2012-2013, {com(2012) 600 fin}

8 "For the first month in full and for the rest of the period in part referring to contributions and taxes" – Udruzene zene, Analysis of Implementation of Priorities Defined within the Programme Platform of Cooperation of Women

needed to pay the maternity pays. In the Federation of Bosnia and Herzegovina, the maternity leave and the maternity pay are being enforced within the social protection scheme, even for employed women. This is one of the possible reasons why the maternity pays that are paid are low and discouraging. When, in the period of crisis, the state reduces pricey security transfers, the first on target are the budgets intended for women and marginalized groups. There are still huge differences between the amount, requirements and procedures related to the enforcement of the right to maternity leave and the maternity pay for employed and unemployed mothers in certain administrative units (cantons). The maternity pay is, in majority of cases lower than the wage earned during work.⁹ Maternity allowance for unemployed mothers during pregnancy and childbirth varies between 10% and 20% of the average net salary or is being paid as one-off assistance¹⁰ or even not being paid at all. The Federation of Bosnia and Herzegovina is preparing a new Law on Protection of Families with Children that should equalize maternity pays throughout this Entity. The Draft of this document that is currently available stipulates the payment of 60% of the average wage in the Federation of BiH, while the rest – up to the full amount of wage – is to be paid by employer. We would like to point out that such a solution should be carefully considered in order to prevent it from being a cause of new obstacles for women at the labour market.

Elected to Legislature in Bosnia and Herzegovina and the Women Active in NGOs for a Period 2010 – 2014 – “For the first month in full and for the rest of the period in part referring to contributions and taxes“

9 OSCE, The Right to Social Protection in Bosnia and Herzegovina – Concerns on Adequacy and Equality (Sarajevo, 2012): From 60% to 90% of the net wage (Sarajevo Canton 60%), Zenica-Doboj 80%, Tuzla 90%

10 OSCE, The Right to Social Protection in Bosnia and Herzegovina – Concerns on Adequacy and Equality (Sarajevo, 2012): In Zenica-Doboj Canton this refers to a one-off assistance (transfer) in an amount of BAM 150, and in Central Bosnia Canton it consists of 35% of the wage.

Table 1: Comparative statistics according to LFS methodology for 2007, 2008, 2009, 2010, 2011 and 2012¹¹ (+000)

	LFS 2007	LFS 2008	LFS 2009	LFS 2010	LFS 2011	LFS 2012
Population number estimates ¹ (women)	3,315 1,703 (51.4%)	3,211 1,645 (51.2%)	3,129 1,605 (51.3%)	3,842	3,057 1,559 (51%)	
Working age population capable of working (women)	2,725 1,408 (51.7%)	2,649 1,371 (51.7%)	2,594 1,342 (51.7%)	2,596 1,336 (51.5%)	2,561 1,317 (51.4%)	
Employed persons (women)	850 292 (34.4%)	890 317 (35.6%)	859 318 (37.1%)	842 311 (36.9%)	816 303 (37.1%)	814 300 (36.85%)
Unemployed persons (women)	347 144 (41.4%)	272 116 (42.6%)	272 109 (40.3%)	315 132 (42.1%)	311 129 (41.6%)	317 133 (41.95%)
Inactive persons (women)	1,529 972 (63.6%)	1,486 938 (63.1%)	1,462 913 (62.5%)	1,438 892 (62.1%)	1,434 885 (61.7%)	1,436 896 (62.39%)
Unpaid assisting family members (family workers) (women)	37 26 (69.3%)	48 33 (68.9%)	58 41 (70.9%)	47 34 (72.9%)	43 31 (72.9%)	

11 Source: BiH Statistics Agency, available at: <http://www.bhas.ba/new/default.asp?Pripadnost=1&mode=dark>

Table 2: Overview of maternity pays/allowances in the Federation of BiH, as of June 30, 2011, 1BAM=1.955EUR

Canton (administrative unit)	Maternity pay for employed persons			Maternity allowance for unemployed persons	
	Number of users	The lowest level in BAM	The highest level in BAM	Number of users	Annual monthly amount in BAM
Una-Sana	340	343.00	1,105.00	556	100.00
Posavina	-	-	-	81	150.00
Tuzla	1,281	418.00	2,150.00	-	-
Zenica-Doboj	937	200.00	670.90	526	150.00
Podrinje	63	359.00	1,136.00	135	78.50
Central Bosnia	479	437,00	-	30	175.00
Herzegovina- Neretva	-	-	-	-	-
West Herzegovina	159	225.92	1,717.40	272	80.00
Sarajevo	1,879	360.00	-	1,937	114.00
Canton 10	93	312.00	805.66	-	100.00

Source: Federal Ministry of Labour and Social Policy¹²

MAINTENANCE

Maintenance issues are arranged within family laws of both entities. Married and unmarried¹³ partners who cannot maintain their self or cannot obtain profits from their property, thus they are disabled to work or cannot be employed, have the right on maintenance from their partner in order to their possibilities. The court will decide about maintenance based on a request from one of the partners, taking into account „his/hers financial status, ability to work, health condition and other circumstances his or hers needs are depended on.“¹⁴ Missing to pay for the maintenance based on the executive court decision or executive order is a criminal act in both entities' criminal codes.¹⁵ The practice of non-governmental organizations shows that most of the women are facing the problem of maintenance payment, even with the avoidance of reporting the actual amount of income by a former spouse in order to avoid payment. NGOs are not familiar with any cases of prosecution of the offence to avoid maintenance payment.

12 From: Fondacija Centar za javno pravo (Public Law Center Foundation): The System of Social Protection in BiH and in the Region (Sistem socijalne zastite BiH i regija), group of authors, (Sarajevo, 2012)

13 Vanbračna zajednica je definisana kao zajednica života žene i muškarca koja je trajala tri godine i duže, a porodični zakoni izjednačavaju bračnu i vanbračnu zajednicu u pogledu prava na međusobno izdržavanje i drugih imovinsko-pravnih odnosa.

14 Član 235. Porodičnog zakona FBiH i član 253. Porodičnog zakona RS

15 Član 223. Krivičnog zakona FBiH i član 210. Krivičnog zakona RS

RECOMMENDATIONS:

- The State shall urgently create realistic, easy-to-implement and financially supported programmes that will aim to increasing the number of working women through: unique and widely accessible programmes across the country for retraining, additional training or continuing education of women in order to increase their skills and knowledge required in the labor market. Such programmes must take special care of women who have been unemployed for a long period, and women who have been discouraged to look for work for various reasons, especially middle-aged women. The State shall develop and adopt specific employment-generation programmes intended for vulnerable categories of women such as: Roma women, women with disability, women victims of domestic violence and trafficking in people, and shall ensure and assist them to achieve economic independence and thus provide them the right to choose an independent and dignified life.
- The State shall urgently create programmes and measures that will reduce the share of women in the group of unpaid assisting family members, take actions to identify and put a value to this “invisible” work of women, and provide programmes that will stimulate this group of women to start small businesses or to work from home.
- The State shall subsidize and thereby stimulate local banks to open special credit lines for women entrepreneurs and to ensure that these loans are adequately presented in public. The State shall stimulate opening of business incubators for women entrepreneurs, and ensure that these women entrepreneurs assembled in such way or otherwise organized, are offered specific and professional training programs targeted at developing their entrepreneurial skills. The State shall organize a regular exchange of information and data via web pages and media, and direct meetings between women entrepreneurs and the relevant ministries, chambers of commerce, foreign investment agencies, bank representatives, etc.
- The State shall urgently reinforce the capacities of labor inspections, introduce high penalties and fines for abusers of the law, and introduce continuous inspection of all private and public companies, as well as drastically reduce the number of women who are employed on fixed-time contracts or work in the informal sector, those who get paid less than men for work on the same or similar jobs and for work of equal value, who have been unlawfully discharged because of the use of maternity leave.
- State shall insist on and pressure for implementation of Article 13 (2) of the Gender Equality Law that require from all employers to introduce companies’ internal measures against discrimination, sexual harassment and mobbing, including protection from victimization. The State should urgently establish efficient mechanism for monitoring of discrimination cases.
- The State shall consider the introduction of special departments in prosecutor’s offices or courts, which would deal with the economic rights, right to work and rights that originate from labor relations, as well as violations of economic and social rights of citizens. Judges and prosecutors in these departments would be able to continually acquire specialized knowledge in these areas and be additionally sensitized for cases of discrimination based on sex/gender. The State must urgently introduce and harmonize the right of all citizens to access justice system through the establishment of sustainable services that would provide free legal assistance and provide support to existing capacities in the State and

non-governmental organizations.

