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Annual Report on the State of Women's Rights in Bosnia and Herzegovina in 2013

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Executive Summary

Over the past years, formal legislative and public policy frameworks related to the protection of women's rights in Bosnia and Herzegovina have significantly improved. However, real change in the practice is very slow

There is a serious problem of gender-based inequalities and discrimination in women's access to the labour market. Only around one third (37.3%) of all employed people in BiH are women.

It is also alarming that in 2013, the needs of women were not specifically expressed in many of the existing action plans that were revised and that still have not been granted sufficient funds for their implementation (e.g. Revised Action Plan of BiH on the Educational Needs of Roma from 2010).

Women in Bosnia and Herzegovina are still facing multiple layers of discrimination and are not equal to men in their abilities to access and exercise their rights. Over the past years, formal legislative and public policy frameworks related to the protection of women's rights in Bosnia and Herzegovina have significantly improved. There is a Law on Gender Equality (2003, 2009 with consolidated version from 2010) and a new Gender Action Plan (2013-2017) at the BiH level (adopted in September 2013); a 40% gender quota has been included in the BiH Election Law (April 2013), and there is new entity-level legislation and public policies for preventing and combating domestic violence. In addition, Bosnia and Herzegovina has signed and ratified all major international documents in the sphere of women's human rights, including the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in 2013. However, real change in practice is very slow; women remain deprived of the possibility of enjoying human rights in both the private and the public sphere, and the dialogue and partnership between the government and nongovernmental organizations to advance and protect women's human rights is still far from satisfactory.

There is a serious problem of gender-based inequalities and discrimination in women's access to the labour market, combined with structural stereotyping and the problem of unpaid work, which affects women disproportionately. The current employment strategies do not seriously address the issue of female participation in the labour market, the improvement of which would contribute to reducing poverty. All these combined factors are reflected in the low number of employed women in 2013: only around one third (37.3%) of all the employed people in BiH are women, which means that there was not a significant improvement in 2013 in comparison with previous years. It is also alarming that there are twice as many women than men with university degrees who are unemployed.

In 2013, the situation of parental rights also remained stagnant, since maternity leave is regulated differently in different parts of BiH and there are places where women don't even have access to maternity leave pay or are left jobless after becoming pregnant.

In the public and political sphere, women are still underrepresented; the situation is even worse for women that belong to any of the various groups that face double discrimination and are at higher risk of social exclusion. For these groups of women, there is still the significant problem that the available quantitative and qualitative gender data is disaggregated (e.g. there is no data available regarding women with disabilities). It is also alarming that in 2013, the needs of women were not specifically expressed in many of the existing action plans that were revised and that still have not been granted sufficient funds for their implementation (e.g. Revised Action Plan of BiH on the Educational Needs of Roma from 2010).

In 2013, a 40% gender quota was introduced into the Election Law of Bosnia and Herzegovina, an increase from 33%. Real progress will be seen if this law is properly implemented in the 2014 elections because currently, women are underrepresented in all political fields. The following initiatives took place in 2013: the women's caucus of the House of Representatives of the FBiH was established (March

2013), several NGOs created the Women's Platform for Constitutional Reform from a Gender Perspective and the first Memorandum of Understanding to monitor the implementation of Action Plan of the UNSCR 1325 was signed (October 2013). The results of these initiatives will be observed in the next few years.

Violence against women and girls continues to be a serious issue in BiH. New data available starting in 2013 in the field of domestic violence will hopefully provide a good basis for future prevention and intervention measures with survivors. Findings indicate that almost half of the women in BiH older than 15 have been subjected at least once in their lifetime to some kind of violence and that women are exposed to a high risk of violence, first in her immediate, intimate environment of relationships with her partner and family, and then in the broader community. Another long-lasting and serious issue for BiH is the wartime sexual violence suffered by tens of thousands of women twenty years ago. These women are still in need and seek justice and reparation.

The visit in 2013 of the United Nations Secretary General's Special Representative for Sexual Violence in Conflict confirmed that BiH has made scandalously little progress in dealing with these cases and there is a need to develop a comprehensive approach to improve the status and position of all female victims of the war, including by combating stigma attached to sexual violence, and expand the provisions of compensation, support and rehabilitation measures and benefits, and ensure equal access to such services for all female victims irrespective of their place of residence.

Regarding human trafficking, effective victim identification procedures – especially concerning women and girls from Roma communities and internally displaced women, who are increasingly affected – is a pending issue. Cooperation between state institutions and nongovernmental organizations engaged in prevention of human trafficking has not improved in the last years.

This human rights paper seeks to put a spotlight on the status of women rights in Bosnia and Herzegovina in 2013 – to point out the progress that has been made so far, as well as to highlight the marginalization and systematic discrimination that women continuously experience.

This paper contains information based on a desk review of the most relevant and recent documents issued by governmental institutions, nongovernmental and international organizations recent data from local and national research on women's issues and observations from the field.

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Introduction

The Committee on the Elimination of Discrimination against Women (CEDAW) issued a large number of recommendations in their report in 2013, emphasizing two major issues: wartime sexual violence and the need to achieve de facto equal opportunities for women and men in the labour market.

A wider institutional mechanism for continuous monitoring of the implementation of legislation and policies in the field of women's rights is needed

In September 2013, the Council of Ministers adopted the new Gender Action Plan (GAP) of Bosnia and Herzegovina (2013-2017). The challenge will be in the next years to see how the new GAP is implemented.

2013 has been an important year in which the attention given to women's issues has slightly increased but the situation is still far from being satisfactory. The government submitted and presented the combined fourth and fifth periodic state report to the Committee on the Elimination of Discrimination Against Women (CEDAW)¹ and NGOs had also the opportunity to submit their Alternative Reports on the state of women's rights in BiH. Afterwards, the Committee issued a large number of recommendations² but put special emphasis on two problems that are a major concern for women's rights in BiH:

- The need to address issues related to wartime sexual violence, such as accelerating the implementation of the National War Crime Strategy Law;
- The need to achieve de facto equal opportunities for women and men in the labour market, putting a special attention on disadvantaged groups of women.

Even though dialogue and partnership between the government and civil society organizations to advance and protect women's human rights is still at a very low level, a Memorandum of Understanding was signed for the first time in BiH in October 2013. The signing of a Memorandum between the Coordination Board for monitoring the implementation of the Action Plan for the Implementation of UNSCR 1325 in Bosnia and Herzegovina and 13 nongovernmental organizations³ cements the establishment of a platform for cooperation, consultation, coordination and information exchange between key government institutions and NGOs that work on women's rights and peace- and security-related issues. Still, a wider institutional mechanism for continuous monitoring of the implementation of legislation and policies in the field women's rights is needed, but this should be seen as an important step for more successful future cooperation.

