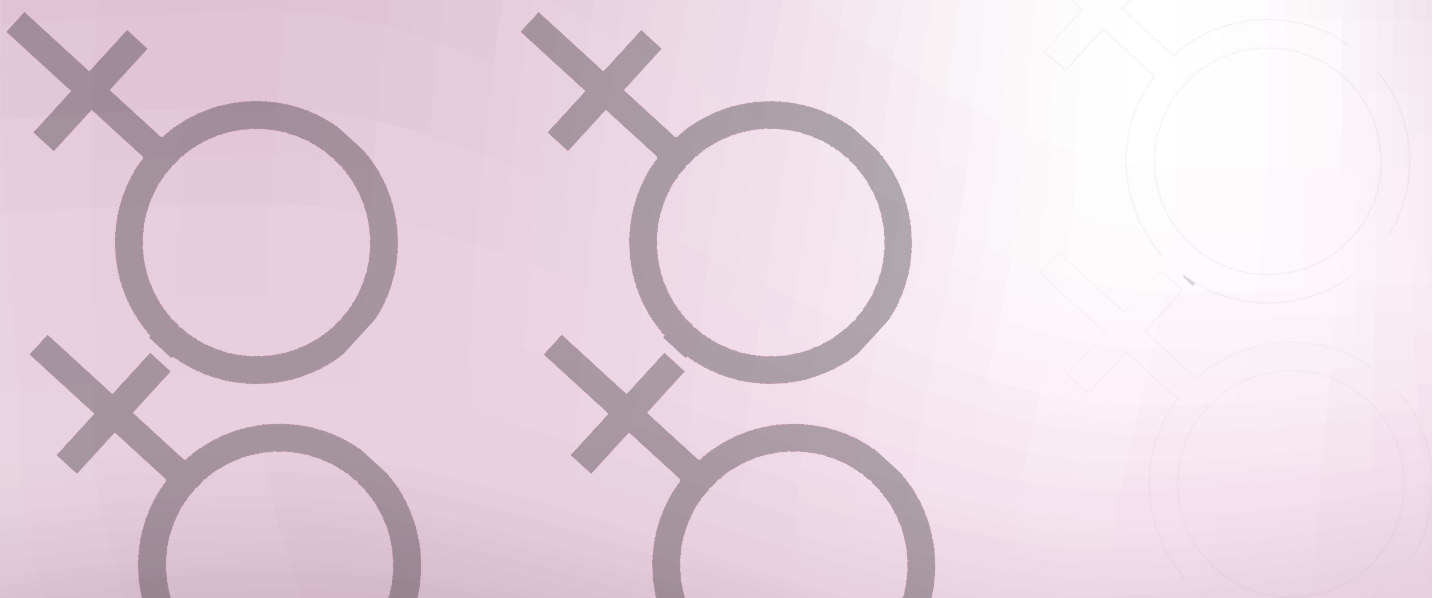


ALTERNATIVNI IZVJEŠTAJ

DODATAK 3. ALTERNATIVNOM IZVJEŠTAJU O IMPLEMENTACIJI CEDAW KONVENCIJE I ŽENSKIM LJUDSKIM PRAVIMA U BOSNI I HERCEGOVINI



**Prezentovan:
KOMITETU UJEDINJENIH NARODA
ZA ELIMINACIJU SVIH OBLIKA DISKRIMINACIJE
ŽENA (CEDAW)**

Juli, 2013.

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O IMPLEMENTACIJI CEDAW KONVENCIJE
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KOMITETU UJEDINJENIH NARODA
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Dodatak 3. Alternativnom izvještaju
o implementaciji CEDAW konvenciji i ženskim ljudskim pravima
u Bosni i Hercegovini

Autorice:

Uvod, Nasilje nad ženama
Ekonomski položaj žena, Marginalizirane žene
Žene u javnom i političkom životu
Žene žrtve rata
Trgovina ženama
Žene sa sela
LBT Žene

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UVOD

Autorica: Aleksandra Petrić

Dodatak trećem alternativnom izvještaju¹ je nastao kao rezultat zajedničkih napora grupe aktivistkinja i aktivista iz nevladinih organizacija u Bosni i Hercegovini² sa dugogodišnjim iskustvom u direktnom radu sa ženama čija su prava ugrožena ili direktno povrijeđena, kao i aktivnostima zalaganja za usvajanje rodno osjetljivih i odgovornih zakona i javnih politika u oblasti zaštite ženskih ljudskih prava i ravnopravnosti polova.

Dodatak ima za cilj usmjeravanje pažnje na promjene u ključnim oblastima koje su predmet trećeg alternativnog izvještaja, a koje su se desile nakon 2010. godine, te na nezavisnu analizu i nove podatke koji nisu bili uključeni u treći alternativni izvještaj, a odnose se na stanje zaštite i ostvarivanja prava naročito višestruko marginalizovanih kategorija žena u Bosni i Hercegovini, kako slijedi:

1. Žene sa invaliditetom,
2. Žene na selu,
3. Lezbejke, biseksualne i transrodne/transeksualne žene (u daljem tekstu LBT zene).

Podaci i analize predstavljene u ovom dodatku ukazuju na posljedice dugotrajne i kontinuirane političke i ekonomske krize u Bosni i Hercegovini, kao i na njihov direktan uticaj na stanje zaštite osnovnih ženskih ljudskih prava, i mogućnosti žena da svoja prava uživaju na ravnopravnoj osnovi, kako u smislu formalno-pravne zaštite, tako i u smislu pristupa i ostvarivanja osnovnih prava u svakodnevnom životu i u situacijama potrebe.

Relevantni alternativni podaci i istraživanja nevladinih organizacija u Bosni i Hercegovini ilustruju specifične oblike diskriminacije i kršenja ženskih ljudskih prava na svim nivoima – od lokalnih zajednica do državnog nivoa u Bosni i Hercegovini – te omogućuju organizacijama koje su učestvovala u pripremi trećeg alternativnog izvještaja i njegovog dodatka da dodatno argumentuju potrebu usvajanja ključnih preporuka CEDAW Komiteta u oblastima u kojima je država Bosna i Hercegovina propustila ili nedovoljno djelovala da zaštiti ženska ljudska prava.

1 Nevladine organizacije koje djeluju u oblasti promovisanja i zaštite ženskih ljudskih prava u Bosni i Hercegovini su do sada pripremile tri alternativna izvještaja. Prvi izvještaj o stanju ženskih ljudskih prava u Bosni i Hercegovini je pripremljen 1999. godine u saradnji organizacije Global Rights i ženskih nevladinih organizacija u BiH, drugi izvještaj je pripremljen 2004. godine u saradnji Global Rights i koalicije 16 ženskih nevladinih organizacija u BiH. Treći izvještaj je nastao 2010. godine uz podršku i koordinaciju organizacija Prava za sve Sarajevo i Helsinški parlament građana Banja Luka i doprinos Fondacije Cure Sarajevo, Udružene žene Banja Luka, Budućnost Modriča, Lara Bijeljina, Forum žena Bratunac i Žene ženama Sarajevo.

2 *Prava za sve Sarajevo, Lara Bijeljina, Medica Zenica, Udružene žene Banja Luka, Sarajevski otvoreni centar Sarajevo, Budućnost Modriča, Kolektiv Zenica, te Fondacija CURE Sarajevo i Žene ženama Sarajevo* kao savjetodavna organizacija.

EKONOMSKI POLOŽAJ ŽENA

Autorica: Fedra Idžaković

ŽENE I TRŽIŠTE RADA

U izvještajnom periodu od 2011. do 2013. godine, nije došlo do značajnijih promjena u ovoj oblasti. BiH i dalje nema detaljnu službenu statistiku niti specifična istraživanja o položaju žena na tržištu rada i u ekonomiji. Žene se i dalje suočavaju sa nejednakošću u pristupu tržištu rada, i njihovo učešće u radnoj snazi ostaje na niskom nivou. Prema podacima iz Ankete o radnoj snazi, zaposlenost je neznatno narasla, a zatim ponovno pala u 2011. i 2012. godini. Međutim, učešće žena na tržištu rada (od 41,2%) i zaposlenost žena (od 28,7%) ostaje i dalje izuzetno niska.³

Zabrinjavajuće visok postotak žena (oko 60%) je neaktivno na tržištu rada. Ovo su žene koje iz različitih razloga ne traže ili ne mogu pronaći posao.⁴ Zabrinjava i visok procenat žena (oko 70%), neplaćenih pomažućih članova porodice, odnosno žena koje rade u porodičnom biznisu ili na farmi (više detalja u tabeli 1). Država je u proteklom periodu usvojila mjere rodne ravnopravnosti u politikama zapošljavanja.⁵ Drugi relevantni strateški dokumenti također prepoznaju i predviđaju mjere za smanjenje diskriminacije žena u ovoj oblasti.⁶ Nažalost, ove politike nisu dovele do značajnijih promjena u ovoj oblasti. Praksa u provođenju poticajnih programa za zapošljavanje i samozapošljavanje ranjivih kategorija stanovništva pokazuje da žene nisu informisane o programima i uslovima za dobijanje sredstava, odnosno da nemaju dovoljno vještina da apliciraju i dobiju poticajna sredstva.

RODITELJSKO ODSUSTVO

Diskriminacija u radu povezana sa pitanjem materinskih prava je i dalje široko rasprostranjena.⁷ U Republici Srpskoj, pravni okvir je djelomično zadovoljavajući, ali važeće zakonsko rješenje indirektno diskriminira žene pri zapošljavanju jer je obveznik isplate jednog dijela porodiljskih naknada poslodavac/ateljica.⁸ U budžetu nedostaju potrebna sredstva za isplatu naknada. U Federaciji Bosne i Hercegovine, porodiljsko odsustvo i naknada se ostvaruju unutar šema socijalne zaštite i kada se

3 Agencija za statistiku BiH, Anketa o radnoj snazi u BiH 2011, rađena po metodologiji Međunarodne organizacije rada, dostupno na: http://www.bhas.ba/tematskibilteni/LFS_2011_001_01_bh.pdf

4 Zbog nedostatka podataka, nevladine organizacije pretpostavljaju da ovu kategoriju čine žene koje su ostale bez posla u procesu privatizacije ili iz drugih razloga, imaju više od 40 godina života i čine grupu osoba kojima je naročito teško naći posao. Ovu kategoriju čine i žene pripadnice ranjivih grupa: žene sa invaliditetom, Romkinje, žrtve nasilja, itd. Zbog nedostatka kvalifikacija, radnih vještina, te dugog izostanka sa tržišta rada, ovim ženama je gotovo pa nemoguće naći posao.

5 Strategija zapošljavanja u Bosni i Hercegovini 2010-2014, Strategija zapošljavanja Federacije Bosne i Hercegovine 2009-2013, i Strategija zapošljavanja Republike Srpske 2010-2015

6 Strategija razvoja BiH, dostupno na: http://www.dep.gov.ba/razvojni_dokumenti/razvojna_strategija/Archive.aspx?template_id=71&pageIndex=1

i Strategija socijalnog uključivanja, dostupno na: http://www.dep.gov.ba/razvojni_dokumenti/socijalne_ukljucenosti/Archive.aspx?template_id=71&pageIndex=1

Ovi dokumenti naročito naglašavaju potrebu za posebnim podsticajima za žene u razvoju malih i srednjih preduzeća, te potrebu za povećanjem fleksibilnosti i unapređenjem funkcionisanja tržišta rada, uz politike usklađivanja privatnog, porodičnog i profesionalnog života, osiguranje jednakosti muškaraca i žena na tržištu rada, te sprječavanje diskriminacije u procesu zapošljavanja i u uslovima rada.