- The State shall urgently equalize compensations for wages paid to all women during the use of maternity leave, and ensure that the duration of maternity leave is in accordance to the legally prescribed period. The State shall open debate on obligatory compensation of the maternity allowance for working parents including solutions on dislocation of allowance from social protection budget in the health insurance budgets, etc. aiming to ensure implementation of these rights.
- The State shall regularly collect data and report on statistical information in all areas pertaining to economic and social rights of women.

WOMEN IN PUBLIC AND POLITICAL LIFE

Author: Gordana Vidović

Non-governmental organizations have delivered the Shadow Report on the Implementation of CEDAW Convention and Women's Human Rights in Bosnia and Herzegovina by beginning of October 2010. More than two years have passed since then. In that period the general elections were held (2010) as well as the local elections (2012) and results¹⁶ from these elections indicate that the percentage of participation of women and men in legislative bodies at all of the government levels in Bosnia and Herzegovina remained about the same when compared to previous elections. We still express our concern since the women candidates were not recognized by the constituency despite being, and especially with regard to last, local elections, very active in the election process and despite having promotional campaigns well elaborated by the civil sector and gender mechanisms. By favoring men, citizens have shown that they are resistant to change in attitudes and understanding of gender roles within the society.

There is a need to express concern since the 40% representation quota in legislature and executive for less represented gender still hasn't been reached, while the authorities at all levels still did not manage to establish mechanisms and strategy for gender mainstreaming. There are no women in the Government of Bosnia and Herzegovina, while the appointment of one woman (6%) to the Government of the Federation of BiH reflects, in the best possible way, the way the political parties perceive the role of women in the decision-making processes. Positive example that should be noted is the appointment of 5 women (31%) to Republika Srpska Government, despite the fact that this percentage still does not provide for equal gender representation. Appointment of the first women as the Prime Minister in RS Government elected in March 2013 on the 14th, special session of Republika Srpska National Assembly¹⁷ gives hope that the room for women and for the need to regulate the issue of participation of women both in legislature and in the executive by specific regulations in line with the Gender Equality Law of Bosnia and Herzegovina is opening.

Table 1: Government structure – state and entity level (2010-2014 mandate)

	Prime Minister		Ministers		
	Man	Woman	Man	Woman	% of women
Bosnia and Herzegovina (state level)	√		9	0	0%
Federation of BiH	√		16	1	5,8%
Republika Srpska		√	10	6	37,5%
Brcko District	√		11	3	21,4%
Total on all levels (including cantons)*	14	1	136	24	15%

* March 2013

16 19.3% of the total number of elected representatives at the Parliamentary Assembly of Bosnia and Herzegovina are women, 23.1% at the Parliament of Federation of BiH, and 21.7% at the Republika Srpska National Assembly. 17.1% of women were elected to 143 municipal and city councils (assemblies) – (seven of local councils/assemblies have no women representatives among their membership, and 5 women are municipal mayors), available at: http://www.oscebih.org/documents/osce_bih_doc_2012071212593128bos.pdf

17 <http://www.narodnaskupstinars.net/>

It is unacceptable for the political leaders to constantly ignore women, the largest marginalized group, and to not even consider the requests from women's groups asking for this misbalance and injustice to women to be rectified. A negative attitude when it comes to nomination of women for political positions is often accompanied by mobbing¹⁸ and it causes a psychological barrier in women reflected in loss of self-confidence, leadership ambitions and wish to advance in political circles. In addition to formal barriers women are facing in terms of their political engagement and leading positions, there are still traditional attitudes and prejudices in terms of place of women within the society present that greatly influence the decision of women in terms of their political engagement.¹⁹ Political parties are the policy creators and they are in charge of changing traditional attitudes, empowering of and educating women and providing true support to women elected. These are just some of the instruments that can be applied in a very simple way if there is a true will to increase the number of women. However, this is the challenge that the political parties in BiH are still not ready to accept.

At the beginning of February 2013, the representatives (MPs) at the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina established the Club of Women Parliamentary Representatives. Currently this Club is operating as an informal group. However, an initiative was launched to adopt amendments to the Parliament Statutes since so far it contains no option in terms of establishment of multi-party clubs. By making such a move, women politicians made a significant step forward by sending an unquestionable message to political parties that, by making an alliance, they intend to take responsibility for their status in public and political life. This however, caused strong public reactions from some politicians. A step forward was also made in terms of harmonization with the Law on Gender Equality in Bosnia and Herzegovina by adoption of the Law on Amendments to the Election Law of BiH²⁰, which was one of recommendations given by non-governmental organizations in a Shadow Report on the Implementation of CEDAW Convention and Women's Human Rights in Bosnia and Herzegovina in 2010. Amendments refer to provisions regulating operations of bodies implementing elections, as well as provisions regulating certification and nomination of candidates for elections that were changed in terms of introduction of a necessity of having 40% of representatives from the less represented gender. Special progress was made in terms of position of women and the lists of candidates – ration of 30% was increased to 40%, thus it now says that the “equal representation of genders exists when one of the genders is represented by at least 40% of the total number of candidates on that list”²¹.

It is also important to mention that in December of 2012, Republika Srpska Election Commission adopted the Instruction on Organization and Implementation of Elections for Members of Local Community Councils²² aligning it with the Article 20 of the Law

18 A type of mobbing towards the Chairwoman of Novi Grad Sarajevo Municipal Council, often by colleagues from her party (pressures, insults, threats, vilification, warnings that she is better fit to serve in some of Sarajevo's flower shops up to those more severe and radical ones such as her being unfit for that position as a single mother). Despite the warnings from the Helsinki Human Rights Committee and women NGOs, she was dismissed. Available at: <http://manjine.ba/?p=1804>

19 “It was an honour for me to be the first women chairing the municipal council from 1978 when Novi Grad municipality was established, however, these events, these pressures have shown that our men and our politicians are unable to accept that. I was exposed to some really horrible, humiliating insults” stated Ramiza Tabakovic. Available at: <http://manjine.ba/?p=1804>

20 The Law on Amendments to the BiH Election Law (Official Gazette of BiH, number 18/13), Article 1 and 2

21 The Law on Amendments to the BiH Election Law (Official Gazette of BiH, number 18/13), Article 3

22 Official Gazette of RS, number 122/12

on Gender Equality in BiH, stipulating that the equal representation of genders exists when one of the genders is represented by at least 40% in all bodies in all three government levels in the field of public life.

RECOMMENDATIONS:

- An adequate strategic plan aiming to eliminate barriers and causes of discrimination of women in all fields is required. This calls for a change in attitude and awareness on roles of women and men in the entire society, including the institutions and employees within the institutions, civil and private sector as well as all individuals that have to act jointly as the agents of change.
- It is necessary to influence and provide for the change of attitudes and the acceptance of gender equality as the value for all, especially among children and youth and therefore the education and media need constant education on gender equality, since it often happens that the younger people adopted and repeat some deeply rooted harmful traditional prejudices and stereotypes from their elders and via unsensitized media and educational institutions. Thus they are creating an incorrect perception on roles of men and women in our society and this additionally affects gender inequality and the quality of life of men and women.
- Provision of equal participation of women in political processes remains a challenge. True gender equality can only be reached if women and men share positions of power and decision-making. Women account for more than 50% of the overall population and they should play an important role in the decision-making process. In that regard, in addition to the constant activities aiming to align legal and other documents, it is necessary to translate equality that exists in norms into true gender equality, in line with Article 20 of the BiH Gender Equality Law and to establish mechanisms for monitoring of gender policy implementation.
- It is necessary to undertake measures in all development and reform processes that have to be planned, monitored and evaluated in terms of their impact on women and man – as the general population. This also means that there is a need to plan and fund specific interim measures in those fields where gender based discrimination was noted, in order to eliminate it.

VIOLENCE AGAINST WOMEN

**(Articles 1, 2, 5 and 16 CEDAW and the Committee's
General Recommendation number 19)**

Author: Aleksandra Petrić

AVAILABILITY OF ASSISTANCE AND SUPPORT TO WOMEN – VICTIMS OF VIOLENCE IN BIH

Currently there are ten shelters for women and children – victims of family violence in Bosnia and Herzegovina,²³ run by non-governmental organizations, with teams of professional staff providing necessary psychological, medical and legal aid, support in rehabilitation and re-socialisation and support in terms of elaborating of the exit strategy. The new Law on Protection against Family Violence in the Federation of BiH stipulates mandatory funding for shelters in FBiH from cantonal budgets – 30% and from the Federation of BiH budget – 70%. This provided for a partial alignment of support to these services for women – victims of violence in both BiH entities.²⁴ However, the trend of irregular allocation of funds from the entity budget continues as well as sporadic planning and allocation of such funds by local communities and cantons, thus jeopardizing the provision of adequate services to beneficiaries.