In September 2013, the Council of Ministers adopted the new Gender Action Plan (GAP) of Bosnia and Herzegovina (2013-2017)⁴. This strategic document in the field of gender equality, which is harmonized with international standards and obligations arising from the signed United Nations Conventions, the European Union and the Council of Europe, builds on the previous BiH GAP 2006-2011. In the next years, the challenge will be to see how the new GAP is implemented and which funds will be allocated for that purpose.

Traditional gender stereotypes, customs, cultural practices and sexist attitudes are still deeply rooted in BiH society. Women are seen primarily as family caregivers and are expected to play a secondary role in public life. Even though BiH has made significant progress at the legislative level to prevent discrimination against women,

1 Report available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws55.htm>

2 Concluding observations on the combined fourth and fifth periodic reports of Bosnia and Herzegovina. CEDAW Committee. 2013. Available at: http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/cedaw_c_bih_co_4-5.pdf

3 United Women Banja Luka, Institute for Youth Development KULT, Medica Zenica, Women to Women Sarajevo, Women's Forum Bratunac, Horizonti Tuzla, Žena BiH Mostar, Žene s Une Bihać, Lara Bijeljina, Budućnost Modriča, Women Police Officers Network BiH, Sarajevo, Mreža žena Ministarstva unutrašnjih poslova RS Banja Luka, Vive Žene Tuzla

4 The new Gender Action Plan is available at http://www.vladars.net/sr-SP-Cyrl/Vlada/centri/gendercentarrs/media/vijesti/Documents/130517_GAP%20BiH%202012-2017_FV.pdf

a big and real change in attitudes and understanding of gender roles in BiH society still needs to happen and women and men within government institutions at all levels in BiH have an active role to play in this process. A true commitment to support fundamental and systemic changes aimed at realizing women's human rights is required in order to progress in the achievement of gender equality.

1. Education and Economic Participation of Women

The level of education of the working age population in BiH is low in comparison to EU standards, and the education of women is especially low. Although significant achievements in higher education are evident, it appears that BiH is still far from achieving EU standards; those advances that have been made in recent years have yet to be reflected in the field of work and employment, especially amongst the young boys and girls who are increasingly better educated compared to previous generations.

According to the 2013 available data from the Agency for Statistics of BiH, 21.6% women (and 18.5% men) have low-level qualifications, i.e. primary education or less; 54.5% women (66% men) have medium-level qualifications, i.e. secondary school; while 23.9% women (15% men) have high-level qualifications, i.e. college, university degree, masters or PhD.⁵ The results presented in the Multiple Indicator Cluster Survey 4 (MICS4)⁶ show that the majority of women (99%) and men (100%) aged 15-24 in BiH are literate. Of the women that stated that primary school was their highest level of education, 88% were able to successfully read the statement shown to them, while this percentage was higher amongst men at 98%.⁷ Unfortunately, only 68.9% of Roma women aged 15-24 were literate.⁸

Education is closely linked to employment and labour force participation: the higher the level of education, the better chances of finding employment. The state recognizes the problem of gender-based inequalities in access to labour and employment, structural stereotyping, and the problem of unpaid work, which affects women disproportionately. 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 labour market and reducing gender-based discrimination in employment. Most of these programming documents are only concerned with women in general and often place them with other vulnerable groups.⁹ Therefore, the national employment strategy set as a goal: "to improve the employability of women and men, and especially the most vulnerable persons." In order to implement this, it vies for the introduction of programmes for "self-employment aimed at disadvantaged youth and women, supported with tax alleviations and other incentive measures such as counselling and business training."¹⁰

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BiH has still the lowest level of female participation in the workforce in Southeast Europe.

5 Agency for Statistics BiH. Labour Force Survey 2013. Available at http://www.bhas.ba/tematskibilteni/BHAS_Ars_BH_press.pdf

6 MICS is an international household survey developed by the United Nations Children's Fund (UNICEF)

7 Multiple Indicator Cluster Survey 2011-2012.

8 Ibid.

9 3rd Alternative Report on the implementation of CEDAW and women's human rights in BiH (2010), available at <http://soc.ba/en/publications/other-publications/>

10 Ministry of Civil Affairs, Employment Strategy in BiH (2010-2014).

BiH has still the lowest level of female participation in the workforce in Southeast Europe. According to the Labour Force Survey of 2013, women are 51.2% (1.330.432) of the active BiH labour force, but when looking into all the employed persons in BiH, only 37.3% are women.¹¹ Most employed women work in the service sector (64.7%), followed by agriculture (19.2%) and industry (16.2%).¹² The same source points out that in 2013, the unemployment rate was 26.5% for men and 29.0% for women. The largest numbers of unemployed women are the ones with only primary and secondary education. A significant gender difference can be observed in the educational structure of the unemployed: 14.3% of all unemployed women have a university education, while that percentage among men with the same education is only 7.2%.¹³ This probably discourages women from continuing education at post-graduate and doctoral levels.

Other forms of discrimination influence the level of economic participation of women, most notably the fact that rights for maternity leave are regulated differently in different parts of BiH, as well as the fact that it is not always paid and that some women are left jobless after becoming pregnant. In the Federation of BiH, the legislation regarding maternity leave is leaning on the common framework set by the Federal Law on Social Protection, Protection of Civil Victims of War and Families with Children extending to individual jurisdiction and regulations of cantons. The problem is that some cantons (like Posavski Canton and Hercegovina-Neretva Canton) have neither the provision nor the budget for material benefits regarding maternity leave, while in other cantons these benefits are inadequate and/or unbalanced and the data obtained from institutions is unclear and poorly processed. As compensation for the lack of such benefits, Posavski Canton has regulated social aid amounting to 400KM.¹⁴ The data from 2011 and 2013 is very similar: monetary benefits were provided in eight cantons, with the exception of the two previously mentioned, while monetary benefits were provided to unemployed mothers in seven cantons (except Tuzla Canton, Hercegovina-Neretva Canton and Canton 10). The difference in 2013 compared to 2011 is in the higher number of unemployed mothers, either due to an increased level of unemployment (Posavski Canton) or to a higher birth rate among unemployed women (Zenica-Doboj and Bosansko-Podrinjski Canton).¹⁵ This shows that in most cases, maternity pay is lower than the salary earned during work; the enjoyment of this right depends on the place of residence of the mother and where her contributions are paid. In essence, the process of issuing complaints during maternity leave is still not harmonized, and there are cantons where this right is not guaranteed at all.

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2. Social Exclusion

While there are multiple forms of social exclusion faced by women in BiH, the most persistent ones relate to Roma women, women with disabilities and internally

¹¹ Agency for Statistics BiH: Data Labour Force Survey, 2013.

¹² Ibid.

¹³ Ibid.

¹⁴ Prava za sve/ICVA: Izvještaj o isplaćivanju porodijskih naknada u kantonima FBiH, 2013. Nacrt. (Report on the payment of maternity benefits in the cantons of FBiH 2013. Draft).