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 "Za prvi mjesec u cijelosti, a za ostale mjesec u dijelu doprinosa i poreza" – „Udružene žene,” *Analiza napretka u implementaciji prioriteta definisanih u okviru Programske platforme za saradnju između žena izabranih u zakonodavne organe vlasti u Bosni i Hercegovini i žena aktivnih u nevladinim organizacijama u period 2010 – 2014. godine* – "za prvi mjesec u cijelosti, a za ostale mjesec u dijelu doprinosa i poreza"

radi o zaposlenim ženama. To je jedan od mogućih uzroka isplate niskih i destimulirajućih porodiljnih naknada. Kada, u periodu krize, država smanjuje visoka davanja za socijalnu zaštitu, na udar prvo dolaze budžeti namijenjeni ženama i marginalizovanim grupama. I dalje postoje krupne razlike između visine, uslova i postupaka za ostvarivanje prava na porodiljsko odsustvo i naknade za zaposlene i nezaposlene majke u pojedinim administrativnim jedinicama (kantonima). Naknada je u većini slučajeva manja od plaće zarađene tokom rada.⁹ Novčana pomoć nezaposlenim majkama za vrijeme trudnoće i porođaja je od 10% do 20% prosječne neto plaće, ili se plaća jednokratna pomoć,¹⁰ ili se nikako ne isplaćuje. Federacija Bosne i Hercegovine priprema novi Zakon o zaštiti porodice sa djecom koji bi trebao ujednačiti porodiljne naknade u ovom entitetu. Trenutno dostupan radni tekst ovog zakona predviđa isplatu naknade u visini od 60% od prosječne plaće u entitetu, dok ostatak do punog iznosa plaće pada na teret poslodavca. Ukazujemo da ovakvo rješenje treba pažljivo razmotriti kako ne bi uzrokovalo nove prepreke ženama na tržištu rada.

Tabela 1: Uporedna statistika po metodu ARS za 2007, 2008, 2009, 2010, 2011 i 2012 godinu¹¹ (+000)

	ARS 2007	ARS 2008	ARS 2009	ARS 2010	ARS 2011	ARS 2012
Procjena broja stanovnika ¹	3.315	3.211	3.129	3.842	3.057	
(žene)	1.703 (51,4%)	1.645 (51,2%)	1.605 (51,3%)		1.559 (51%)	
Radno sposobna populacija	2.725	2.649	2.594	2.596	2.561	
(žene)	1.408 (51,7%)	1.371 (51,7%)	1.342 (51,7%)	1.336 (51,5%)	1.317 (51,4%)	
Zaposlene osobe	850	890	859	842	816	814
(žene)	292 (34,4%)	317 (35,6%)	318 (37,1%)	311 (36,9%)	303 (37,1%)	300 (36,85%)
Nezaposlene osobe	347	272	272	315	311	317
(žene)	144 (41,4%)	116 (42,6%)	109 (40,3%)	132 (42,1%)	129 (41,6%)	133 (41,95%)
Neaktivne osobe	1.529	1.486	1.462	1.438	1.434	1.436
(žene)	972 (63,6%)	938 (63,1%)	913 (62,5%)	892 (62,1%)	885 (61,7%)	896 (62,39%)
Neplaćeni pomažući čl. porodice (žene)	37 26 (69,3%)	48 33 (68,9%)	58 41 (70,9%)	47 34 (72,9%)	43 31 (72,9%)	

9 OSCE „Pravo na socijalnu zaštitu u Bosni i Hercegovini – Pitanja primjerenosti i jednakosti“ (Sarajevo, 2012): Od 60% do 90% neto plaće (Kanton Sarajevo 60%), Zeničko-dobojski 80%, Tuzlanski 90%

10 OSCE „Pravo na socijalnu zaštitu u Bosni i Hercegovini – Pitanja primjerenosti i jednakosti“ (Sarajevo, 2012): Ovo se u Zeničko-dobojskom kantonu odnosi na jednokratnu pomoć od 150 KM, a u Srednjobosanskom kantonu je 35% plaće.

11 Izvor Agencija za statistiku BiH, dostupno na <http://www.bhas.ba/new/default.asp?Pripadnost=1&mode=dark>

Tabela 2: Pregled naknada za porodijsko u FBiH, stanje 30. juni 2011. 1KM=1,955EUR

Kanton (administrativna jedinica)	Naknada osobi koja je u radnom odnosu			Naknada nezaposlenoj osobi	
	Broj Korisnika	Najniži iznos u KM	Najviši iznos u KM	Broj Korisnika	Mjesečni iznos u KM
Unsko-sanski	340	343,00	1.105,00	556	100,00
Posavski	-	-	-	81	150,00
Tuzlanski	1281	418,00	2.150,00	-	-
Zeničko-dobojski	937	200,00	670,90	526	150,00
Bosanskopodrinjski	63	359,00	1.136,00	135	78,50
Srednjobosanski	479	437,00	-	30	175,00
Hercegovačkoneretvanski	-	-	-	-	-
Zapadnohercegovački	159	225,92	1.717,40	272	80,00
Sarajevski	1879	360,00	-	1.937	114,00
Kanton 10	93	312,00	805,66	-	100,00

Izvor: Federalno ministarstvo rada i socijalne politike¹²

IZDRŽAVANJE

Pitanje izdržavanja uređuju porodični zakoni entiteta. Bračni i vanbračni¹³ partner koji nema dovoljno sredstava za život ili ih ne može ostvariti iz svoje imovine, a nesposoban je za rad ili se ne može zaposliti, ima pravo na izdržavanje od svog partnera srazmjerno njegovim mogućnostima. Sud će odrediti izdržavanje po osnovu zahtjeva jednog od partnera uzimajući u obzir „njegovu_no imovno stanje, sposobnost za rad, mogućnost zaposlenja, zdravstveno stanje i druge okolnosti od kojih zavisi ocjena njegovih_nih potreba.“¹⁴ Izbjegavanje davanja izdržavanja za osobu na osnovu izvršne sudske odluke ili izvršne nagodbe je krivično djelo prema oba entitetska krivična zakona.¹⁵ Praksa nevladinih organizacija pokazuje da se žene u najvećem broju suočavaju sa problemom naplate izdražavanja pa čak i izbjegavanja prijavljivanja stvarne visine prihoda od strane bivšeg supružnika kako bi se izbjeglo plaćanje. Organizacije nisu upoznate niti sa jednim slučajem procesuiranja krivičnog djela izbjegavanja izdržavanja.

PREPORUKE:

- Država treba što prije kreirati realne, lako sprovodljive i finansijski podržane programe kako bi se povećao broj zaposlenih žena, a kroz: jedinstvene i pristupne

¹² Preneseno iz: Fondacija Centar za javno pravo: „Sistem socijalne zaštite BiH i regija,“ grupa autora, (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

programe treninga i edukacije žena na teritoriji cijele države, kako bi se povećale njihove vještine i znanje neophodno na tržištu rada. Takvi programi moraju posebnu pažnju obratiti na žene koje su već duži period nezaposlene, kao i na žene koje su iz različitih razloga obeshrabrene u potrazi za poslom, naročito žene u srednjoj dobi. Država treba razviti i usvojiti specifične programe zapošljavanja, namijenjene ugroženim kategorijama žena, popu Romkinja, žena sa invaliditetom, žena žrtava nasilja u porodici i trgovine ljudima, te im omogućiti i pomoći im da postignu ekonomsku nezavisnost, i na taj način im obezbijediti pravo da odaberu nezavisan i dostojanstven život.

- Država treba što prije kreirati programe i mjere koje će umanjiti procenat žena kao neplaćenih, pomažućih članova porodice, te poduzeti aktivnosti ka identifikiranju i davanju vrijednosti ovom „nevidljivom“ poslu koji obavljaju žene, kao i obezbijediti programe koji će ovu grupu žena stimulirati da pokrenu mala preduzeća, ili da rade od kuće.
- Država treba davati poticaje i na taj način stimulisati lokalne banke da kreiraju posebne kreditne olakšice za žene poduzetnice, kao i da osiguraju adekvatnu prezentaciju ovih posudbenica u javnosti. Država treba stimulisati stvaranje poslovnih inkubatora za žene poduzetnice, i osigurati da im se, na takav ili drugi način organizovanim, ponude specijalizirani profesionalni treninzi, namijenjeni razvijanju njihovih poduzetničkih vještina. Država bi trebala da organizuje redovnu razmjenu informacija i podataka putem interneta i medija, kao i direktne sastanke žena poduzetnica sa relevantnim ministrima, trgovачkom komorom, stranim investitorima, predstavnicima banaka i slično.
- Država bi što prije trebala ojačati kapacitete tržišnih inspekcija, uvesti visoke kazne za prekršioce, kao i uvesti kontinuiranu inspekciju svih privatnih i javnih kompanija, te drastično smanjiti broj žena koje su zaposlene na osnovu ugovora o djelu, koje rade u neformalnom sektoru, koje su za isti ili sličan posao plaćene manje od muškaraca, kao i onih koje su nezakonito otpuštene zbog porodičnog odsustva.
- Država treba insistirati na implementaciji člana 13, stav 2 Zakona o ravnopravnosti spolova BiH, u kojem se od svih poslodavaca zahtijeva da u svoje kompanije uvedu interne mjere za zaštitu od diskriminacije, seksualnog zlostavljanja i mobinga, uključujući i zaštitu od viktimizacije. Država bi pod hitno trebala uspostaviti efikasne mehanizme za monitoring slučajeva diskriminacije.
- Država bi u obzir trebala uzeti uvođenje specijalnih odsjeka u tužilaštvima i sudovima, a koji bi se bavili ekonomskim i radnim pravima, i pravima koja proizilaze iz radnih prava, ali i kršenjem ekonomskih i socijalnih prava građana. Sudije i tužitelji u ovim odsjecima bi bili u mogućnosti da kontinuirano prikupljaju specijalizirano znanje iz ove oblasti, kao i da se dodatno senzibiliziraju za slučajeve diskriminacije zasnovane na spolu/rodu. Država bi trebala, što je prije moguće, uvesti i harmonizirati pravo svih građana na pristup pravosudnom sistemu, kroz uspostavljanje održivih servisa koji bi pružali besplatnu pravnu pomoć, kao i podršku postojećim kapacitetima i državnim i nevladinim organizacijama.
- Država treba izjednačiti kompenzacije plaća za sve žene za vrijeme njihovog porodičnog odsustva, kao i osigurati da je dužina porodičnog odsustva usklađena periodom koji je propisan zakonom. Država bi trebala pokrenuti raspravu o oba-

veznoj kompenzaciji za vrijeme (po)roditeljskog odsustva za zaposlene roditelje, uključujući i rješavanje pitanja dislokacije sredstava iz budžeta za socijalnu zaštitu, u budžet zdravstvenog osiguranja, a u cilju zaštite i osiguravanja uživanja ovih prava.

- Država treba redovno prikupljati podatke, te izvještavati o statističkim informacijama u svim oblastima koje se tiču ekonomskih i socijalnih prava žena.