DISCREPANCIES BETWEEN DIFFERENT REGULATIONS AND THE LACK OF THEIR IMPLEMENTATION IN THE FIELD OF FIGHT AGAINST VIOLENCE AGAINST WOMEN IN BOSNIA AND HERZEGOVINA

Despite the fact that the new legislation on protection from family violence was adopted in 2012 in both of Bosnia and Herzegovina entities,²⁵ institutions failed to harmonize provisions of these laws and thus to provide for legal security, equal treatment and the implementation of protection of rights of women and children that were recognized as the most common victims of family violence – according to all data available on users of protection against violence and from the non-governmental organizations. In Republika Srpska, the act of family violence is still treated, in legal terms, as both misdemeanour and as an offense, while in the Federation of BiH it is treated as an offense. This directly affects the awareness on family violence as an act representing only a mild endangerment to society that is, in general, punished more leniently and often not being prosecuted at all.

Despite the fact that both of these entity laws have, as their goals, protection of family violence victims, this is challenged by protective measures being recognized as sanctions against violence perpetrators, thus providing for the avoidance of criminal prosecution of family violence perpetrators.

23 Shelters for women and children, victims of violence operate in Sarajevo (Fondacija lokalne demokratije – Local Democracy Foundation), Banja Luka (Udružene žene – United Women), Mostar (Mirjam – Caritas Mostar and Margeruite – Zena BiH (Marguerite – BiH Woman) in Mostar), Bijeljina (Lara Bijeljina), Bihac (Žene sa Une – Women from Una), Modrica (Buducnost - Future), Tuzla (Vive Žene – Vive Women), Zenica (Medica) and Međugorje (Udruga za pomoć i rehabilitaciju nezbrinutih trudnica 'Majka Krispina' – Association for Assistance to and Rehabilitation of Pregnant Women without Support – 'Mother Crispina').

24 This obligation was also introduced by amendments to the Law on Protection from Family Violence in Republika Srpska from 2008; provision stipulated that 70% of these funds is to be provided from the RS budget and 30% from the budgets of local communities. This is now included in the new law.

25 The RS Law on Protection from Family Violence, Official Gazette of RS, number 102/12 and the FBiH Law on Protection from Family Violence, FBiH Official Gazette number 20/13

WOMEN VICTIMS OF WAR

Authors: Sabiha Husić

WOMEN, VICTIMS OF RAPE AND OTHER FORMS OF SEXUAL VIOLENCE DURING THE 1992-1995 WAR

In May 2006, the Committee for Elimination of All Forms of Discrimination against Women adopted a line of recommendations referring to women – victims of sexual violence during the armed conflict in Bosnia and Herzegovina in the 1992-1995 period. The Committee requested and pointed out that the State has to recognize and to protect women who were civil victims of sexual violence by a state law and by allocating funds for adequate social measures, including their health insurance and accommodation/housing in a way that their rights and benefits would be guaranteed at its entire territory. Furthermore, it should review the existing regulations and plans regarding accommodation for women who are civil victims of war and displaced persons in order to prevent additional forms of discrimination.²⁶

In Bosnia and Herzegovina, women – victims of rape and other forms of sexual violence are waiting for 20 years now for a more just approach aiming towards the normalization of their everyday life. They are faced with the lack of understanding, being labeled and stigmatized by community and often being abused and left by their husbands, partners. At the beginning of war and war atrocities, women believed that the state would help them to cope with their pain and suffering, to get medical and health support that would enable them to have medical exams that would be dignifying as well as the constant psycho-therapy, psycho-social assistance, they were hoping to support in order to re-qualify or to get additional qualifications since many of them had to quit their education. They were hoping for adequate solutions for their housing issues, free legal aid, etc. At that time, they were hoping, while now, 20 years later, they are losing hope that their needs developed due to massive violation of human rights will be met. Some of them have even died without the opportunity to meet some of their basic needs; they did not exercise their right to justice, truth and reparation. Women, victims of rape and other forms of sexual violence continue to cope with their pain and suffering, mainly in silence, without much possibility to speak out.²⁷

The state continues to violate human rights of women – victims of rape and other forms of sexual violence and their wait for right to justice, truth, and reparation will be a long one.

BiH does not have a single and reliable database on women, victims of rape and other forms of sexual violence during the 1992-1995 war. The estimates differ; however, estimates by the Council of Europe are stating that between 20,000 and 50,000 women were victims of rape and other forms of sexual violence during the war.²⁸

Victims of rape and other forms of sexual violence do not have the same possibility to exercise the status of the civil victim of war in both entities. They still can get such a status only in the Federation of BiH. The law was adopted in 2006 and by the end

26 Compilation of the UN human rights bodies, Bosnia and Herzegovina, paragraph 39 of the Convention on Elimination of All Forms of Discrimination against Women and the Recommendation number 19 by CEDAW.

27 Woman, victim of rape says: "No one is even asking us how we feel, how we live, except a few NGOs that are always there with us" Evaluation of the Field Work with Women, Medica Zenica, 2012

28 **Resolution 1670 (2009) Sexual violence against women in armed conflict**, <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta09/eres1670.htm>
Security Council Open Meeting on "Women, Peace and Security: Conflict-Related Sexual Violence" Statement by UN Special Representative of the Secretary-General, Margot Wallström, New York, 23 February 2012 http://www.stoprapenow.org/uploads/files/SRSG_SVC_Open_Debate_2012.pdf

of 2012 707²⁹ women, victims of rape and other forms of sexual violence have obtained the status of the civil victim of war. The expectations of victims were that the number of those obtaining this right would increase every year were not met, due to lack of information among women on the possibility to obtain such a status, complicated procedures and poverty of women who are lacking some basic financial means needed to collect appropriate documents.³⁰ Thus, in a period from 2006 to 2008, 500 women³¹, victims, obtained the special category status based on the Law on Social Protection, Civil Victims of War and Families with Children in the Federation of Bosnia and Herzegovina. In October 2009, their number increased to 594³², indicating that 94 women obtained such a status during 2009, while in the 2011-2012 period, additional 113 obtained such a status. Thus the average annual number of women who obtained such a status during this period was 37-38. Women are still facing lack of understanding and provocations by unsensitized employers in institutions they are addressing to during their efforts to obtain the status of the civil victim of war.³³ In Republika Srpska, women, victims of rape and other forms of sexual violence are not being recognized as a specific category of the civil victims of war and thus they cannot exercise this right while the limited deadlines stipulated have passed long ago. In August 2012, Brcko District issued a regulation providing the opportunity for women to obtain the status of the civil victim of war. It does not stipulate any deadlines and takes into account the psychological suffering and damage.

Women, victims of rape and other forms of sexual violence cannot get the status of the civil victim of war if they live abroad – outside of BiH, or, if they have obtained such a right, they can lose it if they reside outside of BiH for more than three months. Such an approach is discriminating victims and is a violation of their right – the freedom of movement.

Bosnia and Herzegovina did not align its criminal legislation to international standards and practice and the CAT recommendation referring to processing of war crimes, rape and other forms of sexual violence. It is worrying that the wording “by use of force or by threatening to use force“ was not deleted from Articles 172 and 173 of the Criminal Code of Bosnia and Herzegovina (2003). By the end of 2012, 29 cases were completed and 32 persons convicted for war crimes including elements of sexual violence before the Court of BiH, while in 2 cases only the first instance verdicts were issued.³⁴ The data on the number of processed cases referring to rapes and other forms of sexual violence are not classified separately; instead they are included into statistics on war crime cases. Recent data indicates that the pace and dynamics of the process are too slow from the perspective of victims, witnesses, civil society organizations.

29 Dana obtained during the presentation of the report by Amnesty International - Old crimes, Same Suffering: No justice for Survivors of Wartime Rape in North-East Bosnia and Herzegovina, **March 2012**

30 Medica Zenica obtained this data during home calls and during the fieldwork with women, victims of rape and other forms of sexual violence, especially in the western part of BiH.

31 Amnesty International report - Nobody listens to us and nobody cares: Women still waiting for justice in Bosnia and Herzegovina, June 2009

32 Fourth and Fifth Combined UN CEDAW Report for the Federation of Bosnia and Herzegovina (2006-2009), June 2010

33 Women who survived war rape and other forms of sexual violence, while trying to obtain the status of the civil victim of war, upon receipt of the adverse reply from the first instance body file a complaint to the second instance body submitting the full set of documents, but being humiliated since the representatives of relevant cantonal ministries ask from women to give their statements to them directly despite the fact that they have all the documents needed.