¹⁵ Ibid.

displaced persons. Lesbian, bisexual and transgender women, drug users and sex workers are some of the groups that also face high levels of discrimination and are alarmingly invisible.

2.1. Roma Women

The position of Roma women in BiH society is extremely difficult and hasn't improved much in the last years despite the fact that BiH has adopted (Revised) Action Plans for Roma in the areas of employment, housing and health care 2013-2016 (December 2013) and the (Revised) Plan of Action of the Educational Needs of Roma (2010), as well as joining the Decade of Roma Social Inclusion 2005-2015

Almost 82% of Roma women were unemployed, 9% were working in the informal sector and 7% were begging for survival. In the public sector, very few Roma (2-3%) were employed.

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The general low educational level amongst Roma women, their unemployment rate and the patriarchal attitude that prevails in Roma communities contributes to their difficult situation. About 90% of Roma women have no access to healthcare, social protection, or employment.¹⁶ Roma women are less educated and employed than other women in our country, mostly because they grow up in traditional Roma communities where women are not empowered, but also due to the strong discrimination they face from the rest of society. Due to their traditional practices and lack of de facto protection by the state, Roma women are often subjected to early and paid marriages. Results published in MICS4 Survey in February 2013 regarding early and forced marriages indicate that over one third of Roma women aged 15-19 are currently married. 15% of Roma women aged 20-49 married before age 15 and 48% before they were 18 years old. The percentage of women who were married was higher amongst those with no formal education (53%) compared to women with secondary or higher education (20%).¹⁷ It seems that very little progress has been made on improving the situation of Roma women and children who continue to suffer from discrimination and domestic violence. Almost 82% of Roma women were unemployed, 9% were working in the informal sector and 7% were begging for survival. In the public sector, very few Roma (2-3%) were employed.¹⁸ According to the results of a study on employment and self employment amongst Roma women,¹⁹ unemployment and inactivity are prevalent problems of these women, but most of them stated that they are ready to start their own businesses and attend specific trainings and education programs.

The needs of Roma women and girls are not specifically addressed in the "Action Plan of BiH on Roma Educational Needs"²⁰ or in the framework document of Bosnia and Herzegovina for promoting education: "Strategic Directions for the Development of Education in Bosnia and Herzegovina 2008–2015."²¹ In addition, no financial means were appropriated at the state level in 2012 and 2013 in support of the implementation of any measure from the "Revised Action Plan of BiH on the Educational Needs of Roma." However, competent ministries of education do allocate budgetary funds, but they are still not sufficient to support enrollment,

¹⁶ BiH Combined Fourth and Fifth Periodic Report on the Implementation of the CEDAW.

¹⁷ Multiple Indicator Cluster Survey 2011-2012.

¹⁸ 3rd Alternative Report on the implementation of CEDAW and women's human rights in BiH (2010).

¹⁹ Udruženje Kali Sara: Employment and self-employment amongst women (2011).

²⁰ The Action Plan is available at http://www.mhrr.gov.ba/ljudska_prava/djeca_bih/Revidirani%20Akcioni%20plan%20Bosne%20i%20Hercegovine%20o%20obrazovnim%20potrebama%20Roma.pdf

²¹ Available at <http://www.erisee.org/node/52>

In the "Revised Action Plan for Roma in the Areas of Employment, Housing and Health Care for 2013-2016" Roma women are mainly seen as mothers with an important role to play in the health of their family and the inclusion of Roma children in the education system.

attendance and graduation from school for all Roma children.²² In the "Revised Action Plan for Roma in the Areas of Employment, Housing and Health Care for 2013-2016," Roma women are mainly seen as mothers with an important role to play in the health of their family and the inclusion of Roma children in the education system.

Unfortunately, the government's discriminatory approach towards women keeps on repeating through policies and years (e.g. Strategy for the Resolution of Roma Issues in BiH from 2005). The organisation Rights for All already reported in 2011 on the response of institutions to domestic violence amongst Roma women and stated that the debate on population policy and "achieving the optimal and sustainable birth rate" as a prerequisite for a happy childhood of Romani children is very concerning. As they said, it appears as if the size of the family is the main obstacle for the exercise of the rights of Roma women and that women with no or fewer children would have had a greater scope of the rights or a better access to them. Insisting on programmes aimed at promoting "responsible parenting" is an indirect violation of human (reproductive) rights of Roma women.²³ In addition, the Revised Action Plan introduces women and girls as a target group that needs to be educated on property/housing rights and other topics relevant to gender equality.

2.2. Women with Disabilities

Women with disabilities face daily discrimination, both as women and as persons with disabilities. They often lack adequate health care and access to services and are often socially isolated. According to data from the World Health Organisation, it is estimated that at least of 10% of the population in BiH has physical, sensory, developmental, mental or emotional types of disability and that 30% of the population is either directly or indirectly affected by the consequences of disability. As the State and Gender Equality Agency recognizes, women with disabilities are especially vulnerable to being victims of multiple discrimination in BiH society, particularly in the areas of labour and employment, although BiH adopted the Convention on the Rights of Persons with Disabilities. The State has no special programs for employment, retraining or rehabilitation related to women with disabilities, nor does it have relevant statistics, data, or special measures for protection of women with disabilities in the areas of labour and employment.²⁴

Almost two thirds of all disabled persons in BiH live close to or below the poverty line. One of the major obstacles is a lack of statistical data and information on the extent, nature and characteristics of people with disabilities. There is also no central registry of people with disabilities and gender disaggregated data is not available. It is especially alarming since women with disabilities are also more likely to be victims of domestic violence. Health care is a very problematic field, especially reproductive health protection and protection and care for pregnant women. In

It is estimated that at least of 10% of the population in BiH has physical, sensory, developmental, mental or emotional types of disability and that 30% of the population is either directly or indirectly affected by the consequences of disability. But, there is no central registry of people with disabilities and gender disaggregated data is not available.

22 Institution of Human Rights Ombudsman of BiH, ODIHR and the OSCE Mission to BiH: Special report on the status of Roma in Bosnia and Herzegovina. Available here: http://www.ombudsmen.gov.ba/documents/ombudsmen_doc2013121011144464eng.pdf

23 Rights for All and. "Roma Women for Life without Violence. Response of institutions to domestic violence" 2011. Report available at http://pravazasve.ba/publikacije-en/docs-en/Roma_Women_For_Life_Without_Violence-ENG.pdf

24 BiH Combined Fourth and Fifth Periodic Report on the Implementation of the CEDAW.

addition to the lack of appropriate examination tables for women in wheelchairs, the majority of health care workers are not trained for examinations or delivery when it comes to women with disabilities.²⁵ As it is mentioned in a report issued by NGOs on the Application of the Convention on the Rights of Persons with Disabilities in Bosnia and Herzegovina, women with disabilities have problems getting custody of children after a divorce since there is a common belief that the child should be with the “healthy” parent, ignoring the child’s best interest, even in cases where the father was violent, and taking for granted that women with disabilities are not able to raise a child.²⁶