ŽENE U JAVNOM I POLITIČKOM ŽIVOTU

Autorica: Gordana Vidović

Alternativni izvještaj o implementaciji CEDAW konvencije i ženskim ljudskim pravima u Bosni i Hercegovini, nevladine organizacije su dostavile početkom oktobra 2010. godine. Od tada do danas je proteklo više od dvije godine, i u tom periodu održani su opšti izbori (2010.) i lokalni izbori (2012.) čiji rezultati¹⁶ odražavaju približno isti procenat participacije žena i muškaraca u zakonodavnim organima na svim nivoima vlasti u Bosni i Hercegovini, kao i na ranije održanim izborima. I dalje izražavamo zabrinutost što žene kandidatkinje nisu prepoznate od strane biračkog tijela iako su, naročito na poslednjim lokalnim izborima, bile veoma aktivne u izbornom procesu, a imale su i dobro osmišljene promotivne kampanje od strane civilnog sektora i rodnih mehanizama. Dajući prednost muškarcima, građani i građanke su pokazali_e da teško mijenjaju stavove i razumijevanje rodnih uloga u društvu.

Izražavamo zabrinutost jer kvota od 40% mjesta u zakonodavnoj i izvršnoj vlasti, za manje zastupljeni pol, još uvek nije dostignuta, a organi vlasti na svim nivoima nisu uspostavili mehanizme i strategiju za primjenu rodnih principa. U Vladi Bosne i Hercegovine nema ni jedne žene, a izborom jedne žene (6%) u Vladi Federacije BiH, političke stranke na najbolji način percipiraju ulogu žena u procesima odlučivanja u BiH. Pozitivan primjer je imenovanje i izbor 5 žena (31%) u Vladu Republike Srpske, iako i tim procentom još uvijek nije uspostavljena ravnomjerna zastupljenost polova. Imenovanje prve žene na mjesto predsjednice ove iste Vlade, koja je izabrana u martu 2013. godine na XIV posebnoj sjednici Narodne skupštine Republike Srpske¹⁷, daje nadu da se polako otvara prostor za žene, ali i potrebu da se pitanja participacije žena regulišu posebnim propisima, kako u zakonodavnoj tako i u izvršnoj vlasti, u skladu sa Zakonom o ravnopravnosti polova Bosne i Hercegovine.

Tabela 1: Sastav vlada – državni i entitetski nivo (mandat od 2010. do 2014. godine)

	Premijer_ka		Ministara_ki		
	Muškaraca	Žena	Muškaraca	Žena	% žena
Bosna i Hercegovina (državni nivo)	√		9	0	0%
Federacija BiH	√		16	1	5,8%
Republika Srpska		√	10	6	37,5%
Brčko District	√		11	3	21,4%
Ukupno na svim nivoima (uključujući i kantone)*	14	1	136	24	15%

* Mart 2013. godine

Nedopustivo je da politički lideri konstantno ignorišu žene, najbrojniju marginalizovanu grupu, te da se uopšte ne obaziru na zahtjeve ženskih grupa za ispravljanjem disbalansa i nepravde prema ženama. Negativan stav prema kandidovanju žena za političke funkcije, često praćen i mobingom,¹⁸ ima za posljedicu stvaranje psihološke

16 U Parlamentarnoj skupštini Bosne i Hercegovine 19,3% od ukupno izabranih predstavnika_ca čine žene, u Parlamentu Federacije BiH, 23,1% od ukupno izabranih predstavnika_ca čine žene, a u Narodnoj skupštini RS, 21,7% od ukupno izabranih predstavnika_ca čine žene. U 143 opštinska i gradska vijeća, odnosno skupštine, izabrano je 17,1% žena (sedam lokalnih zastupničkih tijela nema žena u svom sastavu, a pet žena su načelnice opština), dostupno na: http://www.oscebih.org/documents/osce_bih_doc_2012071212593128bos.pdf

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

18 Svojevrsni mobing koji je trpjela predsjedavajuća Općinskog vijeća Novi Grad Sarajevo, često i od strane

barijere kod žena, koja se manifestuje gubitkom samopouzdanja, liderskih ambicija i želje za promocijom u političkim krugovima. Pored formalnih barijera sa kojima su žene suočene na putu do političkog angažovanja i vodećih funkcija, i dalje su prisutna tradicionalna shvatanja i predrasude o mjestu žena u društvu, koje u velikoj mjeri utiču na odluku žena da se uključe u politiku.¹⁹ Političke partije kreiraju politiku i one su nadležne za mijenjanje tradicionalnih stavova, osnaživanje i educiranje žena, te pružanje istinske podrške izabranim ženama. To su samo neki od instrumenata koji bi se mogli vrlo jednostavno primjeniti, ukoliko postoji iskrena volja za povećanjem broja žena. Međutim, to je izazov kojeg političke stranke u BiH još uvijek nisu spremne prihvatiti.

Početak februara 2013. godine, zastupnice u Zastupničkom domu Parlamenta Federacije Bosne i Hercegovine su uspostavile Klub parlamentarki koji za sada djeluje kao neformalna grupa, a pokrenuta je i inicijativa za usvajanje izmjene Poslovnika o radu Parlamenta koji do sada nije predviđao mogućnost formiranja višestranačkih klubova. Ovim potezom, žene političarke su poslale nedvosmislenu poruku političkim strankama da, ostvarujući savezništvo, namjeravaju preuzeti odgovornost za svoj status u javnom i političkom životu, što je izazvalo burne reakcije pojedinih političara u javnosti.

Iskorak naprijed u pogledu harmonizacije sa Zakonom o ravnopravnosti polova u Bosni i Hercegovini, učinjen je i usvajanjem Zakon o izmjenama i dopunama Izbornog zakona BiH²⁰, što je bila jedna od preporuka nevladinih organizacija u Alternativnom izvještaju o implementaciji CEDAW konvencije i ženskim ljudskim pravima u Bosni i Hercegovini iz 2010. godine. Izmjene se tiču odredbi koje regulišu organe za sprovođenje izbora, kao i odredbi koje regulišu ovjeru i kandidovanje za izbore u koje je ugrađen cenzus o neophodnih 40% zastupljenosti manje zastupljenog pola. Poseban pomak predstavlja i položaj žena na kandidatskim listama, koji je sa dosadašnjeg 30%-nog odnosa unaprijeđen na 40%-tni: "ravnopravna zastupljenost polova postoji u slučaju kada je jedan od polova zastupljen sa najmanje 40% od ukupnog broja kandidata na listi"²¹.

Značajno je istaći i da je Republička izborna komisija Republike Srpske, u decembru 2012. godine, usvojila Uputstvo o organizovanju i sprovođenju izbora za članove savjeta mjesne zajednice²² kojim je izvršena usklađenost sa članom 20, Zakona o ravnopravnosti polova BiH, a kojim se reguliše da ravnopravna zastupljenost polova postoji u slučaju kada je jedan od polova zastupljen sa najmanje 40% u svim tijelima na sva tri nivoa vlasti iz oblasti javnog života.

PREPORUKE:

- Svi ovi problemi zahtijevaju adekvatan strateški plan usmjeren na otklanjanje prepreka i uzroka diskriminacije žena u svim oblastima. To zahtijeva i promjenu

stranačkih kolega (pritisci, uvrede, prijetnje, potcjenjivanje, upozorenja da bi joj najbolje odgovarala kakva „sarajevska cvjećara“, do onih težih i radikalnijih da nije podobna jer je samohrana majka), koja je i pored upozorenja od strane Helsinškog komiteta za ljudska prava i ženskih nevladinih organizacija, na kraju ipak smijenjena. Dostupno na <http://manjine.ba/?p=1804>

19 „Bila mi je čast da budem prva predsjedavajuća od 1978. od kada postoji općina Novi grad, međutim, ta dešavanja koja su bila u opštini, ti pritisci, pokazali su da to naš muški svijet i naši političari ne mogu da prihvate. Bilo je užasnih, ponižavajućih uvreda“, istakla je Ramiza Tabaković. Dostupno na <http://manjine.ba/?p=1804>

20 Zakon o izmjenama i dopunama Izbornog zakona BiH (Službeni glasnik BiH, broj 18/13), član. 1. i 2.

21 Zakon o izmjenama i dopunama Izbornog zakona BiH (Službeni glasnik BiH, broj 18/13), član. 3.

22 Službeni glasnik RS, broj 122/12

svijesti i stavova o ulogama žena i muškaraca u cijelom društvu, uključujući institucije i zaposlene u institucijama sistema, civilni i privatni sektor, kao i sve pojedince i pojedinke, jer svi_e zajedno moraju biti nosioci_teljice promjena.

- Neophodno je značajno uticati na promjene stavova i prihvatanje ravnopravnosti polova kao vrijednosti za sve, naročito kod djece i omladine, pa se obrazovanje i mediji konstantno moraju edukovati o rodnoj ravnopravnosti, jer se često dešava da mladi od starijih, te putem nesenzibilisanih medija i obrazovnih institucija, usvajaju i ponavljaju neke duboko ukorijenjene štetne tradicionalne predrasude i stereotipe, te stvaraju pogrešnu sliku o ulogama muškaraca i žena u našem društvu, što dodatno utiče na rodnu neravnopravnost i kvalitet života žena i muškaraca.
- Obezbjedivanje ravnomjernog učešća žena u političkim procesima i dalje ostaje izazov. Stvarna ravnopravnost polova se može postići tek ukoliko žene i muškarci ravnomjerno dijele pozicije na mjestima moći i odlučivanja. Žene čine više od 50% ukupnog stanovništva i trebalo bi da igraju važnu ulogu u procesu donošenja odluka. U tom smislu, pored stalnog djelovanja na usklađivanju zakonskih i drugih akata, potrebno je da se normativna ravnopravnost pretoči u stvarnu ravnopravnost polova, u skladu sa članom 20 Zakona o ravnopravnosti polova BiH, kao i da se uspostave mehanizmi za nadzor primjene rodnih politika.
- Neophodno je preduzimanje mjera u svim razvojnim i reformskim procesima, koje se moraju planirati, pratiti i ocjenjivati sa aspekta njihovog uticaja na žene i muškarce kao stanovništvo. Ovo također znači da se moraju planirati i finansirati posebne privremene mjere u oblastima u kojima je uočena diskriminacija po osnovu pola, a koje imaju za cilj njeno otklanjanje.

NASILJE NAD ŽENAMA

**(Članovi 1, 2, 5 i 16 CEDAW i
Opšta preporuka Komiteta br. 19)**

Autorica: Aleksandra Petrić

DOSTUPNOST POMOĆI I PODRŠKE ŽENAMA ŽRTVAMA NASILJA U BIH

U Bosni i Hercegovini trenutno postoji deset sigurnih kuća za žene i djecu žrtve nasilja u porodici,²³ koje vode nevladine organizacije i u kojima timovi stručnog osoblja osiguravaju neophodnu psihološku, medicinsku i pravnu pomoć, podršku u rehabilitaciji i resocijalizaciji, te podršku u pronalasku izlazne strategije. Novim Zakonom o zaštiti od nasilja u porodici Federacije BiH, regulisana je obaveza finansiranja sigurnih kuća u FBiH iz budžeta kantona u visini od 30% i budžeta FBiH u visini od 70%, čime je djelomično izvršeno formalno pravno usklađivanje podrške ovim servisima za žene žrtve nasilja u oba entiteta BiH.²⁴ Međutim, nastavlja se trend neredovnog alociranja sredstava iz entitetskih budžeta, kao i sporadičnog planiranja i alociranja ovih sredstava od strane lokalnih zajednica i kantona, čime se ugrožava adekvatno zadovoljavanje potreba korisnica.