34 Data stated was taken from the document titled ‘Sexual Violence in War’ – the legal framework in BiH related to the prosecution and trialling of sexual violence in war and the jurisprudence (primarily of the Court of BiH) in this field, March 12 and 13, 2013

Women, victims of rape and other forms of sexual violence are dissatisfied with the witness protection regulated by the Law on Protection of Witnesses under Threat and Vulnerable Witnesses (BiH Official Gazette number 21/2003) and the Law on Witness Protection Programme (BiH Official Gazette number 29/2004). Due to numerous problems regarding the implementation of the Law and inadequate protection of witnesses, the Ministry of Security of BiH established a working group tasked to draft a new Law on Witness Protection. By the time of drafting of the report, this new law was not adopted.

The National Strategy for War Crimes was adopted in 2008 and, among other things, it stipulated an accelerated processing of crimes that occurred during the war. It also stipulated establishment of a more adequate network for the assistance and support to witnesses. A certain progress has been made, but they are rather slow and the witnesses fear that, if the implementation of the Strategy continues with its current pace, there will remain no one to process and trial nor there will remain any witnesses, as time passes too quickly. The perpetrators are dying, but also the victims and witnesses. Adequate material and technical requirements for victims – witnesses have not been provided and adjusted at the offices of prosecutors and courts in BiH. There is a certain progress made such as the establishment of witness support departments at the Court of BiH and the Office of the Prosecutor of BiH, at the Cantonal Court and Office of the Prosecutor in Sarajevo, District Court and Office of the Prosecutor in Banjaluka, District Court, and Office of the Prosecutor in Istocno Sarajevo (East Sarajevo). The establishment of such departments at the Cantonal Court in Novi Travnik and the Cantonal Court in Bihac is ongoing. However, the witnesses are of an opinion that these departments are mainly at service to prosecutors and judges and that they are not sufficiently at service to witnesses of rape and other forms of sexual violence before they testify, and especially after they testify, when these witnesses feel empty, misused again and re-traumatized.³⁵ Due to the level of trauma and the fact that the Court of Bosnia and Herzegovina, by its decision, delegated certain war crime cases as well as individual rape cases to entity level prosecutors' offices and the Office of the Prosecutor of Brcko District of BiH, the institutional networks have been established in order to monitor individual needs of women, victims of rape and other forms of sexual violence in continuity and using a multidisciplinary approach. The first such institutional networks for support to victims in cases of war crimes, sexual violence and other crimes in Zenica-Doboj Canton and Central Bosnia Canton. The establishment of such networks in Una-Sana Canton and Banjaluka region is ongoing.³⁶

Trials and prosecution are extremely important in terms of delivering justice and preventing repetition of war crimes. However, we should not forget that the primary goal of the state should focus on psychological health and provision of the overall psychosocial help and support in order for women, victims of rape and other forms

35 Woman, victim of rape says: *"I feel like there is a steel box within me, I can't get rid of this heavy feeling. I will testify to get rid of that steel box, for it to stop devouring me so that it would become a mechanism to the judicial system and to punish the perpetrator. But I need support to do this, I need understanding"*. *Evaluation of the Field Work with Women, Medica Zenica, 2012*

36 Medica Zenica initiated the establishment of the first institutional networks of support to victims, witnesses in war crime cases, cases of sexual violence – in cooperation with relevant ministries, institutions, NGOs such as: Udruženje Prijedorčanki – Izvor (Association of Women of Prijedor – the Spring), Udružene žene (United Women) from Banjaluka. These networks aim to link all relevant institutions, NGOs and relevant ministries in order to create a fast and efficient multidisciplinary approach to individual needs of victims, witnesses and to provide adequate assistance to them before, during and after they testify.

of sexual violence could continue living dignifying lives and thus could enforce their right to justice, truth and reparation. Very often, the victims get disappointed after realizing for who knows how many times that there is no adequate, comprehensive, systemic response and reaction of the state. In 2010, a development of the Draft of the Programme for the Improvement of the Status of Women Victims of War Rape, Sexual Violence and Torture in Bosnia and Herzegovina 2013-2016 was initiated and launched with the support of the United Nations Population Fund (UNFPA) and the Ministry for Human Rights and Refugees, however, it was not adopted by the BiH Council of Ministers by the time of drafting of this Report. Same year, the drafting of the National Transitional Justice Strategy started. The expert support was provided by United Nations Development Programme – UNDP. The Draft Strategy was completed, consultation process was conducted. However, the draft was not adopted by the time of writing of this Report.

RECOMMENDATIONS:

In order to create circumstances in which women, victims of rape and other forms of sexual violence during the 1992-1995 war could exercise their rights, it is necessary to:

- adopt common legislation that will provide women, victims of rape and other forms of sexual violence, a ground to exercise their rights as civilian victims of war in all parts of Bosnia and Herzegovina;
- simplify existing procedures on exercise of rights for civilian victims of war in Federation of BiH, to adjust them to women, victims of rape and other forms of sexual violence, and to continually work on introducing women to possibilities for exercising their rights;
- recognize, by the State, the NGOs' established models in process of rehabilitation and offering all encompassing psycho-social and legal counseling and support to women, victims of rape and other forms of sexual violence, and to provide spreading of those models in all parts of Bosnia and Herzegovina where they do not exist, but also to provide funds;
- recognize, by the State, the established institutional networks for support to victims and witnesses in war crimes and sexual violence cases, and to provide the establishment of those networks in all cantons, entities and on the state level, so the victims and witnesses could receive continual support before, during and after witnessing. It is also necessary to provide all encompassing support to the victims that are not acting a witness roles in courts;
- initiate the establishment of the unique database on women, victims of rape and other forms of sexual violence, in Bosnia and Herzegovina;
- accelerate and urge the prosecution and court processes at all levels for committed rape and other forms of sexual violence during the 1992-1995 war in BiH.

TRAFFICKING IN WOMEN

Author: Mara Radovanović

The situation in Bosnia and Herzegovina in terms of prevention of trafficking in human beings hasn't changed significantly in the past two years. Criminal codes of BiH entities and Brcko District of BiH have not been aligned with the Criminal Code at the state level yet. That is the reason for no criminal proceedings before the courts against the perpetrators of trafficking in human beings. The State Prosecutor's Office is, due to a heavy caseload, delegating these cases to the prosecutors' offices of entities or Brcko District. Since they do not have trafficking in human beings as an offense in their relevant criminal codes defined in the same way as in the BiH Criminal Code – the state level one, they have to change the legal basis of prosecution and therefore, instead of prosecuting the cases of trafficking in human beings, they are prosecuting cases of pandering or similar.³⁷

Cooperation between state institutions and non-governmental organizations engaged in prevention of trafficking in human beings has not improved. The department at the Ministry of Security dealing with the issues of trafficking in human beings mainly cooperates with just one non-governmental organization and completely ignores the network of NGOs working on prevention of trafficking in human beings – RING consisting of 12 NGOs from all parts of Bosnia and Herzegovina.

Identification of trafficking victims ceased to function completely; since the social protection centres in charge of this activity, due to economic crises are getting less and less funds and thus are not able to deal with this issue.

Due to such a situation, State Department changed its previous decision according to which BiH was defined as the Tier 1 country (countries with sufficient action in prevention of trafficking in human beings) and categorized BiH back to Tier 2.³⁸

37 Article 108 of the Criminal Code of BiH stipulates that the victims of trafficking in human beings younger than 18 are considered children thus any kind of sexual exploitation of these persons classifies as trafficking in human beings, regardless of whether the minor consented to sexual exploitation. Since the entity level criminal codes do not have such a provision, in case of minors stating that they consented to sexual exploitation were classified as prostitutes and the persons exploiting them are only being charged and prosecuted for pandering – an offense implying far more lenient sentences than trafficking in human beings.

38 Each year, the State Department publishes an evaluation of efforts in terms of prevention of trafficking in human beings, and depending on their achievements, the countries are categorized into three groups: Tier 1 – countries successfully combating trafficking in human beings, Tier 2 – countries investing efforts but insufficient and Tier 3 – countries where nothing is being done in terms of prevention of trafficking in human beings.