The most severe and most common forms of violating the rights of people with disabilities in Bosnia and Herzegovina are found in the fields of social protection, health, education, rights of access to information, labour and employment and in the field of organised action for people with disabilities. Even where laws exist to regulate this area, there is an evident record of discrimination in practice.²⁷

2.3. Refugees and Internally Displaced Women

There has been virtually no progress on implementing the 2010 strategy to support the return of refugees and IDPs to their pre-war homes, even after the new government was formed in February 2012.²⁸ Female-headed households make up almost one third of the total number of internally displaced persons in BiH. Currently, 7,500 people are located in collective centres and are often subject to multiple insecurities relating to their physical and mental health, age and the absence of a basic livelihood or family support as well as their inability to return for reasons of personal security.²⁹ A survey on the state of social exclusion of returnee women³⁰ has shown that female returnees are faced with numerous obstacles and problems in exercising their rights and ensuring sustainable return. Opportunities for permanent employment are few, mainly because the returnees mainly go back to the places that were essentially destroyed in the conflict and where the infrastructure has not been restored after the war. Female returnees are often the bread winners, which puts them in a position that, in addition to household duties, they must earn an income to support their families.³¹

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2.4. Sex Workers and Drug Users

Sex workers and women who use drugs are a large, but extremely marginalized and invisible community in Bosnia and Herzegovina. They are highly vulnerable to HIV/STI, harassment and violence due to multiple factors, including discrimination,

25 Annex to the 3rd Alternative Report on the implementation of CEDAW and women’s human rights in BiH (2013)

26 Prava za sve/ICVA: Izvještaj nevladinih organizacija. Primjena konvencije o pravima osoba sa invaliditetom u Bosni i Hercegovini (Report from the NGOs on the Application of the Convention on the Rights of Persons with Disabilities in Bosnia and Herzegovina). July 2013, available at <http://www.pravazasve.ba/publikacije-bs/docs-bs/izvjestaj-nevladinih-organizacija.pdf>

27 MDG Progress Report in BiH 2013, Available at http://www.ba.undp.org/content/bosnia_and_herzegovina/en/home/library/mdg/-napredak-u-realizaciji-milenijumskih-razvojnih-ciljeva-u-bih-20/

28 Human Rights Watch. World Progress Report: Bosnia and Herzegovina 2013. Available at <http://www.hrw.org/world-report/2013/country-chapters/bosnia-and-herzegovina>

29 MDG Progress Report in BiH 2013

30 Medica Zenica and TPO Foundation. Situation analysis: Social inclusion of returnee women. 2010.

31 BiH Combined Fourth and Fifth Periodic Report on the Implementation of the CEDAW.

The government has undertaken no measures to ensure female sex workers and/or drug users have equal access to protection of the law in matters neither of discrimination or violence nor to their right to adequate living conditions. Within the Financial Mechanism for the Implementation of the Gender Action Plan of B&H (FIGAP) no single project has been supported focused on improvement of life quality of female sex workers and/or drug users

social exclusion and criminalization. Most female sex workers and drug users in the country face continuous human rights violations on a daily basis by state and non-state actors.³² A high level of stigma, tabooing, and the illegality of sex work and drug use contribute to create a situation where sex workers and female drug users are on margins of society in BiH.

The government has undertaken no measures to ensure that these populations have equal access to protection of the law in matters of discrimination, violence, or to their right to adequate living conditions.³³ In addition, within the Financial Mechanism for the Implementation of the Gender Action Plan of B&H (FIGAP) no single project has been supported that is focused on the improvement of the quality of life of female sex workers and/or drug users out of more than 50 supported projects of non-institutional partners.

Official statistics on the number of sex workers and female drug users in B&H is unavailable. In general, there is very little research into sex work and drug use in B&H, partly because of the stigma related to the sale of sex and use of drugs. Absence of statistics and systematic monitoring of sex workers and drug users' human rights status has caused barriers for understanding of the real situation and neglecting of the direct human rights issues of these categories in national human rights reports.³⁴ According to the only study that has put the focus on violence against sex workers, 85% of them have been exposed to one or more types of violence (psychological, physical and sexual). The most common perpetrators of violence are husbands/partners, clients, family members and pimps. Four out of five sex workers have experienced psychological violence, two out of three have experienced physical violence, and three out of five sex workers have experienced sexual violence. Every seventh sex worker (16%) has suffered an attack with a weapon.³⁵

2.5. Lesbian, Bisexual and Transsexual Women

There is no official data available regarding lesbian, bisexual and transgender women, not on the numbers nor on the state of their human rights. Most of the data available on Lesbian, Bisexual and Transsexual (LBT) human rights violations is collected by the non-governmental sector due to the fact that that state authorities and agencies, even those engaged in promoting women's human rights, have not yet demonstrated any interest in data collection or for the protection of LBT women's rights.

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. 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

BiH authorities neglect the presence of LBT women, ignoring their existence in the society

32 Association PROI: Vulnerable and Invisible, Report on Violence and Discrimination against female sex workers and women who use drugs in BiH. 2013, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BIH/INT_CEDAW_NGO_BIH_13145_E.pdf

33 Ibid.

34 Ibid.

35 Association PROI: Survey on the Prevalence of Gender-Based Violence Against female sex workers in Bosnia and Herzegovina. 2010. Available at http://ugproi.com/upload/file/research_results/PROI_report_GBV_against_SW_ENG.pdf

According to a 2013 analysis of the results of a research project on the needs of the LGBT community in Bosnia and Herzegovina, lesbians aged 20 to 30 are the most exposed to discrimination, with 74% of this age group having experienced some form of discrimination

disadvantages as a result. It is a struggle for dignity, safety and integrity.³⁶ According to a 2013 analysis of the results of a research project on the needs of the LGBT community in Bosnia and Herzegovina,³⁷ lesbians aged 20 to 30 are the most exposed to discrimination, with 74% of this age group having experienced some form of discrimination. A significant number of bisexuals – 61% - from this same group have also experienced some form of discrimination.

In BiH, the most common form of discrimination against LGBT people takes place at the institutional level because the laws of BiH prevent LGBT people from getting married or registering a community, adopting children, accessing the social and health insurance of the partner, inheriting property and all the rights that, based on the recognition of life community (marital or extra-marital), belong to heterosexual couples. Discrimination against LGBT persons is usually motivated by their sexual orientation or gender identity. It is important to emphasize that in many cases of discrimination or violence it is enough for a person to look gay, trans, queer or like a lesbian in order to be a target of violence. 62.5 % of the lesbians who are out of the closet and participated in this research project have suffered from some form of violence.³⁸

3. Political Participation of Women and Public Life

According to the 2013 Law on Amendments to the Election Law of Bosnia and Herzegovina,³⁹ 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 (previously, the quota was 33%). Nowadays, the percentage of women in legislative and executive authorities at all levels remains unsatisfactory and the newly introduced 40% representation quota has not yet been reached.