NEUSAGLAŠENOST ZAKONSKIH PROPISA I NEDOSTATAK NJIHOVE PRIMJENE U OBLASTI BORBE PROTIV NASILJA NAD ŽENAMA U BOSNI I HERCEGOVINI

Iako su u 2012. godini usvojeni novi zakoni o zaštiti od nasilja u porodici u oba entiteta Bosne i Hercegovine,²⁵ državne institucije su propustile da usklade odredbe zakona i time omogućile pravnu sigurnost, jednak tretman i ostvarivanje zaštite prava žena i djece koja su prepoznata kao najčešće žrtve nasilja u porodici prema svim raspoloživim podacima subjekata zaštite od nasilja i nevladinih organizacija. U Republici Srpskoj, djelo nasilja u porodici se i dalje nastavlja zakonski tretirati kao prekršaj i krivično djelo, a u Federaciji BiH kao krivično djelo, što direktno utiče na svijest o nasilju u porodici kao djelu smanjene društvene opasnosti koje se, u pravilu, blaže kažnjava i nerijetko ne procesuiraju.

Iako oba nova entitetska zakona kao cilj prepoznaju zaštitu žrtava nasilja u porodici, ovo se dovodi u pitanje time što se propisane zaštitne mjere prepoznaju kao sankcije protiv počinitelja nasilja, čime se i dalje omogućava namjera izbjegavanja krivičnog procesuiranja počinitelja nasilja u porodici.

23 Sigurne kuće/skloništa za žene i djecu žrtve nasilja postoje u Sarajevu (Fondacija lokalne demokratije), Banja Luci (Udružene žene), Mostaru (Mirjam – Caritas Mostar i Margeruite – Žena BiH Mostar), Bijeljini (Lara Bijeljina), Bihaću (Žene sa Une), Modriči (Budućnost), Tuzli (Vive Žene), Zenici (Medica) i Međugorju (Udruga za pomoć i rehabilitaciju nezbrinutih trudnica „Majka Krispina“).

24 Ova obaveza je uvedena izmjenama i dopunama Zakona o zaštiti od nasilja u porodici Republike Srpske iz 2008. godine, na način da se sredstva obezbjeđuju iz budžeta RS u visini do 70% i lokalnih zajednica u visini do 30%, što je zadržano i u novom zakonu.

25 Zakon o zaštiti od nasilja u porodici Republike Srpske (Službeni Glasnik RS, br. 102/12) i Zakon o zaštiti od nasilja u porodici Federacije BiH (Službene novine Federacije BiH, br. 20/13)

ŽENE ŽRTVE RATA

Autorica: Sabiha Husić

ŽENE, ŽRTVE SILOVANJA ILI DRUGIH OBLIKA SEKSUALNOG NASILJA TOKOM RATA 1992-1995.

Komiteta za uklanjanje svih oblika diskriminacije nad ženama (CEDAW) je u maju 2006. godine donio niz preporuka koje se odnose na žene koje su civilne žrtve silovanja i drugih oblika seksualnog nasilja počinjenog tokom oružanog sukoba u Bosni i Hercegovini u periodu od 1992. do 1995. godine. Komitet je zahtijevao i ukazao na to da Država mora zakonski prepoznati i zaštititi žene koje su civilne žrtve seksualnog nasilja, a kroz državni zakon i dodjelu finansijskih sredstava za adekvatne socijalne mjere, uključujući zdravstveno osiguranje i smještaj, na način da su im prava i povlastice zagarantovane na području cijele teritorije Bosne i Hercegovine, te kroz pregled postojećih regulativa i planova o pitanjima smještaja žena koje su civilne žrtve rata i raseljene osobe, a kako bi se spriječili dodatni oblici diskriminacije.²⁶

Žene žrtve silovanja i drugih oblika seksualnog nasilja u Bosni i Hercegovini, već 20 godina čekaju pravedniji pristup ka normalizaciji njihovog svakodnevnog života. Doživljavaju nerazumijevanje, bivaju obilježene i stigmatizirane od strane zajednice, a nerijetko ih muževi, partneri, zlostavljaju i napuštaju. Na početku rata i ratnih stradanja, žene su vjerovala da će im država pomoći da lakše savladaju svoj bol i patnju, dobiju zdravstvenu podršku koja bi im omogućila dostojanstvene medicinske preglede i kontinuiranu psihoterapiju, i psiho-socijalnu pomoć, te su se nadale podršci u prekvalifikaciji i dokvalifikaciji jer su mnoge morale prekinuti svoje školovanje. Očekivale su i adekvatno rješavanje stambenih zbrinjavanja, besplatnu pravnu pomoć i slično. Tada su se nadale, a danas, 20 godina kasnije, gube nadu da će biti zadovoljene njihove potrebe nastale uslijed masovnog kršenja ljudskih prava. Neke od njih su i umrle, a da nisu imale mogućnost zadovoljavanja osnovnih potreba; nisu ostvarile pravo na pravdu, istinu i reparaciju. Žene žrtve silovanja ili drugih oblika seksualnog nasilja nastavljaju da se nose sa svojim bolom i patnjom, uglavnom u tišini, bez velikih mogućnosti da progovore.²⁷

Država nastavlja sa kršenjem ljudskih prava žena žrtava silovanja i drugih oblika seksualnog nasilja, i pravo na pravdu, istinu i reparaciju će još dugo ostati ne ostvareno. BiH nema jedinstvenu i pouzdanu bazu podataka o ženama, žrtvama silovanja i drugih oblika seksualnog nasilja počinjenog u toku rata od 1992. do 1995. godine. Procjene su različite, a prema procjenama Vijeća Europe, između 20.000 i 50.000 žena su žrtve silovanja i drugih oblika seksualnog nasilja počinjenog za vrijeme rata u BiH.²⁸

Žrtve silovanja i drugih oblika seksualnog nasilja počinjenog tokom rata, nemaju istu mogućnost ostvarivanja statusa civilnih žrtava rata u oba entiteta. To je i dalje omogućeno samo u Federaciji BiH. Zakon je donesen 2006. godine i do kraja 2012. godine 707²⁹ žena, žrtava silovanja i drugih oblika seksualnog nasilja, je ostvarilo status civilnih žrtava rata. Očekivanja žrtava su bila da će se broj ostvarenih statusa povećavati

26 Kompilacija preporuka UN tijela za ljudska prava, Bosna i Hercegovina, paragraf 38. Konvencije o uklanjanju svih oblika diskriminacije nad ženama i preporuka broj 19. od strane CEDAW-a.

27 Žena, žrtva silovanja kaže: „*Niko nas više ne pita kako se osjećamo, kako živimo, osim pojedinih nevladinih organizacija koje su stalno sa nama*“ Evaluacija rada sa ženama na terenu, 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.stoprapienow.org/uploads/files/SRSG_SVC_Open_Debate_2012.pdf

29 Podaci dobiveni tokom prezentacije **Izvještaja Amnesty International-a „Stari zločini, ista patnja: nema pravde za žrtve ratnih silovanja u sjeveroistočnoj Bosni i Hercegovini”**, mart 2012.

iz godine u godinu ali se to nije ostvarilo zbog neinformisanosti žena o mogućnostima ostvarivanja statusa, komplikovanih procedura i siromaštva žena koje nemaju osnovna finansijska sredstva za prikupljanje odgovarajuće dokumentacije.³⁰ Tako je u periodu od 2006. do 2008. godine, 500 žena³¹ žrtava ostvarilo status posebne kategorije na osnovu Zakona o socijalnoj zaštiti, civilnim žrtvama rata i porodice sa djecom u Federaciji BiH, a u oktobru 2009. godine broj ostvarenih statusa za žene je bio 594³², što upućuje na to da su 94 žene ostvarile status u toku godine. U periodu od 2010. do 2012. godine, broj ostvarenih statusa je bio 113, dakle godišnji prosjek ostvarenih statusa za žene u tom periodu je bio od 37 do 38. Žene i dalje nailaze na nerazumijevanje i provokacije od strane nesenzibiliziranih uposlenika i uposlenica u državnim institucijama tokom ostvarivanja statusa civilnih žrtava rata.³³ U Republici Srpskoj, ženama žrtvama silovanja i drugih oblika seksualnog nasilja se ne priznaje status civilnih žrtava rata kao posebne kategorije, te ne može ostvariti pravo na status, a i limitirani rokovi su davno istekli. U Brčko Distriktu je u avgustu 2012. godine donesena regulativa koja reguliše ostvarivanje statusa civilnih žrtava rata za žene, ne ograničavajući se na robove i uzimajući u obzir psihološku patnju i štetu.

Žene žrtve silovanja i drugih oblika seksualnog nasilja ne mogu ostvariti status civilnih žrtava rata ukoliko žive izvan BiH, a ako su ostvarile taj status, isti mogu izgubiti kada su izvan BiH više od tri mjeseca, što je diskriminirajući pristup prema žrtvama i atak na njihovu slobodu kretanja.

Bosna i Hercegovina nije uskladila krivično pravni okvir u skladu sa međunarodnim standardima i praksama, te preporukom CAT-a koja se odnosi na procesuiranje ratnih zločina, silovanja i drugih oblika seksualnog nasilja. Zabrinjavajuće je to da u Krivičnom zakonu Bosne i Hercegovine (2003), u članu 172. i 173. nije uklonjeno stanje „upotrebe sile ili prijetnje upotrebom sile“. Do kraja 2012. godine, pred Sudom BiH je okončano 29 predmeta i pravosnažno su osuđena 32 lica za ratne zločine koji uključuju elemente seksualnog nasilja, dok su 2 predmeta nepravosnažna.³⁴ Statistički podaci o broju procesuiranih predmeta koji se odnose na silovanje i druge oblike seksualnog nasilja se ne razvrstavaju posebno, već se vode u statistici predmeta ratnih zločina. Navedeni podaci ukazuju da su tempo i dinamika procesa prespori iz perspektive žrtava, svjedoka_inja i organizacija civilnog društva.

Žene, žrtve silovanja i drugih oblika seksualnog nasilja, nezadovoljne su zaštitom svjedoka_inja koja je regulisana Zakonom o zaštiti svjedoka pod prijetnjom i ugroženih svjedoka (Službene novine BiH, broj 21/2003) i Zakonom o programu zaštite svjedoka (Službene novine BiH, broj 29/2004). Zbog mnogobrojnih problema u implementaciji Zakona i neadekvatne zaštite svjedoka_inja, Ministarstvo sigurnosti BiH je formiralo radnu grupu za izradu novog nacrtu Zakona o zaštiti svjedoka, koji do pisanja ovog izvještaja nije usvojen.

30 Medica Zenica je navedene podatke dobila tokom kućnih posjeta i terenskog rada sa ženama, žrtvama silovanja i drugih oblika seksualnog nasilja, posebno u Zapodnom dijelu BiH.

31 Izvještaj Amnesty International-a „NIKO NAS NE SLUŠA I NIKOME NIJE STALO“ Žene još uvijek čekaju pravdu u Bosni i Hercegovini, Juni 2009.

32 Kombinirani četvrti i peti izvještaj prema Konvenciji o eliminaciji svih oblika diskriminacije žena za Federaciju Bosne i Hercegovine (2006-2009), juni 2010.

33 Žene preživjele ratno silovanje i druge oblike seksualnog nasilja, u nastojanju da ostvare pravo civilne žrtve rata, nakon negativnog odgovora od prvostepenog organa, obraćaju se drugostepenom organu sa potpunom dokumentacijom, ali bivaju ponižene jer predstavnici_e nadležnih kantonalnih ministarstva traže od žena da njima daju iskaze iako imaju svu potrebnu dokumentaciju.