MARGINALIZED WOMEN

Author: Fedra Idžaković

WOMEN WITH DISABILITIES

This is another field in which Bosnia and Herzegovina does not have official statistics or research.³⁹ Persons with disabilities are facing legal discrimination within the very population according to disability causes⁴⁰ (i.e. in terms of access to right to health and social protection/care). In a large number of cases, people with disabilities depend of the assistance provided by their families since the state does not have sufficient support programmes aiming to provide persons with disabilities opportunities to live independent lives, especially when it comes to persons who acquired these disabilities later in life. Disability is often linked to poverty. Due to low disability benefits but also due to a whole line of problems such as the lack of teaching assistance for children with disabilities whose role is often taken over by an unemployed family member; high price of orthopedic devices and the fact that they are not available within the existing system, etc.⁴¹

All of these problems are even more exacerbated when it comes to women with disabilities. Health care is a very problematic field, and especially the reproductive health protection and protection and care for pregnant women. In addition to the lack of appropriate examination tables for women in wheelchairs, majority of the health care workers are not trained for examinations or delivery when it comes to women with disabilities. Health insurance funds do not recognize the need of women in fertile periods to use more diapers. Construction of prosthetics for women with high level of leg amputation is usually a problem due to insufficient number of women – prosthetic experts. Another problem is provision of custody over their children for women with disabilities following a divorce. NGOs are reporting of the known cases where the custody was awarded to a parent without disability without taking into consideration the best interest of the child. The issue of violence against women with disabilities is not being discussed and there are no activities in terms of prevention of fight against such violence. Women with disabilities deem that they are not getting equal treatment within the movement of persons with disabilities and are dissatisfied with the number of women – representatives at the advisory body of the BiH government – which they deem to be insufficient.⁴²

39 Initiative of Mine Survivors (Inicijativa prezivjelih od mina) in partnership with Bospo and in cooperation with the Ministry for Human Rights and refugees of Bosnia and Herzegovina: Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities in Bosnia and Herzegovina: "According to data from the Statistics Agency of Bosnia and Herzegovina from 2010 based on data from social welfare centres, there are 60,950 registered persons with disabilities, 52% out of these are men. Republika Srpska Pension and Disability Insurance Fund had 41,225 pensioners – beneficiaries of disability pensions and the FBiH Pension and Disability Insurance Fund had 82,099 beneficiaries registered in April 2012. According to data from the Policy Study in the Field of Disability, there are about 5,481 civil victims of war in BiH and about 83,282 war veterans in both entities". The Council of Ministers of Bosnia and Herzegovina, at its 35th session held on January 17, 2013 adopted the Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities.

40 War veteran invalids, civil victims of war, disabled workers and civil invalids.

41 Prava za sve and Inicijativa i civilna akcija (ICVA): Preliminary findings from the Research on the Implementation of UN Convention on Rights of Persons with Disabilities in Bosnia and Herzegovina. The research includes focus groups with at least 100 participants, field survey using individual semi-structures interviews and questionnaires for institutions in 4 regions (Sarajevo, Trebinje, Tuzla and Banja Luka).

42 Ibid. Three out of ten members of the Council for Persons with Disabilities of Bosnia and Herzegovina, on behalf of organizations of persons with disabilities are women.

ROMA WOMEN

The National Report underlines the difficult situation of Roma women.⁴³ *Roma Strategy in Bosnia and Herzegovina* discusses the issue of gender equality within its Chapter 13 – *Demographic and population policy, domestic matters, gender equality and children's rights*. Thus the gender equality is discussed along with the population policy and within the discourse of “achievement of optimal and sustainable birth rates” as a pre-requisite for the happy childhood of Roma children.⁴⁴ It seems that the only problem Roma women are facing in terms of their rights is the largeness of their families, and that they would be able to enforce a larger number of rights and to have better access to their rights if only they would have a smaller number of children. Insisting on “responsible parenthood” programmes promotion actually indirectly discriminates Roma women.

Eight years following the adoption of the Strategy, the goal of the improvement of the status of Roma women⁴⁵ is not achieved yet and the activities with regard to its realizations haven't started yet. *The Action Plan for Addressing Roma Issues in the Fields of Employment, Housing and Health Care* deriving from the Decade and Strategy contains only 2 activities intended specifically for Roma women – both in the field of employment (neither activity has started or was completed yet).⁴⁶ The Gender Action Plan explicitly addresses the status of Roma women. However, the pace of implementation of these activities is rather slow and we could say that the addressing of Roma women issues lags behind compared to other activities from the Action Plan.⁴⁷ While the policies are being adopted, there is a very illustrating case

43 Fourth and Fifth Combined UN CEDAW Report of Bosnia and Herzegovina, May 2011, p. 65

44 *Roma Strategy in Bosnia and Herzegovina*, BiH Council of Ministers, 2005 (Official Gazette of BiH 67/05), p. 19 and 20.: “Given the living conditions of Roma in their entirety and (im)possibility of changing the conditions for better, it is high time that the demographic issue should be raised and demographic policy and measures should be addressed. Although at the time being, as it was said at the beginning of this paper, there is no accurate figure to indicate the number of members of Roma national minority in BiH, it is well-known that many Roma families have a large number of offspring: five, six or more children. Of course, the number of family members is not an issue by itself, the fact that many Roma couples have five and more children is not an issue, but difficulties rising from the fact that many of them do not live in conditions that allow normal supporting and bringing-up of their own children, not to mention enough means for regular and complete schooling, from pre-school education to, at least, secondary education, health care, housing, toys and other things that are necessary for a happy and dignified childhood, that is, the standard of living suitable to their needs.” Furthermore, it says that: “That is why the Council of Ministers of BiH considers it necessary to launch an information campaign, primarily among Roma NGOs, and then among all Roma, about the meaning and need to think about and define the matter of sexual and reproductive health of Roma women, both women and girls, that is, the matter that was called family planning until recently, including the number of children in a family and other benchmarks relevant to normal functioning of a family and keeping spouses together in a marriage. This, of course, is not and it should not be understood as any kind of restriction, i.e. repressive control, least of all forbidding childbirth, i.e. looking after their own children and their upbringing. It is just appeal for highlighting the role of responsible parenthood, i.e. as one of prevention measures to children not having children...”

45 *Ibid.* „BiH authorities are obliged to pay adequate attention to the gender equality of members of Roma community, first of all to improvement of financial and social position of women in the Roma community because it seems they are discriminated against in comparison with male members of Roma community. To this end the Gender Equality Agency of BiH and entity gender centres are tasked to, in cooperation with parliamentary commissions and other bodies for gender equality and the position of women in society and other relevant bodies and Roma NGOs dealing with this issue, develop an action plan on gender sensibility of both Roma and those who address their issues and, after it is adopted by relevant authorities, to start the implementation. Monitoring of the process will be carried on by the Gender Equality Agency of BiH and entity gender centres and the Council of Ministers Roma Advisory Board.”

46 Report on the Implementation of the Action Plan for Addressing Roma Issues in the Fields of Employment, Housing and Health Care, Romski informativni centar Kali Sara (Kali Sara Roma Information Center) and Decade Watch, Sarajevo, April 2011

47 *Ibid.*

of discrimination of Roma women recorded recently in practice, when a pregnant woman was denied urgent medical care (Alimanovic case from Tuzla).⁴⁸ The activists are exposed to obstructions and resistance within the Roma movement, while only a very small number of Roma women are members of some of the bodies fighting to provide for equality of minority members or Roma.

We should point out certain positive steps with regard to the status of Roma women. The first ever Roma Women Network – Uspjeh (Success) was established in 2010.⁴⁹ The group of Roma women spoke about their status before the Gender Equality Commission of the Parliamentary Assembly of Bosnia and Herzegovina for the first time (2012), while, based on a proposal from the First Chair Deputy of this Commission, a larger number of women has been appointed to the Roma Advisory Board, including the appointment of its Chairwoman.⁵⁰ This advisory body of the BiH Government plays an important role in the review of the existing action plans that is currently and it is a very important first step towards the integration of measures aiming to improve the human rights of Roma women.

The issue of the political participation of Roma women is another issue of extreme importance. Despite having 4 Roma women as independent candidates for municipal councils, not a single Roma woman was elected at the municipal elections in 2012. A more extensive social support was missing as well as the means for their public presentation and promotion.