Examining the percentage of women in ministerial positions and parliaments, Bosnia and Herzegovina can be compared with countries such as Saudi Arabia and Cambodia, since the BiH Council of Ministers is exclusively composed of male members, while the representation of women in the Parliament is imperceptibly better. There are 9 (21.4%) female representatives in the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina out of 42 members,⁴⁰ and 2 (13.3%) female delegates in the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina, out of 15 members.⁴¹ Only 1 (5.8%) woman is appointed to the Government of the Federation of Bosnia and Herzegovina (FBiH) out of 17 ministerial seats.⁴² The House of Representatives of the FBiH Parliament consists of

According to the 2013 Law on Amendments to the Election Law of Bosnia and Herzegovina 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 (previously, the quota was 33%). Nowadays, the percentage of women in legislative and executive authorities at all levels remains unsatisfactory.

³⁶ 3rd Alternative Report on the implementation of CEDAW and women's human rights in BiH (2010)

³⁷ J. Čaušević: Numbers of life. Analysis of the results of the research on needs of LGBT community in Bosnia-Herzegovina, Sarajevo Open Centre, 2013, available at: <http://soc.ba/numbers-of-life/>

³⁸ Ibid

³⁹ The Law on Amendments to the Election Law (Official Gazette of BiH, number 18/13), Article 1 and 2

⁴⁰ Parliamentary Assembly of Bosnia and Herzegovina, Representatives of the House of Representatives, available at: <https://www.parlament.ba/sadrzaj/poslanici/p/Archive.aspx?m=2&langTag=bs-BA&pril=b>

⁴¹ Parliamentary Assembly of Bosnia and Herzegovina, Delegates of the House of Peoples, available at: <https://www.parlament.ba/sadrzaj/poslanici/d/Archive.aspx?m=2&langTag=bs-BA&pril=b>

⁴² Government of the Federation of Bosnia and Herzegovina, Ministers, available at: <http://www.fbihvlada.gov.ba/bosanski/sastav%20vlade/index.php>

Positive examples are the appointment of 5 (31%) women to the Government of the Republika Srpska, and the appointment of the first woman as the Prime Minister of the Republika Srpska Government, elected in March 2013.

At the entity level, the women's caucus of the House of Representatives of the FBiH was established in March 2013. Since then, this club of female politicians belonging to different political groups has made a significant effort in its organizational development and impact within the Parliament.

98 representatives, out of which 22 (22.4%) are women,⁴³ and the House of Peoples of the FBiH Parliament counts 14 (24.1%) female delegates out of a total 58.⁴⁴ Positive examples are the appointment of 5 (31%) women to the Government of the Republika Srpska, and the appointment of the first woman as the Prime Minister of the Republika Srpska Government, elected in March 2013⁴⁵. The National Assembly of the Republika Srpska counts 18 (21.7%) female representatives out of 83 in total.

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 to 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.⁴⁶

At the entity level, the women's caucus of the House of Representatives of the FBiH was established in March 2013. Since then, this club of female politicians belonging to different political groups has made a significant effort in its organizational development and impact within the Parliament. The work of the caucus and of other women in BiH is helping to shift the focus of political dialogue from male-dominated nationalist rhetoric to common goals for women from various political, economic and social spheres. To date, the caucus has worked with national NGOs to draft amendments to increase sanctions against perpetrators of domestic violence and other criminal offences against women and girls such as incest, statutory rape, criminalized acts against maternity leave, change the age limit to be legally considered a minor and harmonizing compensation for maternity and paternity leave across the country.

In October 2013, 15 NGOs⁴⁷ came together to create the Women's Platform for Constitutional Reform from a Gender Perspective. The Women's Platform prepared five demands to be included in the constitutional reform: application of gender-sensitive language in the Constitution of BiH, since the current constitution only deploys the masculine gender; the introduction of affirmative action principles in the Constitution of BiH to work towards using the gender equality law to its full effect; amendments to the existing catalogue of fundamental rights, to include provisions with respect to common health care services, social and family care; affirmation of a

43 Federal Parliament, Representatives of the House of Representatives, available at: <http://predstavnickidom-pfbih.gov.ba/bs/page.php?id=8>

44 Federal Parliament, Delegates of the House of Peoples, available at: http://www.parlamentfbih.gov.ba/dom_naroda/bos/

45 Government of the Republic of Srpska, Ministers, available at: <http://www.vladars.net/sr-SP-Cyrl/Vlada/ClanoviVlade/Pages/default.aspx>

46 3rd Alternative Report on the implementation of CEDAW and women's human rights in BiH (2010).

47 TPO Foundation Sarajevo, United Women Foundation Banja Luka, Helsinki Citizens Assembly Banja Luka, Forum žena Bratunac, Budućnost Modriča, Forma F Mostar, Rights for all Sarajevo, Fondacija bosanskohercegovačka inicijativa žena, Sarajevski otvoreni centar, Fondacija CURE, Vive žene Tuzla, Udruženje građanki Grahovo, Krajiška suza Sanski Most, Organizacija žena Lara Bijeljina, Glas žene Bihać, Medica Zenica, and the Public International Law & Policy Group (PILPG).

higher level of judicial and legal protection of human rights and liberties, since the current constitution stresses the collective rights of constituent peoples (i.e. Serbs, Croats and Bosniaks) rather than the rights of the individual; the principle of direct democracy to be applied to the process of constitutional reform. The "Women's Initiative for Constitutional Reform" promotes the highest values of social justice and the rule of law as fundamental values that together will guarantee the improvement of living standards and political stabilization in BiH.⁴⁸

Women face discrimination at different levels, and violations of the Law on Gender Equality are not isolated cases. In October 2013, the Council of Ministers of the BiH Parliament⁴⁹ appointed seven members for the Council of the Communications Regulatory Agency of Bosnia and Herzegovina. Among those seven members, no women were included despite the fact that the second ranked candidate on the list that was prepared by the Parliamentary Ad Hoc Committee to implement the procedure of appointment of the Council of the Communications Regulatory Agency of BiH was a woman, Marija Milić. The Council of Ministers didn't take into account equal gender representation, which is regulated by the Law on Gender Equality in Bosnia and Herzegovina.⁵⁰

There are very few reported cases on discrimination based on gender or sex. The Institution of the Human Rights Ombudsman in BiH registered thirteen cases of discrimination based on social status and gender in 2012. 9 of these cases were registered in Banja Luka, 2 in Brčko, 1 in Sarajevo, and 1 in Livno. In addition, the office of the Ombudsman for Human Rights in BiH registered an increase of mobbing cases (a total of 81, out of which 46 were in Sarajevo, 25 in Banja Luka, 6 in Brčko, 3 in Mostar and 1 in Livno). The total number of harassment cases was 9 (5 in Banja Luka and 4 in Sarajevo). The office also registered 4 cases of discrimination based on gender expression and orientation (3 in Sarajevo and 1 in Banja Luka).⁵¹ In 2013, discrimination cases based on social status and gender were almost the same number (a total of 14 cases, out of which 8 were in Banja Luka, 2 in Mostar, 2 in Sarajevo, 1 in Brčko and 1 in Livno). The office of Ombudsman registered 4 cases of harassment (3 in Sarajevo and 1 in Banja Luka), and 1 case of sexual harassment in Sarajevo. The number of cases of mobbing was 69 for 2013 (Sarajevo 42, Banja Luka 17, Brčko 7, Livno 2 and Mostar 1), while the number of discrimination based on gender expression and orientation cases remains 4, this time 3 in Banja Luka and 1 in Sarajevo. If we compare this data with other research, we can conclude that there is a very low level of trust towards BiH institutions, including the Ombudsman institution.