34 Navedeni podaci preuzeti iz dokumenta „Seksualno nasilje u ratu; Zakonski okvir u BiH u vezi procesuiranja seksualnog nasilja u ratu i sudskih praksi (prvenstveno Suda BiH) iz ove oblasti“, 12. i 13. mart 2013. godine

Državna strategija za rad na predmetima ratnih zločina, donesena 2008. godine, između ostalog je predviđjela ubrzano procesuiranje zločina koji su se desili u ratu, ali i uspostavljanje adekvatnije mreže za pomoć i podršku svjedocima_kinjama. Postoje određeni pomaci koji su spori, a žrtve svjedoci_kinje strahuju da se neće imati kome suditi ako se nastavi sa implementacijom Strategije dosadašnjom brzinom, kao i da neće biti ni svjedoka_inja jer vrijeme prebrzo prolazi. Umiru počinioci, ali i žrtve svjedoci_kinje. Materijalno-tehnički uslovi za žrtve svjedoke_inje nisu adekvatno obezbijeđeni i prilagođeni u tužilaštvima i sudovima u BiH. Postoje određeni pomaci, kao što su uspostavljeni odjeli za podršku svjedocima u Sudu BiH i Tužilaštvu, u Kantonalnom sudu i Tužilaštvu u Sarajevu, Okružnom sudu i Tužilaštvu Banjaluka, Okružnom sudu i Tužilaštvu Istočno Sarajevo, a u toku je uspostavljanje odjela u Kantonalnom sudu Novi Travnik i u Kantonalnom sudu Bihać. Međutim, žrtve svjedoci_kinje su mišljenja da su ti odjeli uglavnom na usluzi tužiocima_teljicama i sudijama_kinjama, te da su prije svjedočenja nedovoljno na usluzi svjedocima_kinjama silovanja i drugih oblika seksualnog nasilja, a posebno poslije svjedočenja kada se svjedoci_kinje osjećaju prazno, ponovno iskorišteno i retraumatizirano.³⁵ Zbog stepena traumatizacije i činjenice da je na entitetska tužilaštva ili Tužilaštvo Brčko distrikta BiH, Sud BiH rješenjem spustio određene predmete ratnih zločina, kao i predmete za pojedinačna silovanja, inicirane su i uspostavljene institucionalne mreže kako bi se kontinuirano i multidisciplinarno pratile individualne potrebe žena, žrtava silovanja i drugih oblika seksualnog nasilja. U Zeničko-dobojskom kantonu i Srednje-bosanskom kantonu su uspostavljene prve institucionalne mreže za podršku žrtvama, svjedocima_kinjama u predmetima ratnih zločina, seksualnog nasilja i drugih krivičnih djela, a u toku je uspostavljanje mreža i u Unsko-Sanskom kantonu i regiji Banjaluka.³⁶

Suđenja i procesuiranja su vrlo važna za zadovoljenje pravde i sprječavanje da ratni zločini budu ponovljeni. Međutim, ne treba se zanemariti ni to da bi primarni cilj Države trebao biti usmjeren na psihološko zdravlje i pružanje sveobuhvatne psihosocijalne pomoći i podrške, kako bi žene, žrtve silovanja i drugih oblika seksualnog nasilja, mogle nastaviti dostojanstven život, a time i ostvariti pravo na pravdu, istinu i reparaciju. Često razočarenje nastupa kod žrtava kada, po ko zna koji put, shvate da nema adekvatnog, sveobuhvatnog, sistemskog odgovora i reakcije Države. U 2010. godini, uz podršku Populacijskog Fonda Ujedinjenih Naroda (UNFPA) i Ministarstva za ljudska prava i izbjeglice BiH, inicirana je i pokrenuta izrada Nacrta Programa poboljšanja položaja žena žrtava ratnog silovanja, seksualnog zlostavljanja i torture u Bosni i Hercegovini 2013.-2016., ali nije usvojen od strane Vijeća ministara BiH do pisanja ovog izvještaja. Iste godine je inicirana i izrada Nacrta Državne Strategije o tranzicijskoj pravdi, a ekspertnu podršku za izradu je obezbjedio Razvojni program Ujedinjenih naroda – UNDP. Nacrt Strategije je završen, obavljene su konsultacije, ali strategija nije usvojena do pisanja ovog izvještaja.

35 Žena, žrtva silovanja, kaže: „Osjećam kao da je željezna kutija u meni, nikako da se oslobodim te težine. Svjedočiću da željezna kutija izađe iz mene, da me ne izjeda, neka bude mehanizam pravosudnom sistemu i kazni počinioca. Da bi to uspjela, treba mi podrška, treba mi razumijevanje“. Evaluacija rada sa ženama na terenu, Medica Zenica, 2012

36 Medica Zenica je inicirala uspostavljanje prvih institucionalnih mreža za podršku žrtvama, svjedocima_kinjama u predmetima ratnih zločina i seksualnog nasilja u partnerstvu, sa nadležnim ministarstvima, institucijama, ustanovama, i nevladinim organizacijama kao što su Udruženje Prijedorčanki – Izvor i Udružene žene iz Banjaluke. Mreže imaju za cilj da povežu sve nadležne institucije, ustanove, nevladine organizacije kao i nadležna ministarstva, a kako bi kreirali_e brz i efikasan multidisciplinarni pristup prema individualnim potrebama žrtava, svjedoka_inja, i da se u sudskim procesima omogući adekvatna i kontinuirana pomoć i podrška prije svjedočenja, u toku svjedočenja i poslije svjedočenja.

PREPORUKE:

Kako bi žene koje su preživjele silovanje i druge oblike seksualnog nasilja tokom rata 1992.-1995. godine konačno i ostvarile svoja prava, neophodno je da:

- država donese jedinstven zakon kojim bi se ženama koje su preživjele silovanja i druge oblike seksualnog nasilja omogućilo ostvarivanje prava civilnih žrtava rata u cijeloj BiH;
- se postojeće procedure o ostvarivanju prava civilnih žrtava rata u FBiH pojednostave i prilagode uslovima žena koje su preživjele silovanja i druge oblike seksualnog nasilja, te da se kontinuirano radi na upoznavanju žena o mogućnostima ostvarivanja njihovih prava;
- država prepozna uspostavljene modele nevladinih organizacija u procesu rehabilitacije i pružanju sveobuhvatne psiho-socijalne i pravne pomoći, podrške ženama koje su preživjele silovanja i druge oblike seksualnog nasilja, te da se omogući širenje ovih modela u dijelovima BiH gdje oni ne postoje, kao i da se za to obezbijede finansijska sredstva;
- država prepozna uspostavljene institucionalne mreže za podršku žrtvama i svjedocima_kinjama u predmetima ratnih zločina i seksualnog nasilja, te da omogući uspostavljanje istih u svim kantonima, entitetima i na nivou države kako bi žrtve i svjedoci_kinje imali_e kontinuiranu podršku prije svjedočenja, u toku i poslije svjedočenja. Neophodno je omogućavanje i sveobuhvatne podrške žrtvama koje se ne pojavljuju u ulozi svjedoka_kinja pred sudovima;
- se inicira uspostavljanje jedinstvene baze podataka o ženama koje su preživjele silovanja i druge oblike seksualnog nasilja u BiH;
- se ubrzaju sudski procesi u tužilaštvu i sudu BiH, te u okružnim i kantonalnim tužilaštvima i sudovima, za počinjena silovanja i druge oblike seksualnog nasilja tokom rata 1992-1995.

TRGOVINA ŽENAMA

Autorica: Mara Radovanović

Kada je u pitanju sprečavanje trgovine ljudima, u Bosni i Hercegovini se situacija nije bitno promijenila u posljednje dvije godine. Krivični zakoni entiteta i Brčko Distrikta Bosne i Hercegovine još uvijek nisu usaglašeni sa Krivičnim zakonom na nivou države. To je razlog zašto nema krivičnih postupaka na sudovima protiv počilaca_teljica krivičnog djela trgovine ljudima. Zbog preopterećenosti, tužilaštvo na nivou države ove predmete prosleđuje entitetskim tužilaštvima ili tužilaštvu Brčko Distrikta, koji onda, obzirom da u svojim krivičnim zakonima nemaju trgovinu ljudima definisanu na isti način kao što je to u zakonu na nivou države, moraju da promijene zakonski osnov, pa umjesto za trgovinu ljudima vode postupak za posredovanje u prostituciji i sl.³⁷

Nije unaprijeđena saradnja državnih institucija sa nevladinim organizacijama koje se bave sprečavanjem trgovine ljudima. Odjel Ministarstva sigurnosti BiH koji se bavi problemima trgovine ljudima uglavnom saraduje samo sa jednom nevladinom organizacijom, a potpuno ignoriše mrežu nevladinih organizacija za sprečavanje trgovine ljudima RING koja u svom sastavu ima 12 nevladinih organizacija iz svih dijelova Bosne i Hercegovine.

Identifikacija žrtava trgovine je u potpunosti obustavljena, obzirom da centri za socijalni rad, u čijoj je to nadležnosti, zbog ekonomske krize imaju sve manje sredstava i nisu u mogućnosti da se bave tim problemom.

Zbog ovakve situacije je State Department promijenio svoju raniju odluku prema kojoj je BiH bila svrstana u Tier 1 (zemlje u kojima je dovoljno urađeno na sprečavanju trgovine ljudima) i vratio je BiH u Tier 2.³⁸

37 Članom 108 Krivičnog zakona BiH regulisano je da se žrtve trgovine ljudima mlađe od 18 godina smatraju djecom, pa svako seksualno iskorištavanje tih osoba predstavlja trgovinu ljudima, bez obzira da li je maloljetna osoba pristala na seksualno iskorištavanje. Pošto u entitetskim zakonima nema te odredbe, za maloljetne osobe koje su izjavile da su dale svoj pristanak na seksualno iskorištavanje, navedeno je da su se bavile prostitucijom, a lica koja su ih eksploatisala krivično odgovaraju za posredovanje u prostituciji, za što su u zakonu predviđene znatno blaže kazne nego za trgovinu ljudima.

38 State Department svake godine daje ocjenu napora za sprečavanje trgovine ljudima i ovisno o tome šta je u kojoj zemlji postignuto, razvrstava ih u tri grupe: Tier 1 – zemlje koje se uspješno suprotstavljaju trgovini ljudima, Tier 2 - zemlje koje ulažu napore ali nedovoljno, i Tier 3 - zemlje u kojima se ne radi na sprečavanju trgovine ljudima.