Paid and child/underage marriage

Because of the patriarchal environment and strict tradition, Roma women marry at a very young age, almost as girls, which is why they often drop out of school, provided they attend it at all. According to the *Report on Domestic Violence against Roma Women in Bosnia and Herzegovina*⁵¹ which has been prepared in 2010 by nongovernmental organizations Rights for All and Initiative and civilian action (ICVA), 527 from 609 interviewed Roma women answered the question about the age they married at. 44.21% of respondents married before the age of 18, and most of them stated that they married at age of 15 or 16, and in several cases they married at the age of 13 or 14. Only a slightly higher percentage of respondents married at the age of 18 to 25, or 53.88%. This indicates that 98.09% of the respondents had already married by the age of 25, i.e. almost all of them. Furthermore, almost all the respondents who

48 The Institution of Ombudsmen of Bosnia and Herzegovina, case Z-SA-3-528/11, November 2011: “Ombudsmen of Bosnia and Herzegovina share an opinion that in the specific case the women from vulnerable groups were discriminated – in this case the Roma minority member, due to the lack of possibility for S.A. to get adequate care considering her health status. Authorities in the Federation of BiH, since they haven’t coordinated their activities in an adequate way and did not provide for the implementation of the regulatory framework referring to health care, put S.A. in a discriminating position”; available at: <http://www.ombudsmen.gov.ba/materijali/preporuke/P-171-11%20Z-SA-03-528-11%20Djeca%20Zemlje%20%20Tuzla.pdf>

49 Network consists of 10 organizations: Bolja buducnost (Better Future) – Tuzla, Budi mi prijatelj (Be My Friend) – Visoko, Centar za majke Nada (Hope – Mothers’ Center) – Kakanj, Centar za majke Palma (Palm – Mothers’ Center) – Vitez, Centar za majke Utjeha (Consolation – Mothers’ Center) – Zenica, Romska suza (Roma Tear) – Srebrenica, Romska djevojka -Romani cej (Roma Girl) – Prnjavor, Centar za majke Narcis (Daffodil – Mothers’ Center) Donji Vakuf, Mladi Romi (Roma Youth) – Vitez, and Romkinja (ROMA Woman) – Bijeljina

50 Roma Advisory Board has a total of 22 members, representatives of institutions and the representatives of Roma. Eleven out of these are Roma minority members, and only 4 are Roma women. The Chair of the Roma Advisory Board is Indira Bajramovic, Bolja buducnost, Tuzla;

51 Stop Violence: Report on Domestic Violence against Roma Women in Bosnia and Herzegovina, Rights for All Sarajevo and ICVA Sarajevo, November 2010

married at this young age, as a rule, gave birth to children very soon, so that they had two or more children by the age of 25.

A rather high rate of no responses to this question was caused by the fact that more than half of the non-respondents are either single or in a common-law marriage. However, the other half of non-respondents were either women who did not know exactly how old they were at that time or what exact date of their marriage was.

The same research indicates that some of the respondents reported payment on the part of the husband's family as a reason for marrying, considering that kind of marriage as so-called agreed marriages. 30.34% out of 561 respondents who answered this question, stated that they personally knew women whose marriage were paid, while 67.09% said they did not know such women. Although these answers indicate that paid marriages are still not predominant, it is still quite worrying that 30.34% are cases of paid marriages of Roma women as reported by the respondents. Their explanations stated that this mostly involved their family member or a friend. Furthermore, they stated that in cases when their marriages were paid for, such women had no choice but to remain in such marriages, regardless of the fact that they mostly imply different forms of violence on the part of either the husband or members of his family, while women's families cannot take them back without returning the money they received for them. Of course, they do not have the money any longer and frequently do not want to take these women back. This practically means that the woman is „bought“ and becomes the property of the family she married into. Unfortunately, the government still does not recognize that such a form of „marrying“ actually represents the selling of girls and young women, and does not treat it as trafficking in people, justifying it as the tradition of Roma communities. Owing to such an attitude, this trend is quite present and will surely tend to increase unless the competent government authorities become involved and take serious measures against the perpetrators.

RECOMMENDATIONS:

- It is important to initiate the development of the new Strategy for the Improvement of the Status of Roma Minority based on EU principles that include mandatory gender equality measures in national policies.⁵²
- Roma women – activists should be consulted when developing new gender equality policies in BiH, while the issue of improvement of the status of women and minorities (their empowerment) has to be integrated into all other policies and measures adopted by the state.

⁵² An EU Framework for National Roma Integration Strategies up to 2020, COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, Brussels, 5.4.2011 COM(2011) 173 final, available at: http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf

WOMEN FROM RURAL AREAS

Author: Selma Hadžihalilović

INVISIBLE WOMEN FROM RURAL AREAS

The category of women living in rural areas is a special category of discriminated and completely marginalized women in Bosnia and Herzegovina. If we can talk about the discrimination of women with regard to certain issues, when it comes to women from rural areas we can only talk about multiple discrimination.

Data obtained based on a study⁵³ implemented by a local organization in rural areas of Central Bosnia and Herzegovina (Bosna river valley), provides a devastating outlook. The main problems that the women living in rural areas are facing are unemployment, poverty and the lack of potable water.

Women in rural areas are facing problems such as poor sewage and waste water disposal systems, illegal landfills lack of or very poor transportation links from administrative centers to their places of residence (starting from poor roads to insufficient public transportation that is either rare or simply does not reach their settlements, up to fear for their children because in some environments public transportation drivers discriminate children against adult men leaving children often to wait for other buses on their own).

Huge number of local communities has some form of organizing of women – whether formal or informal ones, however, the percentage of participation of women in decision-making when it comes to the improvement of quality of life in their communities is – almost non-existent. Participation of women in the work of local community councils is almost non-existent while the local communities are not equipped in any way to provide even the basic administrative services to their female citizens.

The majority of women from rural areas have their elementary education, even secondary education completed, while it is a proper rarity to find a woman in rural area with completed college or university education. The majority of highly educated women have migrated from rural to urban areas with no wish whatsoever to return to these rural areas. Such a situation is completely understandable if we take into account that the only income generation opportunity in rural areas is agriculture, while no other industry provides any employment opportunities. Women from rural areas are trying to contribute to their household budget by working in agriculture, farming and cattle breeding. However, due to insufficient legislation and regulations it is very difficult to place the local domestic products to BiH market. Thus it is much easier to find, in huge shopping centers, the garlic from China or the potato from Peru, while local producers, mainly women, cannot promote, protect or sell their products in local markets.

The level of health protection and primarily prevention is embarrassingly low. The existing family medicine offices rarely correspond to the real needs of the community thus the preventive check-ups such as regular visits to gynecologists or dentists for women of all ages is almost non-existent.

Those women from rural areas who have access to internet are usually only using social networks to exchange photos from different social events and in order to stay in touch with their extended families and relatives. Only a very small number of women use the Internet for other purposes.

⁵³ Study conducted by KOLEKTIV – Inicijativa za iskustvo učenje Udruženja LOTOS organization using a sample of 500 women from the following local communities: Arnauti, Cajdras, Podbrezje, Perin Han, Pehare, Donji Bradici, Cigлана, Opsenik, Begov Han Kovanici, Lokvine, Donja Gracanica. Study was conducted in April 2013.

Unfortunately, each time before the elections, many parties invest efforts to lobby a significant constituency via women from rural areas, often by manipulating women and giving false promises and the situation changes drastically. Women from rural areas are unified in their opinion that the lack of female leadership and public space for women, public cultural, educational and recreational activities is one of the main reasons for the lack of social and political participation of women from rural areas. Women from rural areas are usually visible only in the moments when the national (ethnic) tradition, household industry and local specialties are being promoted, while their political opinion often falls on deaf ears.

Unfortunately, the development of new settlements was not accompanied by any infrastructural plan, which resulted in a very poor general quality of life. There is no belief or hope that the policy_ies by relevant authorities in Bosnia and Herzegovina could bring benefits to women living in rural areas. Only in one part of Bosnia and Herzegovina – in Republika Srpska, the RS Gender Centre is, from 2009, implementing the campaign “Equally – for women in rural areas” and is marking the October 15 – the International Day of Women in Rural Areas, while in 2012, only one conference was held in 2012 that was dedicated to this issue⁵⁴. None of the 15 chapters of the BiH Gender Action Plan addresses the issue of status and improvement of the quality of life of women in rural areas, while the prevention and awareness raising on violence against women are rarely implemented in rural communities.

RECOMMENDATIONS:

- Women in rural areas are completely marginalized and completely invisible factors within the BiH social and political environment. In order to improve the status of women from rural areas, an action plan needs to be developed as soon as possible – an action plan that would address the following issues, while taking into account the specifics and particularities of women living in rural areas:
 - sociopolitical engagement of women in rural areas;
 - rural agriculture industry, employment of women in rural areas;
 - rural tourism;
 - IT technologies;
 - environment protection;
 - education;
 - health protection and care, health education and prevention;
 - family and community violence
- Further efforts should be invested and achievements but also fears and failures of women from rural areas promoted. They should be provided a constant support in their efforts to improve the quality of life for women of all ages in their communities.