Available data on the ratio of men to women employed in public administration in Bosnia and Herzegovina shows approximately the same ratio amongst civil servants (51% are women); however, an increasing number of men hold higher and

48 More detailed information available at <http://www.ustavnareforma.ba/en>

49 Session 66 of the Council of Ministers held in Sarajevo on 23.10.2013

50 Article 20 Gender Equality Law of Bosnia and Herzegovina stipulates the obligation that "government bodies at all levels of government and local authorities, including the legislature, the executive and the judiciary, political parties, legal persons with public authorities, legal entities which are owned or controlled by the state, entity, cantonal, city or municipality, or whose work is a public authority to exercise control, to ensure and promote equal gender representation in management, decision making and presentation. This obligation exists for all authorized proponents when selecting representatives and delegations to international organizations and bodies." (Paragraph 1)

51 Institution of the Human Rights Ombudsman in BiH: Annual report on discrimination in BiH. 2012. Available at: http://parlamentfbih.gov.ba/dom_naroda/bos/parlament/propisi/E1_materijali/Godisnji%20izvjestaj%20o%20diskriminaciji%202012.pdf; Because the Ombudsman Report for 2013 is still not published, we have got the data for 2013 based on the direct contact with the Head of Cabinet of the Ombudsman Institution.

Women face discrimination at different levels, and violations of the Law on Gender Equality are not isolated cases.

The Ombudsmen for Human Rights Institution in BiH registered fourteen cases of discrimination based on social status and gender in 2013.

Only 35% of senior positions in BiH institutions are covered by women.

more important positions, such as managers of independent administrative bodies, assistant ministers, chief inspectors and other⁵². Only 35% of senior positions in BiH institutions are covered by women. 56% of judges are women and the overall percentage of female prosecutors is 48.5%. This shows that women hold the highest positions within the judiciary of BiH, and the current president of the Court of BiH is a woman, as well.

4. Violence Against Women and Girls, Domestic Violence

On November 7 2013, the Parliament of Bosnia and Herzegovina ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Bosnia and Herzegovina is amongst the first eight countries that ratified the Istanbul Convention.

During 2013, several important steps were taken in the field of combating violence against women and girls. On November 7, the Parliament of Bosnia and Herzegovina ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.⁵³ The also called the Istanbul Convention the first legally binding instrument in Europe and in the world creating a comprehensive legal framework to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women, including domestic violence. The Convention also establishes an international mechanism to monitor its implementation at the national level. It is based on the understanding that violence against women is a form of gender-based violence that is committed against women because they are women. By ratifying it, the state assumes its obligation to fully address violence against women in all its forms and to take measures to prevent it, protect its victims and prosecute the perpetrators. Failure to do so would make it the responsibility of the state.

Bosnia and Herzegovina is amongst the first eight countries that ratified the Istanbul Convention. The Convention does not enter into effect until it is ratified by at least ten countries, eight of which must be member states of the Council of Europe.⁵⁴ As of January 2014, thirty-two countries have signed the Convention and eight have ratified it. Currently, the BiH Agency for Gender Equality is taking the lead in developing a strategy to implement the Council of Europe Convention, focusing on four major themes: prevention, protection, prosecution, and monitoring. It is envisaged to be implemented in the next years.

In addition, in 2013, the findings of the First National Study on Prevalence and Characteristics of Violence against Women in BiH⁵⁵ were presented. The research findings show that women in BiH are exposed to a high risk of violence, first in her immediate, intimate environment of relationship with her partner and family, and then in the broader community. In families where violence against women had been registered, there were also pronounced patriarchal attitudes towards gender roles, although this phenomenon was generally high throughout the sample.

Findings indicate that almost half of the women in BiH (older than 15) have been subjected at least once in their lifetime to some of four kinds of violence

⁵² MDG Progress Report in BiH 2013

⁵³ Prior to the ratification, Bosnia and Herzegovina signed the Convention (8th march 2013)

⁵⁴ Istanbul Convention, Art. 75, http://www.coe.int/t/dghl/standardsetting/equality/03themes/violence-against-women/Conv_VAW_en.pdf.

⁵⁵ Prevalence and Characteristics of Violence against Women in BiH, 2013. Conducted by the Agency for Gender Equality and Statistical Agency and with the support of UNFPA and UN WOMEN. Available at http://www.vladars.net/sr-SP-Cyrl/Vlada/centri/gendercentarrs/media/vijesti/Documents/prevalency_study.pdf

Findings indicate that almost half of the women in BiH (older than 15) have been subjected at least once in their lifetime to some of four kinds of violence (physical, psychological, sexual and economic), psychological violence being the most prevalent (on its own or in combination with physical violence).

(physical, psychological, sexual and economic), psychological violence being the most prevalent (on its own or in combination with physical violence). According to these results, during the 12 months preceding the survey, 11.9% of women in BiH had experienced some form of violence. The most frequent form of violence was psychological, with an overall prevalence of 41.9% during one's lifetime and 10.8% in the last year. Psychological violence against women is a direct consequence of the understanding of what the role of women should be and their subordinate position in family and society. The second most prevalent form of violence is physical, with a prevalence rate of 24.3% during one's lifetime and 2.4% in the last year. Sexual violence has been experienced by 6% of women during their adult lives, while 1.3% women have been victims of sexual violence in the last year.

Some very serious facts pointed out by the research findings are the following:

- The prevalence of domestic violence is higher in rural than in urban areas (49.2% vs. 44.3%).
- Young women are more subjected to violence than older women (the prevalence rate of violence among women aged 18-24 is 56.38% and 44.2% in the case of women over 65 years).
- Perpetrators of violence against women are most often former or current partners. In families where domestic violence has been detected, patriarchal opinions on gender roles are stronger, although they are generally strong across the sample.
- Being subjected to violence has serious consequences on women, from direct physical injuries in cases of physical and sexual violence, to chronic psychosomatic problems.
- Material deprivation significantly increased the risk of domestic violence: 19.7% of women who did not live in deprived households had experienced violence compared to 26.3% of women from deprived households.
- There is a high level of tolerance of violence (by victims but also by other persons and institutions): women often fail to develop successful strategies to leave the vicious cycle of violence, and they often lack a clear perception of themselves as victims of violence and that they have various rights and possibilities to receive protection. Although a large number of women reported different individual experiences of violence, they did not perceive themselves as being victims of violence.
- Prevalence of partner violence diminishes with increasing education of women and their partners.