MARGINALIZIRANE ŽENE

Autorica: Fedra Idžaković

ŽENE SA INVALIDITETOM

Bosna i Hercegovina ni u ovoj oblasti nema službenu statistiku ili istraživanje.³⁹ Osobe sa invaliditetom se suočavaju sa zakonskom diskriminacijom unutar populacije prema nastanku invaliditeta³⁹ (npr. u pristupu pravu na zdravstvenu i socijalnu zaštitu). U velikom broju slučajeva, osobe sa invaliditetom ovise o pomoći porodice jer država nema dovoljno programa podrške koji ciljaju na samostalan život, naročito osoba koje su invalidnost zadobile u kasnijem životnom dobu. Invalidnost je često povezana sa siromaštvom; zbog niskih naknada po osnovu invalidnosti, ali i zbog cijelog niza problema kao što je npr. nedostatak asistenata u nastavi za djecu sa invaliditetom, čiju ulogu često preuzima član porodice koji nije zaposlen, odgovarajuća ortopedska pomagala su skupa i nisu dostupna kroz postojeći sistem, itd.⁴⁰

Svi ovi problemi se usložnjavaju za žene sa invaliditetom. Naročito je problematična zdravstvena zaštita, a u okviru toga ginekološka zaštita i zaštita trudnica. Pored nedostatka odgovarajućih stolova za pregled žena u kolicima, većina zdravstvenog osoblja nije edukovana za preglede ili porođaj žena sa invaliditetom. Zavodi za zdravstveno osiguranje ne prepoznaju posebne potrebe žena za korištenjem veće količine pelena u fertilnom periodu. Izrada protetskih dodataka za žene sa visokom amputacijom nogu je u nekim slučajevima problematična zbog malog broja žena protetičarki. Pitanje ostvarivanja starateljstva nakon razvoda, za žene sa invaliditetom je također problematično. Nevladine organizacije izvještavaju da su poznati slučajevi u kojima se starateljstvo dodjeljuje roditelju koji nema invaliditet bez obzira na djetetov najbolji interes. Ne govori se, i nema aktivnosti na prevenciji i borbi protiv nasilja nad ženama sa invaliditetom. Žene sa invaliditetom smatraju da nisu ravnopravne unutar pokreta osoba sa invaliditetom, te nisu zadovoljne malim brojem žena predstavnica u savjetodavnom tijelu vlade BiH.⁴¹

ROMKINJE

Težak položaj Romkinja ističe i državni Izvještaj.⁴⁰ *Strategija za rješavanje problema Roma u BiH* razmatra pitanje rodne ravnopravnosti u sklopu poglavlja 13. *Demografsko-populaciona politika, porodični odnosi, ravnopravnost spolova i prava djeteta*. Tako se rodna ravnopravnost razmatra uz populacione politike te diskurs „postizanja optimalnog i održivog nataliteta“ kao preduslova za sretno djetinjstvo romske djece.⁴¹ Stiče se utisak da je za prava Romkinja jedini problem brojnost porodice

39 Inicijativa preživjelih od mina u partnerstvu sa Bospo i u saradnji sa Ministarstvom za ljudska prava i izvještice Bosne i Hercegovine: Izvještaj o provođenju Konvencije Ujedinjenih nacija o pravima osoba sa invaliditetom u Bosni i Hercegovini (oktobar 2012): „Na osnovu podataka Agencije za statistiku BiH iz 2010. godine, prema podacima iz centara za socijalni rad, registrovano je 60.950 osoba sa invaliditetom, od čega je 52% muškaraca. U registru Fonda za penzijsko i invalidsko osiguranje Republike Srpske, registrovano je 41.225 korisnika_ca invalidske penzije, a u Fondu za penzijsko i invalidsko osiguranje Federacije Bosne i Hercegovine 82.099 korisnika_ca u aprilu 2012. godine. Prema podacima iz Studije politike u oblasti invalidnosti civilnih žrtava rata, u BiH ima približno 5.481, RVI (ratnih vojnih invalida) u oba entiteta 83.282.“ Vijeće ministara Bosne i Hercegovine je na 35. sjedinici održanoj 17.01.2013. godine usvojilo Izvještaj o provođenju Konvencije Ujedinjenih nacija o pravima osoba sa invaliditetom u Bosni i Hercegovini.

40 Četvrti i peti periodični CEDAW izvještaja Bosne i Hercegovine, maj 2011. godine, str. 65.

41 *Strategija za rješavanje problema Roma u BiH*, Vijeće ministara BiH, 2005. godina (Službeni glasnik BiH 67/05), str. 19 i 20.: „s obzirom na ukupnost uslova u kojima živi i djeluje ova manjina u BiH i na (ne)mogućnost bitne pozitivne preinake tih uslova, krajnje je vrijeme da se otvori pitanje i povede računa o populacionoj politici unutar ove zajednice i mjerama koje ta politika podrazumijeva. [...] zna se da mnoge romske porodice imaju brojno potomstvo, po petoro, šestoro i više djece. Naravno, nije problem u samoj brojnosti porodice, u činjenici da mnogi romski bračni parovi imaju po petoro i više djece, nego teškoće proizlaze iz činjenice da mnogi od

i da bi sa manjim brojem djece imale veći obim ili bolji pristup pravima. Insistiranje na programima promoviranja tzv. „odgovornog roditeljstva“ predstavlja indirektnu diskriminaciju Romkinja.

Osam godina nakon usvajanja Strategije, cilj unaprjeđenja položaja Romkinja⁴² nije ostvaren, niti su započete aktivnosti na njegovoj realizaciji. *Akcioni plan za rješavanje problema Roma u oblastima zapošljavanja, stanovanja i zdravstvene zaštite* koji proizilaze iz Dekade i Strategije ima samo dvije aktivnosti koje se posebno odnose na Romkinje i to iz oblasti zapošljavanja (niti jedna aktivnost nije završena/započeta).⁴³ Gender akcioni plan eksplicitno govori o položaju Romkinja. Međutim, tempo realizacije ovih aktivnosti je veoma slab, te možemo reći da rješavanje pitanja Romkinja zaostaje u odnosu na druge aktivnosti sadržane u Akcionom planu.⁴⁴ Dok se donose politike, u praksi je u proteklom periodu zabilježen ilustrativan slučaj diskriminacije Romkinja odbijanjem pružanja hitne medicinske pomoći trudnici (slučaj Alimanović, Tuzla).⁴⁵ Aktivistice su izložene opstrukcijama i otporima unutar romskog pokreta, a samo mali broj Romkinja su članice nekih od tijela za ostvarivanje ravnopravnosti manjina ili Roma.

Treba ukazati na određene pomake u položaju Romkinja. Prva ženska romska mreža „Uspjeh“ je formirana 2010. godine.⁴⁶ Po prvi put je grupa Romkinja govorila o svom položaju pred Komisijom za ravnopravnost spolova Parlamentarne skupštine Bosne i Hercegovine (2012.) a, na prijedlog prve zamjenice predsjedavajućeg ove

njih nemaju uslove za normalno izdržavanje i podizanje vlastite djece, a kamoli dostatna sredstva za uredno i potpuno obrazovanje, od predškolskog do, makar, srednjoškolskog, zdravstvenu zaštitu, stambeni smještaj, igračke i drugo, što je preduslov za srećno i dostojanstveno djetinjstvo, odnosno životni standard primjeren aktuelnim potrebama.“ Nadalje se kaže da „Vijeće ministara BiH smatra da je neophodno povesti javnu kampanju [...] o smislu i potrebi promišljanja i artikulisanja problematike seksualnog i reproduktivnog zdravlja Romkinja, žena i djevojaka, odnosno onoga što se doskoro zvalo – planiranje porodice, uključujući i broj djece i ostale parametre relevantne za normalno funkcionisanje porodice i očuvanje bračne zajednice. Ovo, naravno, nije i ne treba shvatiti kao bilo kakvo ograničavanje, odnosno represivnu kontrolu, a ponajmanje zabranu rađanja djece, odnosno staranja o vlastitoj djeci i njihovom vaspitanju, nego samo kao apel za naglašavanje uloge odgovornog roditeljstva, odnosno kao jednu od preventivnih mjera da ubuduće djeca ne rađaju djecu [...]“

42 Ibid. „Vlasti u BiH su dužne posvetiti adekvatnu pažnju pitanju ravnopravnosti spolova pripadnika/ca romske nacionalne manjine, a prije svega popravljajući materijalnog i socijalnog položaja žena unutar romskih zajednica, jer se pokazuje da su one nesumnjivo diskriminirane u odnosu na Rome-muškarce. U tu svrhu zadužuje se Agencija za ravnopravnost spolova BiH i gender centri entiteta da, zajedno sa parlamentarnim komisijama i drugim tijelima za ravnopravnost spolova i društveni položaj žena, te ostalim nadležnim organima i romskim NVO-ima koji se bave ovim pitanjima, sačine odgovarajući program i plan aktivnosti na gender senzibilizaciji, kako samih Roma, tako i svih onih koji_e rade na rješavanju njihovih problema, te da se, nakon što se on usvoji na nadležnim organima, odmah krene u njegovu implementaciju. Monitoring tog procesa obavljajući, pored Agencije i entitetskih gender centara, i Odbor za Rome pri Vijeću ministara i Vijeće Roma BiH.“

43 Izvještaj o implementaciji Akcionog plana za rješavanje problema Roma u oblastima zapošljavanja, stambenog zbrinjavanja i zdravstvene zaštite, Romski informativni centar Kali Sara i Decade Watch, Sarajevo, april 2011. godine.

44 Ibid.

45 Institucija ombudsmena Bosne i Hercegovine u predmetu Ž-SA-3-528/11, novembar 2011. godine: “Ombudsmeni Bosne i Hercegovine smatrau da je u konkretnom slučaju došlo do diskriminacije žena koje pripadaju ranjivim grupama, u ovom slučaju pripadnica romske nacionalne manjine, zbog nemogućnosti da S.A. pravovremeno dobije adekvatnu njegu s obzirom na stanje u kojem se nalazila. Vlasti u Federaciji BiH s obzirom da nisu adekvatno iskoordinirale svoje aktivnosti i omogućile provođenje normativnog okvira koji uređuje oblast zdravstva, dovele su istu u diskriminirajući položaj”; dostupno na:

<http://www.ombudsmen.gov.ba/materijali/preporuke/P-171-11%20Z-SA-03-528-11%20Djeca%20Zemlje%20-%20Tuzla.pdf>

46 Mrežu čine 10 organizacija: *Bolja budućnost* – Tuzla, *Budi mi prijatelj* – Visoko, *Centar za majke „Nada“* – Kakanj, *Centar za majke „Palma“* – Vitez, *Centar za majke „Utjeha“* – Zenica, *Romska suza* – Srebrenica, *Romska djevojka-Romani čej* –Prnjavor, *Centar za majke „Narcis“* – Donji Vakuf, *Mladi Romi* – Vitez, i *Romkinja* – Bijeljina.

komsije, imenovan je veći broj žena u Odbor za Rome, uključujući imenovanje predsjedavajuće Odbora.⁴⁷ Ovo savjetodavno tijelo bosanskohercegovačke Vlade ima važnu ulogu u reviziji postojećih akcionih planova koja je u toku, te veoma važan prvi korak ka integriranju mjera za unapređenje ženskih ljudskih prava Romkinja.

Pitanje političke participacije Romkinja je od iznimne važnosti. Na općinskim izborima, (oktobar 2012.) niti jedna Romkinja nije izabrana u općinska vijeća, iako su se 4 Romkinje kandidovale kao nezavisne kandidatkinje. Nedostajala je šira društvena podrška a naročito sredstva za njihovu javnu promociju i predstavljanje.

Ugovoreni brakovi i udaja u ranoj dobi

Zbog patrijarhalne sredine i krute tradicije, Romkinje se udaju još u najranijoj dobi, gotovo kao djevojčice, zbog čega često napuštaju školu ukoliko je uopšte pohađaju. U izvještaju o nasilju u porodici nad romkinjama u Bosni i Hercegovini⁴⁸ koji su krajem 2010. godine pripremile nevladine organizacije *Prava za sve* i *Inicijativa i civilna akcija* (ICVA) na osnovu istraživanja sprovedenog među 609 Romkinja, na pitanje o dobi u kojoj su se udale je odgovorilo 527 ispitanica. Čak 44,21% ispitanica se udalo u dobi prije 18 godina, a pri tome je većina navela da su se udale sa 15 ili 16 godina, a u nekoliko slučajeva su se udale i u uzrastu od 13, odnosno 14 godina. U samo nešto većem procentu su se udale u dobi od 18 do 25 godina, i to njih 53,88%. Iz ovoga se može zaključiti da se do 25 godina starosti udalo 98,09% ispitanica, ili gotovo sve ispitanice koje su odgovorile na ovo pitanje. Također, gotovo sveispitanice koje su se udale ovako rano u pravilu odmah rađaju i djecu, tako da do 25. godine života imaju već po 2 i više djece.