⁵⁴ Conference – Women and Rural Development, Sarajevo 31/10/2012, BiH Gender Equality Agency in cooperation with Bosansko-hercegovacka inicijativa zena (BiH Women Initiative) Foundation

LBT WOMEN

Author: Sadžida Tulić

INTRODUCTION

Bosnia and Herzegovina has no data available either on the number of LBT women (lesbian, bisexual and transgender women), or on the state of their human rights, due to the fact that state authorities and agencies, even those engaged in promoting women's human rights, have not yet demonstrated any interest for conducting such research, nor have they shown sensitivity for protection of LBT women's rights. The absence of non-governmental organizations engaged in bringing together and representing the interests of this population further contributes to the overall state of affairs.

BiH authorities neglect the presence of LBT women, ignoring their existence in the society. This, as a consequence, results in invisibility and absence of LBT women from public and social life. The opinion of state authorities as regards the rights of LBT women is that the BiH Anti-discrimination Law provides sufficient protection of LBT women and that it establishes the equality among citizens of BiH, thus ignoring the actual problems facing by LBT women on a daily basis.

The LBT topics in the media have mostly been present through sensational and shocking reporting aimed at increasing the viewership/listenership/readership. An increased visibility of LGBT persons in general resulted in an increased extent of hate speech on web portals and a greater degree of abusiveness and seriousness of that speech. Unfortunately, the growing trend in hate speech failed to be appropriately reflected in an increase of official activities and measures by relevant government authorities. Lack of adequate measures to prosecute and sanction hate speech, condemn hate speech and intolerance towards LGBT persons, as well as the absence of penalties for perpetrators, results in a distrust of LBT women towards the authorities, which explains the fact that Bosnia and Herzegovina, so far, has not seen any court convictions for violence, discrimination or hate speech based on gender/sex, sexual orientation or gender identity. Since BiH institutions work little to combat discrimination and promote gender/sex equality, it is in no way surprising to see LBT women being reluctant to report to the authorities acts of violence, hate speech or discrimination.

It is important to point out that the struggle of LBT women in Bosnia and Herzegovina is the struggle to be who they are – to express their gender identity and sexual orientation in absolute freedom and not to suffer any disadvantages because of that. It is a struggle for dignity, safety and integrity.

HATE CRIME

Legal system in Bosnia and Herzegovina is not uniform due to a complex and decentralized administrative system. Hate crimes are not explicitly defined as separate crime acts within the legal system of BiH, and criminal laws vary depending on a federal unit. Criminal laws of RS and BD recognize hate as "an incitement to commit a criminal act prescribed under this Law, which is entirely or partially based on differences on the grounds of actual or perceived ethnic or national origin, language or script, religion, race, skin color, sex, sex orientation, political or other persuasion, social origin, social status, age, health status or other characteristics or based on an association with a person having some of the above different characteristics."⁵⁵ These criminal laws also

⁵⁵ Republika Srpska Criminal Law (Article 147, paragraph 25), Criminal Law of Brcko District (Article 2, paragraph 37)

expressly state that the court is obligated to take hate into account as an aggravating circumstance of a criminal act. Hate on the ground of gender identity is not specifically mentioned as an aggravated circumstance in these laws.

Unfortunately, despite the fact that the similar amendments to the Criminal Code of the Federation of BiH were proposed in 2010, similar regulations have not been adopted yet. Such an approach diminishes the importance of hate crimes and the activities of relevant institutions and the illusion of public support to such crimes is being created thus jeopardizing the safety of LBT women and other minority groups within the society, since they are most often the victims of hate crimes.

The Coalition for Combating the Hate Speech and Hate Crimes was established in the beginning of 2013. The coalition already advocated for the amendments to the Law on Amendments of the RS Criminal Code regarding the definition of the hate crime that is being explicitly introduced into the Criminal Code which also includes the gender identity as a forbidden motif of hate crimes. Adoption of such a law is expected by the end of 2013. In the meantime, the Coalition continues its advocating activities in the Federation of BiH.

In 2012, within its free legal counseling activities, Sarajevo Open Center documented several cases of hate crimes based on sexual orientation. This implies the need to urgently regulate and adequately prosecute such cases.

HATE SPEECH

BiH does have laws sanctioning the hate speech in media. Despite the fact that the criminal codes in FBiH and BD do sanction the hate speech, however they do not refer precisely to the homophobic and transphobic hate speech. The RS Criminal Code does not forbid the hate speech specifically – despite the fact that the law forbids the provoking of ethnic, racial and religious hate, it does not sanction the homophobic and transphobic speech.

In its Code on Audio-Visual Media Services and Radio Media Services, the Regulatory Communications Agency (CRA) states that the human dignity and basic human rights should be respected, while encouraging the free forming of opinions.⁵⁶ The media shall not show the contents that include any form of discrimination or prejudice based on gender, race, ethnic affiliation, ethnicity, religion or belief, disability, special needs, age, sexual orientation, social origins as well as any other contents aiming to or having the consequence in terms of preventing or jeopardizing the recognition or enforcement of any individual right or freedom on equal basis.⁵⁷ Still, the gender identity is not part of the list of hate crime basis.

BiH Press Council is an independent, non-governmental, self-regulatory media body having a mission to improve ethical and professional standards in printed media. Article 4 of its Press and Online Media Code stipulates that the “Journalists have to avoid pre-judging or offensive innuendos with regard to somebody’s ethnic group, ethnicity, race, religion, sex, sexual orientation, physical disability or mental state. Innuendos with regard to someone’s ethnic group, ethnicity, race, religion, sex,

⁵⁶ Broadcasting Code of Practice – Communications Regulatory Agency of BiH

⁵⁷ Ibid.

sexual orientation, physical disability or mental state shall only be made if they are directly related to the case being reported about.⁵⁸ A new article was also added – 4a, stating that the: “Journalists shall avoid direct or indirect comments putting persons in an unequal position or discriminating them based on their sexual, gender, sexual identity, gender identity, gender expression and/or sexual orientation.”⁵⁹

The Press Council, in cooperation with the FBiH and RS Gender Centers and the BiH Gender Equality Agency adopted a new document: *Recommendations for Media – How to Treat Gender Issues in the Media* recommending editors and editorial boards in printed and electronic media in BiH to “using their editorial policy, invest efforts to provide for the respect of equality based on sex, gender, sexual identity, gender identity, gender expression and sexual orientation, using different measures such as portraying of positive examples of non-discrimination and respect for human rights in both private and in the public sphere of life, with full respect of their individuality and human dignity, elimination of sexism, gender phobia, homophobia, biphobia, transphobia and other prejudices and stereotypes in the media language.”⁶⁰

Based on the examples seen in practice, we can conclude that the state institutions not only insufficiently support ethical and professional reporting on LBT women, but they are not even condemning the texts containing homophobic contents. For example, the Coordination Body of Sarena mreza BiH (Colorful Network) (LGBTIQ) filed a complaint against an article published in SAFF magazine titled “AIDS is actually GIRD - Gay Related Immune Deficiency“, on May 4, 2012, signed by doctor Adem Zalihic.⁶¹ The Press Council confirmed that the text, title and subtitle were tendentious, manipulative, discriminatory and stigmatizing towards the LGBT population.⁶² However, the Press Council did not issue any recommendations since the editorial board of that magazine directed them to the author explaining that the article in case is his opinion exclusively.

There are, however, cases showing positive practice. In 201, the Regulatory Communications Agency (CRA) ordered the TV PINK BIH TV station to pay the fine of 2000 BAM for having broadcasted homophobic SMS messages from viewers during the broadcasting of The TV show *Zabranjeni forum* (Forbidden Forum) discussing the topic of *Sex-change – Your Body – Your Punishment*.⁶³ CRA issued a conclusion that the TV PINK should have shown a greater level of responsibility and sensitivity towards the specific public mood in BiH with regard to issues that were addressed in this show.

RESPECT OF PRIVATE AND FAMILY LIFE AND ACCESS TO HEALTH CARE

Even with the fact that the family laws in FBiH, RS and BD do regulate rights and obligations of married and common marriage couples, there is no will to provide similar

58 Press and Online Media Code of Practice, BiH Press Council, Article 4

59 Ibidem, Article 4a

60 Recommendation for media – Dealing with Gender Related Contents in the Media, Press Council

61 http://www.vzs.ba/index.php?option=com_content&view=article&id=1082:arena-mrea-magazin-qsaffq-10052012&catid=133:saff&Itemid=30

62 Ibidem

63 Banovic, D., Vasic, V., Seksualna orijentacija i rodni identitet: Pravo i praksa u BiH (Sexual Orientation and Gender Identity: Law and Practice in BiH), Sarajevski otvoreni centar, Sarajevo, 2013

rights and obligations – in the future – that would apply to same sex couples as well. When it comes to the adoption of children, the family laws in FBiH, RS and BD do not allow persons who are not married or living as common marriage couples to adopt children, regardless of their sexual orientation or gender identity.