All these findings confirm that violence against women, especially domestic violence, continues to be a widespread social problem in BiH, and a serious violation of fundamental human rights. This type of violence is still seen and tolerated as a "socially acceptable behaviour" and is justified by traditional and patriarchal conceptions of the role and status of women in BiH society.

In Bosnia and Herzegovina, there are nine shelters and safe houses⁵⁶ for women and children victims of domestic violence (six are in the Federation of BiH and

⁵⁶ Shelters for women and children, victims of violence are located in Sarajevo (Fondacija lokalne demokratije – Local Democracy Foundation), Banja Luka (Udružene žene – United Women), Mostar (Caritas Mostar and Zena BiH/ BiH Woman), Bijeljina (Lara Bijeljina), Bihac (Žene sa Une – Women from Una), Modrica (Buducnost - Future), Tuzla (Vive Žene – Vive Women) and Zenica (Medica)

In Bosnia and Herzegovina, there are nine shelters and safe houses for women and children victims of domestic violence, all of them are run by non-governmental organizations.

three in Republika Srpska) with 173 available places. All of them are run by non-governmental organizations⁵⁷ and a team of professionals that offer support for the rehabilitation process of the women by providing psychological, medical, social and legal aid. Due to the trend of irregular allocation of funds from the entity budget, as well as sporadic planning and allocation of funds by local communities and cantons, many of the shelters currently have serious financial difficulties.

Despite the fact that the new legislation on protection from family violence was adopted in 2012 in both of Bosnia and Herzegovina's entities,⁵⁸ institutions failed to harmonize provisions of these laws and thus to provide for the 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 non-governmental organizations.⁵⁹

It is important to point out the lack of protection and effective specialized services for other kinds of violence against women like rape, sexual abuse and sexual harassment. Women belonging to a marginalized or socially excluded group face even more difficulties when they are victims of domestic and other forms of violence. These women do not have enough information about their rights and do not know how or where to seek help and supporting services.

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5. Wartime Sexual Violence

Mrs. Zainab Hawa Bangura, the United Nations Secretary General's Special Representative for Sexual Violence in Conflict, visited Bosnia and Herzegovina in June 2013. With her visit she confirmed that in the last two decades BiH has made scandalously little progress in dealing with the legacy of the estimated tens of thousands of such crimes committed in the country during the 1992-95 war. She stated that rape victims in Bosnia deserve better treatment, reparations and a public apology.⁶⁰

It is impossible to come up with an exact figure, but the U.N. estimates between 20,000 to 50,000 women were raped during the war. Courts so far have prosecuted only a few dozen cases in the whole country. The vast majority of these crimes remain unpunished, and many have not even been acknowledged. When Mrs. Bangura visited BiH, she found that crimes of sexual violence during the war are, in effect, treated as second-class crimes and these victims are lower priorities for the justice system. She presented a 6-point agenda to accomplish the task of diminishing the problem of sexual violence in conflict, which include:

- ending impunity for perpetrators and seeking justice for victims;
- protecting and empowering civilians who face sexual violence in conflict, in particular women and girls who are targeted disproportionately by this

⁵⁷ Information of the NGO running the safe houses available at <http://arsbih.gov.ba/?p=209>

⁵⁸ 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

⁵⁹ Annex to the 3rd Alternative Report on the implementation of CEDAW and women's human rights in BiH (2013)

⁶⁰ Mrs. Bangura summarized few impressions from Bosnia and Herzegovina in a report present to the Secretary General and the UN Security Council at a meeting on the 24th June 2013. Available at http://www.securitycouncilreport.org/atf/ct/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_6984.pdf

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crime;

- mobilizing political leadership to address wartime rape;
- increasing recognition of rape as a tactic of war and encouraging more research on the issue;
- strengthening coordination and ensuring a more coherent response from the UN system; and, finally,
- emphasizing national ownership, leadership and responsibility in the fight to put an end to this scourge.⁶¹

Survivors of wartime sexual violence in BiH need more support and recognition. Many survivors still need psychosocial support to be able to deal with their pain and trauma. Also, victims that pursued justice need practical support and guidance through the complicated legal system. The implementation of the National Strategy for War Crimes⁶² continues to be far from satisfactory. While perpetrators enjoy impunity for the most serious crimes, victims are often dying without seeing justice done.⁶³ Eleven associations⁶⁴ working with survivors of sexual violence during the war submitted a Report to the CEDAW Committee in June 2013 in which they highlighted the following problems when it comes to protection and support for victims and witnesses in cases of rape or other forms of sexual violence during the war: a flawed legal framework concerning witness protection; the lack of adequate protection of witnesses in cases of harassment and the subsequent failure to thoroughly investigate such instances and to judge and sanction those responsible; the general inadequacy of the manner in which protection of witnesses is granted; the material difficulties faced by witnesses; and the lack of adequate psychological support for witnesses before, during and after testifying.⁶⁵

Official recognition is needed, and the Programme for Victims of Wartime Rape, Sexual Abuse and Torture and their Families in BiH 2013-2016, which will ensure legal and psychological support to victims, strengthen the capacities of service providers, sensitize the general public and build partnerships between governmental and non-governmental sectors, should be approved by the BiH Government in order to give a better future to the thousands of survivors of sexual violence.

Victims are not treated equally in the two entities, and therefore uniformity of treatment of victims in different jurisdictions of the country is also needed. In Republika Srpska, victims of rape are not recognized as a special category of civilian victims of war and they are excluded from receiving social benefits. In the Federation of BiH, there is no restriction on the victims of rape and they are considered a special category of victims, but they are only entitled to maximum 70%

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61 Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict: <http://www.un.org/sexualviolenceinconflict/>

62 The National Strategy for War Crimes Processing was adopted in December 2008 in order to address a large backlog of unresolved war-related cases, including cases of rape and sexual violence committed during the 1992-1995 war.

63 TRIAL Association: Written Information for the Consideration of Bosnia and Herzegovina's Combined Fourth and Fifth Periodic Reports by the Committee on the Elimination of Discrimination against Women. 2013. Available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BIH/INT_CEDAW_NGO_BIH_13143_E.pdf

64 TRIAL (Swiss Association against Impunity), Association of Women-Victims of War, Women's Section of the Concentration Camp Torture Survivors Canton Sarajevo, Foundation of Local Democracy, Izvor-Prijedor, Medica Zenica, Naš Glas, Snaga Žene, Society for Threatened Peoples, Sumejja Gerc, Vive Žene Tuzla.