Priličan broj ispitanica nije odgovorilo na pitanje o dobi u kojoj su se udale zbog toga što su neudate ili se nalaze u vanbračnoj zajednici. Ipak, jedan dio ispitanica nije odgovorilo na ovo pitanje jer ne znaju koliko godina imaju ili kada su se tačno udale. U istom istraživanju je navedeno da su neke od ispitanica kao razlog za udaju navodile plaćanje od strane muževljeve porodice i da su to tzv. dogovorene udaje. Od 561 ispitanica koje su odgovorile na ovo pitanje, 30,34% je odgovorilo da lično poznaje ženu za čiju je udaju plaćeno, a 67,09% da ne poznaje. Iako je iz pruženih odgovora vidljivo da plaćena udaja još uvijek ne dominira, ipak je krajnje zabrinjavajući podatak da čak 30,34% slučajeva plaćenih udaja Romkinja za koje su ispitanice tvrdile da ih lično poznaju. U pojašnjenjima su navodile da se uglavnom radi o nekoj članici njihove porodice ili prijateljici. Također, istakle su da u slučajevima kada je za ženu plaćeno ona nema drugog izbora nego da ostane u braku bez obzira na to što u najvećem broju takvih brakova trpe različite oblike nasilja, što od muža što od članova njegove porodice, jer je njena porodica ne može prihvatiti nazad ukoliko ne vrati primljeni novac. Naravno, oni taj novac više nemaju, a nerijetko i ne žele da prime ženu nazad. To praktično znači da je žena „kupljena“ i postaje vlasništvo porodice u koju se udala. Nažalost, ovu vrstu „udaje“, a zapravo prodaje djevojčica i djevojaka, država još uvijek ne priznaje i ne tretira kao trgovinu ljudima, pravdajući to tradicijom Romskih zajednica. Upravo zbog takvog odnosa ovaj trend je prisutan i sigurno će imati tendenciju rasta ukoliko se hitno nadležne institucije vlasti ne uključe i ne poduzmu ozbiljne mjere protiv počinilaca.

47 Odbor za Rome ima ukupno 22 člana, predstavnika_ica institucija i Roma. Od toga 11 članova su Romi, od čega su 4 Romkinje. Predsjedavajuća je Indira Bajramović, Bolja budućnost, Tuzla;

48 Stop nasilju: Izvještaj o nasilju u porodici nad Romkinjama u Bosni i Hercegovini, Prava za sve Sarajevo i ICVA Sarajevo, novembar 2010. godine

PREPORUKE:

- Potrebno je hitno pristupiti donošenju nove Strategije za unapređenje položaja Roma zasnovanu na principima Evropske unije koji uključuju i obavezne mjere za uspostavljanje rodne ravnopravnosti u domaćim politikama.⁴⁹
- Romkinje aktivistkinje bi trebale biti konsultovane u razvijanju novih politika rodne ravnopravnost u BiH, a pitanje poboljšanja položaja žena i manjina mora biti integrirano u sve druge politike i mjere koja država donosi.

⁴⁹ 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, dostupno na: http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf

ŽENE SA SELA

Autorica: Selma Hadžihalilović

NEVIDLJIVE ŽENE SA SELA

Posebnu kategoriju diskriminiranih i u potpunosti marginaliziranih žena u Bosni i Hercegovini predstavlja kategorija žena koja živi na selu. Ako se u odnosu na pojedina pitanja može govoriti o diskriminaciji žena, u odnosu na žene sa sela možemo samo govoriti o višestrukoj diskriminaciji.

Na osnovu istraživanja⁵⁰ koje je lokalna organizacija provela u ruralnim područjima centralne Bosne i Hercegovine (dolina rijeke Bosne) podaci do kojih smo došli su više nego poražavajući. Glavni problemi žena sa sela su nezaposlenost, siromaštvo i nedostatak pitke vode.

Žene na selu su suočene na lošem kanalizacijom i odvodom otpadnih voda, divljim deponijama smeća, nedostatkom ili vrlo lošim saobraćajnim vezama od administrativnih centara do mjesta stanovanja (od neuslovnih cesta do javnog saobraćaja koji je rijedak ili jednostavno ne vozi do njihovih naselja, pa do straha za svoju djecu jer u pojedinim sredinama vozači javnog saobraćaja diskriminišu djecu naspram odraslih muškaraca ostavljajući često samu djecu da čekaju druge autobuse).

Veliki broj mjesnih zajednica ima neki oblik ženskog organizovanja – bilo u formalnim ili neformalnim oblicima, ali je procent učešća žena u donošenju odluka o unapređenju kvaliteta života u njihovim zajednicama skoro nepostojeći. Žene skoro nikako ne učestvuju u radu odbora mjesnih zajednica, a mjesne zajednice nisu osposobljene ni na koji način da pruže makar osnovne administrativne usluge svojim sugrađankama. Većina žena sa sela ima završeno osnovno, pa čak i srednje obrazovanje, dok je prava rijetkost pronaći ženu na selu sa višom ili fakultetskom naobrazbom. Većina visoko obrazovanih žena sa sela je migriralo u gradske sredine bez ikakve želje da se vrate na selo. Takva situacija je u potpunosti shvatljiva ako se uzme u obzir da je jedini način zarade na selu – poljoprivreda, a bilo koji drugi oblik industrije ne nudi mogućnost zaposlenja. Žene na selu pokušavaju doprinijeti kućnom budžetu svojim radom u oblasti poljoprivrede, ratarstva i stočarstva. Međutim, zbog neuređene zakonske regulative – jako je teško plasirati domaće lokalne proizvode na bosansko – hercegovačko tržište. Tako je, npr. lakše naći u velikim tržnim centrima bijeli luk iz Kine i krompir Perua, dok lokalni proizvođači, uglavnom žene – svoje proizvode ne mogu promovisati, zaštititi, niti prodati na lokalnim tržnicama.

Stepen zdravstvene zaštite, prije svega prevencije, je sramotno nizak. Postojeće ambulante porodične medicine rijetko odgovaraju istinskim potrebama zajednice, tako da su preventivni pregledi poput redovnih posjeta ginekologu ili stomatologu, za žene svih starosnih doba skoro nepostojeći.

One žene sa sela koje imaju pristup internetu, uglavnom koriste samo društvene mreže za razmjenu fotografija sa različitih društvenih dešavanja i kako bi ostale u kontaktu sa širom porodicom. Vrlo mali broj žena koristi internet u druge svrhe. Nažalost, svaki put pred izbore, kada mnoge stranke upravo preko žena sa sela žele da izlobiraju popriličan glasački aparat, često manipulišući ženama i dajući lažna obećanja, situacija se drastično mijenja. Žene sa sela su jedinstvene u ocjeni da je nedostatak ženskog lideršipa, te javnih prostora za žene, javnih kulturnih, edukativnih i rekreativnih sadržaja, jedan od osnovnih uzroka nedostatka društveno – političke

50 Istraživanje proveo KOLEKTIV – Inicijativa za iskustvo učenje Udruženja LOTOS na uzorku od 500 žena iz slijedećih mjesnih zajednica: Arnauti, Čajdraš, Podbrežje, Perin Han, Pehare, Donji Bradići, Ciglana, Opšenik, Begov Han Kovanići, Lokvine, Donja Gračanica. Istraživanje je provedeno u aprilu 2013. godine.

participacije žena sa sela. Žene sa sela su obično vidljive samo u trenucima promocije nacionalne tradicije, kućne radinosti i lokalnih specijaliteta, dok za njihovo političko mišljenje postoji vrlo malo sluha.

Nažalost, izgradnja novih naselja nije pratila nikakav infrastrukturni plan, što je rezultiralo jako lošim opštim kvalitetom života. Ne postoji nikakva vjera niti nada da politika_e koju_e vode nadležni u Bosni i Hercegovini može donijeti boljitak ženama na selu. U samo jednom dijelu Bosne i Hercegovine, u Republici Srpskoj, Gender centar Vlade Republike Srpske od 2009. godine radi na provođenju kampanje "Ravnopravno – za žene na selu" te obilježavaju 15. oktobar – Međunarodni dan žena na selu, dok je u 2012. godini održana samo jedna konferencija na državnom nivou posvećena ovoj problematici.⁵¹ Niti u jednom od svojih 15 poglavlja, Gender akcioni plan Bosne i Hercegovine ne tretira pitanje položaja i unapređenja kvalitete života žena na selu, dok se kampanje za prevenciju i podizanje svijesti o nasilju nad ženama rijetko provode u ruralnim zajednicama.

PREPORUKE:

- Žene na selu su u potpunosti marginalizovane i u cjelosti nevidljiv čimbenik bosansko-hercegovačkog društveno-političkog ambijenta.
- Kako bi se unaprijedio položaj žena sa sela potrebno je što prije pristupiti izradi akcionog plana koji bi tretirao, uvažavajući posebnosti i osobitosti žena na selu, slijedeća pitanja:
 - društveno – politički angažman žena na selu;
 - seoska poljoprivredna industrija, zapošljavanje žena na selu;
 - seoski turizam;
 - IT tehnologije;
 - zaštita okoliša;
 - obrazovanje;
 - zdravstvena zaštita, zdravstveno obrazovanje i prevencija;
 - nasilje u zajednici i porodici;
- Potrebno je uložiti dodatne napore i promovisati postignuća, ali i strahove i neuspjehe žena sa sela, te im pružiti kontinuiranu podršku u njihovim nastojanjima da unaprijede kvalitetu života za žene svih starosnih doba u njihovim zajednicama.

⁵¹ Konferencija "Žene i ruralni razvoj", Sarajevo 31/10/2012, Agencija za ravnopravnost polova BiH u saradnji sa Fondacijom Bosansko-hercegovačka inicijativa žena

LBT ŽENE

Autorica: Sadžida Tulić

UVOD

U Bosni i Hercegovini ne postoje podaci o broju LBT žena (lezbejki, biseksualnih i transrodnih/transeksualnih žena), kao ni o stanju njihovih ljudskih prava, iz razloga što državni organi i agencije, pa ni oni_e koji_e se bave ženskim ljudskim pravima, još uvijek nisu pokazali_e interes za sprovođenjem takvog istraživanja, kao ni senzibilitet za zaštitu prava LBT žena. Sveukupnoj situaciji doprinosi i nepostojanje nevladinih organizacija koje bi okupljale i zastupale interese ove populacije.

Vlasti u BiH zanemaruju prisustvo LBT žena ignorišući njihovo postojanje u društvu. Ovo za posljedicu ima nevidljivost i odsustvo LBT žena iz javnog i društvenog života. Stav institucija vlasti u vezi sa pravima LBT žena je da je Zakonom o zabrani diskriminacije BiH pružena dovoljna zaštita LBT ženama i da je time uspostavljena ravnopravnost među građanima_kama BiH, ignorišući na taj način stvarne probleme sa kojima se LBT žene svakodnevno susreću.

U medijima su LBT teme uglavnom zastupljene kroz senzacionalističko i šokantno izvještavanje u cilju veće gledanosti/slušanosti/čitanosti. Povećanje vidljivosti LGBT osoba uopšte je imalo za posljedicu povećanje govora mržnje na web portalima, te povećanje grubosti i težine tog govora. Nažalost, trend povećanja govora mržnje nije pratio i trend povećanja zvanične aktivnosti i akcija odgovornih institucija vlasti. Nedostatak adekvatnog procesuiranja i sankcionisanja govora mržnje, osude govora mržnje i netolerancije prema LGBT osobama, kao i nekažnjavanje počinitelja_ica, dovodi do stvaranja nepovjerenja LBT žena prema državnim institucijama, što objašnjava činjenicu zašto u Bosni i Hercegovini do danas nije bilo sudskih presuda koje su se odnosile na nasilje, diskriminaciju ili govor mržnje zasnovan na rodu/spolu, seksualnoj orijentaciji ili na rodnom identitetu. S obzirom da BH državne institucije vrlo malo rade na suzbijanju diskriminacije i promovisanju jednakosti spolova/rodova, nikako ne čudi činjenica da LBT žene oklijevaju prijaviti nasilje, govor mržnje ili diskriminaciju javnim organima.