The state institutions are not taking any steps that would provide the access to medically assisted reproduction treatment for unmarried women – this is reserved for married and common marriage couples only. Adoption of the new law is planned in the Federation of BiH – The Law on Infertility Treatment Using Biomedically Assisted Reproductive Technologies –intended specifically for married and common marriage couples.

The transsexual women in BiH do not have access to sex-reassignment procedures since there is no medical staff trained enough to implement such a medical procedure, therefore these women are forced to get these procedures done in other countries within the region. Furthermore, the health insurance funds in FBiH and RS do not cover the costs of sex-reassignment procedures. BiH is not making things easier for its transgender female citizens even after the sex reassignment procedure. Despite the fact that the change in sex designation is allowed in civil registries, the relevant ministries of interior still haven't established the appropriate administrative procedure. A transgender person wanting to change his/her personal documents has to deliver all the relevant medical documents signed by the doctor or the team of doctors, confirming that the full sex reassignment is completed and that the transition period is over. The right of the transsexual person to marry the person of opposite sex (compared to that person's desired sex) is not guaranteed by law, even after the person changes his/her ID documents. Legally speaking, there are no barriers for the transsexual person to marry a person of opposite sex. However, since such an option is not regulated by BiH family laws, we can't be sure whether such a situation would lead to discrimination by administrative bodies.

Current Law on Vital Records in Brcko District does not include the sex reassignment as one of the circumstances to be additionally recorded in vital registries,⁶⁴ and thus in practice, the change is being recorded as the correction of the mistake made when the person was registered at the registry as a new-born. Relevant laws on vital records in Republika Srpska and the Federation of BiH identify the sex reassignment as one of the data to be recorded at the registries – this provides for a simpler procedure of change and issuing of other ID and personal documents.⁶⁵ These procedures however, differ between the entities and even between the ten cantons in the Federation of BiH- Additional problems occur when a person from one of the administrative units tries to change the sex designation and documents in another unit. Transsexual women in transition are also facing marginalisation and social exclusion and invisibility – they are recognized legally as members of one sex, while their physical appearances match something that the society recognizes as the opposite sex, making them more prone to discrimination and violence from the rest of the LGBTB community and from the general population.

RECOMMENDATIONS:

- It is necessary to provide a better and more appropriate protection of LBT

⁶⁴ Brcko District Law on Vital Records

⁶⁵ Republika Srpska Law on Vital Records, Federation of BiH Law on Vital Records

women's rights through harmonization of existing legislation with the 2009 BiH Anti-discrimination Law which includes the provision requiring the harmonization of legislation within one year after its entry into force.

- It is essential to work on more fundamental and demanding legislative changes such as introduction of hate crime into criminal laws in BiH and criminalization of hate speech, as well as harmonization of criminal laws in BiH. Harmonization of laws on vital records of RS, FBiH and BD is necessary, as is legal regulation of gender reassignment so it may be a sufficient basis for change of data in vital records.
- BiH institutions need to be aware that the laws themselves are not sufficient for preventing human rights violation and they have to assume a more active role in implementation of those laws and regulations.
- It is necessary to introduce and organize mandatory training and education for all public officials and public administration staff, and police officers in particular.
- In order to adequately criminalize and sanction the crimes motivated by prejudice, the Criminal Code of the Federation of BiH should be amended in two possible ways:
 - 1) The definition of hate should be introduced into the Criminal Code of the Federation of BiH in the same way as it was done in the criminal codes of Republika Srpska and Brcko District; these codes recognize the hate as a motif to commit the crime and that it is fully or partially based on the real or presumed ethnic affiliation, ethnicity, language or script, religious beliefs, race, skin colour, sex/gender, sexual orientation, political or other beliefs, health status or other features, and the association with individuals possessing some of these features. The law should also regulate the obligation of the court to recognize hate as an aggravating circumstance in relation to crime in each criminal case motivated by hate.
 - 2) To introduce a strict definition of the hate crime, in a way that it will be adopted within the Criminal Code of Republika Srpska – in its recent amendments and to define it as any crime committed due to real or assumed race, ethnicity, ethnic affiliation, religious affiliation, skin color, sex/gender, sexual orientation, health status, gender identity or some other characteristic of the victim or due to association with individuals who possess some of these features.
- BiH should also train the employees of institutions in charge of the implementation of the new amendments to criminal legislation and should organize training programmes for police officers, prosecutors and judges on how to treat and prosecute/process hate crimes.
- In order to legally regulate the status of transsexual persons and in order to simplify and facilitate the recording of sex reassignment into vital records, BiH should:
 - 1) Regulate the recording of the sex realignment into the Law on Vital Records in Brcko District;
 - 2) Develop and implement a strategy against discrimination and exclusion of transgender and transsexual persons and for their inclusion into BiH society;
 - 3) Educate employees at health authorities and in public administration on transgender and transsexuality issues; train a team of medical workers that would be able to offer full support prior to, during and after the completion of the sex realignment process.

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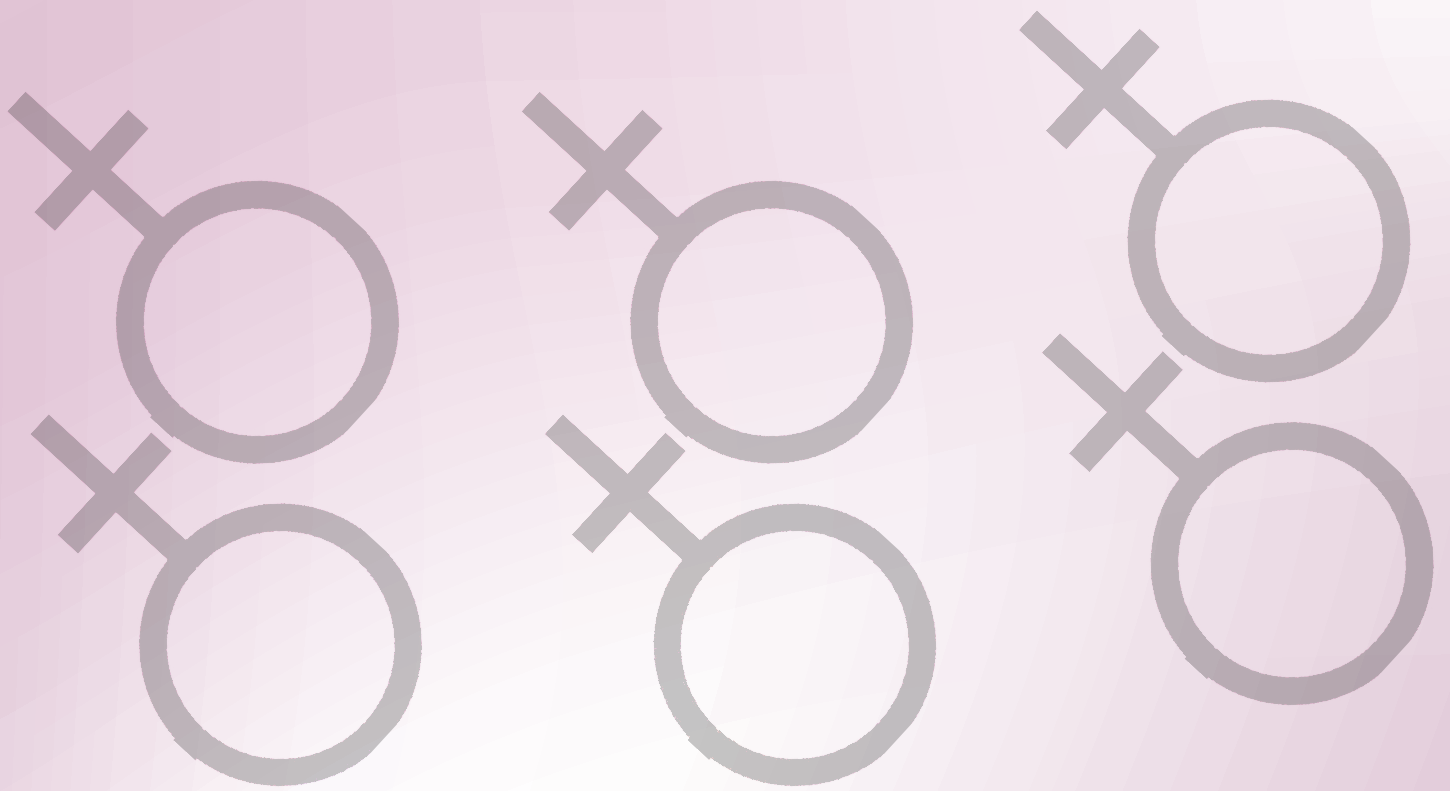
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