65 Ibid

of the amount of monthly benefits provided to war veterans. As summed up in the concluding observations issued by the CEDAW Committee on the combined fourth and fifth periodic reports of Bosnia and Herzegovina, there is a need to develop a comprehensive approach to improve the status and position of all female victims of the war, including by combating stigma attached to sexual violence, and expand the provision of compensation, support and rehabilitation measures and benefits, and ensure equal access to such services for all women victims irrespective of their place of residence.

6. Human Trafficking

Bosnia and Herzegovina still remains a country of origin, destination and transit for trafficking in human beings, in particular women and girls for purposes of sexual exploitation.

Other forms of violence against women like human trafficking also affect women's prospects of enjoying rights and full equality with men. Bosnia and Herzegovina still remains a country of origin, destination and transit for trafficking in human beings, in particular women and girls for purposes of sexual exploitation. Women in and outside BiH continue to be seriously affected by unemployment and poverty, discrimination and violence and these conditions make them more vulnerable to falling into the hands of traffickers. In recent years, BiH has become an important country of origin due to the difficult economic situation, the lack of employment opportunities affecting women in particular, the large number of displaced persons, the pronounced level of domestic violence in the post-war environment, and the level of general discrimination facing women in all spheres of life.⁶⁶ Testimonies from trafficked persons indicate that they are held in brothels against their will, sometimes tortured, often forced to have unprotected sex, and denied access to health services by brothel owners.⁶⁷ Although by 2006 many nightclubs had been closed down and many foreign victims of trafficking had been repatriated to their countries of origin, BiH has failed to prosecute the majority of criminals who are responsible for trafficking, and victims have not been indemnified. Unfortunately, trafficking in BiH has not been eradicated; it has only changed its mode of action, as the victims are now young girls, BiH citizens, who are sexually exploited in motels, private houses and cottages, or taken to foreign countries. As Association PROI has reported⁶⁸, sex workers' illegality and lack of equal access to law and police protection creates the environment of impunity for abuse against sex workers and places sex workers at higher risk of being in situations of trafficking. Sex workers are often approached with offers of new jobs in the sex industry but are deceived as to the conditions under which they will be working, ending up in exploitative or coercive situations. Also, women who use drugs are more likely to become victims of trafficking due to their poverty, social exclusion and illegal drug activities. Often traffickers use drug addiction to keep the victim in the trafficking situation.

A significant challenge in the prevention of trafficking is the uncoordinated legal framework that regulates this matter. Despite the growing trend of internal and international trafficking, the number of prosecutions still remains low due to the fact

⁶⁶ Alternative Report On the Implementation of CEDAW and Women's Human Rights in Bosnia and Herzegovina (2010)

⁶⁷ Ibid

⁶⁸ Association PROI: Vulnerable and Invisible. Report on Violence and Discrimination against female sex workers and women who use drugs in BiH. 2013.

that the Criminal Codes of the Entities and of Brčko District have not been harmonized with the State Criminal Code and therefore do not allow adequate prosecutions at entity and district level with corresponding punishments and convictions of acts of trafficking, especially internal trafficking. The CEDAW Committee paid special attention to the issue of human trafficking. In its Concluding Observations, the CEDAW Committee expressed its concern about the lack of effective victim identification procedures, especially regarding women and girls from Roma communities and internally displaced women, who are increasingly affected. The Committee also expressed concern about the fact that the provision of adequate services to victims of trafficking, such as shelters, are mostly operated by non-governmental organizations, which rely on external funding. As NGOs denounced,⁶⁹ the cooperation between state institutions and nongovernmental organizations engaged in prevention of human trafficking 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 RING Network⁷⁰ of NGOs working on prevention of human trafficking.

69 Alternative Report On the Implementation of CEDAW and Women's Human Rights in Bosnia and Herzegovina (2010)

70 Consisting of 12 NGOs from all parts of Bosnia and Herzegovina.

RECOMMENDATIONS

For this Human Rights Paper on the situation of women in Bosnia and Herzegovina in 2013, five recommendations have been chosen in five different areas. Many more are needed, but for practical reasons, we have decided just to focus on a small number. An extensive set of recommendations that should and need to be implemented to improve the situation of women in BiH was already compiled and expressed by the CEDAW Committee in the *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Bosnia and Herzegovina* in July 2013.

Of the following recommendations, no single one has priority; all of them are considered equally important for the future progress of Bosnia and Herzegovina and human rights.

- A uniform holistic approach to increase gender mainstreaming across the different sectors and in all aspects of the government work has to be applied. Institutional capacities need to be strengthened and the cooperation and coordination between the gender mechanisms, the key ministries, the civil society and women's organisations, political parties, media, private sector and educational institutions, has to be seriously enhanced.
- The efforts to include women and girls at risk of social exclusion in the education and employment system have to increase and a special focus has to be put on the Roma community. Women's entrepreneurship has to be promoted and the establishment of special training programmes and counseling for different groups of unemployed women is needed. Regulations and practices for employed and unemployed women and for maternity benefits should be harmonised.
- Positive discrimination measures have to be stipulated and implemented in order to increase the number of female representatives within the elected and appointed positions and bodies in decision-making positions within the administration. Public media should ensure that female and male political candidates receive equal visibility during the election campaigns.
- Referral mechanisms that define the cooperation of relevant stakeholders and provide an effective way to refer victims within the system of service provision have to be strengthened. An efficient accountability system to continuously monitor the implementation of the regulations related to violence against women needs to be established and regular public information campaigns and educational programs to prevent, recognise and address domestic violence are needed.
- An inclusive and widespread approach to improve the status and position of female victims of sexual violence during the war needs to be urgently implemented and the social stigma attached to sexual violence has to be addressed. Compensation, support and rehabilitation measures and benefits have to be provided and equal access to specialized services for all the victims of sexual violence during the conflict has to be ensured, irrespective of their place of residence. Witness protection measures at district and cantonal levels need to be improved.

About the Author

Esther Garcia Fransioli (1980, Palma de Mallorca, Spain) is a social psychologist with a comprehensive background in gender equality, violence against women and girls, human rights, education, social mobilization, and with over eight years of extensive experience in projects and programs aimed at empowering women and girls, addressing gender-based violence and promoting human rights.

Esther holds a BA in Psychology from the *Universidad Autonoma de Madrid*; an MA in International Development and Humanitarian Aid from the *Universidad Pontificia de Comillas* (Spain); and speaks six languages. She has experience in international NGOs like Doctors of the World and Save the Children and has worked in countries like Mauritania, Guatemala, Peru and Spain.

In 2009 Esther landed in Sarajevo to develop the youth and gender portfolio of the Unifem/UN Women Office in Bosnia and Herzegovina and afterwards, in 2012/13, she coordinated the ending violence against women and advocacy section of the same office. Currently she is based in Sarajevo and working as a freelance consultant.

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author Edita Miftari. Sarajevo: Sarajevo Open Centre, download:
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