Bitno je naglasiti da je borba LBT žena u Bosni i Hercegovini, borba da budu ono što jesu – da izraze svoj rodni identitet i seksualnu orijentaciju u potpunoj slobodi i da zbog toga ne trpe nikakvo zlo. To je borba za dostojanstvo, sigurnost i integritet.

ZLOČIN IZ MRŽNJE

Pravni sistem Bosne i Hercegovine je neujednačen zbog složenog i decentralizovanog državnog uređenja. U pravnom sistemu BiH, zločini iz mržnje nisu eksplicitno definisani kao zasebna krivična djela, a krivični zakoni se razlikuju u zavisnosti od federalne jedinice. Krivični zakoni RS-a i BD prepoznaju mržnju kao „pobudu za činjenje krivičnog djela, propisanog ovim zakonom, koja je u cjelini ili djelimično zasnovana na razlikama po osnovu stvarnog ili pretpostavljenog etničkog ili nacionalnog porijekla, jezika ili pisma, vjerskih uvjerenja, rase, boje kože, pola, polne orijentacije, političkog ili drugog uvjerenja, socijalnog porijekla, društvenog položaja, dobi, zdravstvenog statusa ili drugih osobina ili zbog dovođenja u vezu sa osobama koje imaju neku od navedenih različitih osobina.“⁵² Ovi krivični zakoni također izričito navode da je sud dužan u obzir uzeti mržnju kao otežavajuću okolnost krivičnog djela. Mržnja na osnovu rodnog identiteta nije izričito navedena kao otežavajuća okolnost u ovim

52 Krivični zakon Republike Srpske (čl.147, st.25), Krivični zakon Brčko distrikta (čl.2, st.37.)

zakonima.

Nažalost, iako su 2010. godine predložene slične izmjene i dopune Krivičnog zakona Federacije Bosne i Hercegovine, slična regulacija još uvijek nije usvojena. Ovakvim pristupom se umanjuje značaj krivičnih djela počinjenih iz mržnje, te aktivnost odgovornih institucija, i stvara se privid javne podrške ovakvim djelima te se ugrožava sigurnost LBT žena i ostalih manjinskih grupa unutar društva jer su one najčešće žrtve zločina iz mržnje.

Početak 2013. godine, formirana je Koalicija za borbu protiv govora mržnje i zločina iz mržnje. Koalicija je već zagovarala za dopunu Zakona o izmjenama i dopunama Krivičnog zakona Republike Srpske povodom definicije zločina iz mržnje koja se eksplicitno uvodi u Krivični zakon, a koja uključuje i rodni identitet kao zabranjeni motiv zločina iz mržnje. Usvajanje ovog zakona očekuje se do kraja 2013. godine. U međuvremenu, Koalicija nastavlja svoj rad na zagovaranju u Federaciji BiH.

U 2012. godini, Sarajevski otvoreni centar je u okviru svog besplatnog pravnog savjetovanja dokumentovao nekoliko slučajeva zločina iz mržnje zasnovanih na seksualnoj orijentaciji, što dokazuje potrebu hitne regulacije i adekvatnog procesuiranja sličnih slučajeva.

GOVOR MRŽNJE

U BiH postoje zakoni koji kažnjavaju govor mržnje u medijima. Iako krivični zakoni u FBiH i BD kažnjavaju govor mržnje, u njima nije preciziran homofobni i transfobni govor mržnje. Krivični zakon RS-a ne zabranjuje izričito govor mržnje – iako zakon zabranjuje izazivanje etničke, rasne i vjerske mržnje, on ne kažnjava homofobni i transfobni govor.

Kodeks o audiovizuelnim medijskim uslugama i medijskim uslugama radija Regulatorne agencije za komunikacije (RAK) navodi da će, u audiovizuelnim medijskim uslugama i medijskim uslugama radija, ljudsko dostojanstvo i osnovna prava biti poštovana, te da će se ohrabrivati slobodno oblikovanje mišljenja.⁵³ Mediji neće prikazivati sadržaj koji uključuje bilo kakav oblik diskriminacije ili predrasude na osnovu spola, rase, etničke pripadnosti, nacionalnosti, vjere ili uvjerenja, invalidnosti, posebnih potreba, dobi, seksualne orijentacije, socijalnog porijekla, kao ni bilo koji drugi sadržaj koji ima za svrhu ili posljedicu da onemogući ili ugrožava priznavanje ili ostvarivanje na ravnopravnom osnovu bilo kog individualnog prava i slobode.⁵⁴ Ipak, rodni identitet nije uključen u spisak osnova.

Vijeće za štampu u BiH nezavisno nevladino, samoregulativno medijsko tijelo, čija je misija da unaprijedi etičke i profesionalne standarde u štampanim medijima, u članu 4. svog Kodeksa za štampu i online medije regulisalo je da: „Novinari moraju izbjeći prejudicirane i uvredljive aluzije na nečiju etničku grupu, nacionalnost, rasu, religiju, pol, seksualnu opredijeljenost, fizičku onesposobljenost ili mentalno stanje. Aluzije na nečiju etničku grupu, nacionalnost, rasu, religiju, pol, seksualnu opredijeljenost, fizičku onesposobljenost ili mentalno stanje će biti napravljene samo onda kada su u direktnoj vezi sa slučajem o kojemu se izvještava.“⁵⁵ Dodan je i novi član – 4a, u kojem se navodi: „Novinari će izbjegavati direktne ili indirektno komentare kojima ličnosti stavljaju u neravnopravan položaj ili ih diskriminišu po osnovi njihovog

53 Kodeks o emitovanju radio televizijskog programa Regulatorne agencije za komunikacije BiH

54 Ibid.

55 Kodeks za štampu i online medije Vijeća za štampu u BiH, član 4.

pola, roda, polnog identiteta, rodnoga identiteta, rodnoga izražavanja i/ili seksualne orijentacije.“⁵⁶

U saradnji sa gender centrima FBiH i RS-a i Agencijom za ravnopravnost spolova BiH, Vijeće za štampu je usvojilo novi dokument : *Preporuka za medije - tretiranje rodni sadržaja u medijima* u kojem preporučuju urednicima i uredničkim kolegijima štampanih i elektronskih medija u BiH da „kroz svoju uređivačku politiku, nastoje da osiguraju poštivanje ravnopravnosti na osnovu pola, roda, polnog identiteta, rodnog identiteta, rodnog izražavanja i seksualne orijentacije, kroz različite mjere kao što su prikazivanje pozitivnih primjera nediskriminacije i poštivanja ljudskih prava u javnoj i privatnoj sferi života, prikazivanje svih osoba na ravnopravan i nestereotipan način, s punim poštivanjem njihove osobenosti i ljudskog dostojanstva, eliminisanje seksizma, rodofobije, homofobije, bifobije, transfobije i drugih predrasuda i stereotipa u medijskom jeziku.“⁵⁷

Na osnovu primjera iz prakse možemo zaključiti da državne institucije ne samo da nedovoljno podstiču etičko i profesionalno izvještavanje o LBT ženamaa, već i ne osuđuju tekstove homofobnog sadržaja. Na primjer, Koordinaciono tijelo Šarene mreže BiH (LGBTIQ) je uložilo prigovor na tekst u magazinu SAFF pod naslovom „AIDS je ustvari GIRD - Gay related immune deficiency ili homoseksualno uslovljen nedostatak imuniteta“, objavljen 4. maja 2012. koji je potpisao dr Adem Zalihić.⁵⁸ Vijeće za štampu je utvrdilo da su tekst, nadnaslov, naslov i podnaslov bili tendenciozni, manipulativni, diskriminirajući i stigmatizirajući prema LGBT populaciji.⁵⁹ Međutim, Vijeće za štampu nije izreklo nikakvu preporuku jer su ih iz uredništva magazina uputili na autora, uz objašnjenje da sporni članak predstavlja isključivo njegovo mišljenje.

Ipak, postoje i slučajevi koji pokazuju pozitivnu praksu. U 2012. godini, Regulatorna agencija za komunikacije (RAK) odredila je televizijskoj stanici TV PINK BiH kaznu od 2000 KM za emitovanje homofobnih SMS poruka gledatelja_ica za vrijeme prikazivanja TV emisije *Zabranjeni forum* čija tema je bila *Promjena spola – tijelo kao kazna*.⁶⁰ Iz RAK-a su zaključili da je TV PINK trebala pokazati veći stepen odgovornosti i osjetljivosti prema specifičnom raspoloženju bosankohercegovačke javnosti prema pitanjima koja su tretirana u tom programu.

POŠTIVANJE PRIVATNOG I PORODIČNOG ŽIVOTA I PRISTUP ZDRAVSTVENOJ ZAŠTITI

Iako porodični zakoni FBiH, RS i BD regulišu prava i obaveze bračnih i nevjenčanih parova, ne postoji volja da se u budućnosti obezbijedi da se slična prava i obaveze primjenjuju na istospolne parove. Po pitanju usvajanja djeteta, porodični zakoni FBiH, RS i BD ne dozvoljavaju osobama koje nisu u braku ili vanbračnoj zajednici da usvajaju djecu, bez obzira na njihovu seksualnu orijentaciju i rodni identitet.

Državne institucije ne poduzimaju nikakve korake da neudatim ženama obezbijede pristup tretmanu medicinski potpomognute oplodnje, koji je rezervisan isključivo za

56 Ibidem, član 4a

57 Preporuka za medije - tretiranje rodni sadržaja u medijima, Vijeće za štampu

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

59 Ibidem

60 Banović, D., Vasić, V., *Seksualna orijentacija i rodni identitet: Pravo i praksa u BiH*, Sarajevski otvoreni centar, Sarajevo, 2013.

vanbračne i bračne parove. Planirano je usvajanje novog zakona u FBiH - Zakona o liječenju neplodnosti biomedicinski asistiranom reproduktivnom tehnologijom - koji je posebno namijenjen bračnim parovima ili parovima koji žive u vanbračnoj zajednici. Transeksualne žene u BiH ne mogu pristupiti procedurama prilagodbe spola, jer ne postoji medicinski kadar koji je dovoljno edukovan da bi mogao sprovesti taj medicinski proces, te su ove žene primorane prilagođavati spol u zemljama regiona. Štaviše, ni zdravstveni zavodi FBiH niti RS-a ne pokrivaju troškove tretmana prilagodbe spola. BiH ne olakšava svojim transrodnim građankama ni nakon izvršene procedure prilagodbe spola. Iako je zakonski promjena oznake spola regulisana kao dozvoljena izmjena u matičnim knjigama, te je promjena matičnog broja omogućena, nadležna ministarstva unutrašnjih poslova još uvijek nisu uspostavila adekvatnu administrativnu proceduru. Transeksualna osoba koja želi mijenjati lične dokumente mora dostaviti svu relevantnu medicinsku dokumentaciju potpisanu od strane doktora ili tima doktora, čime se potvrđuje da je prilagodba spola potpuna i da je period tranzicije završen. Pravo transeksualne osobe da se vjenča sa osobom suprotnog spola od njenog željenog spola, ni nakon izmjene ličnih dokumenata nije zakonski garantovano. Pravno gledano ne postoje prepreke za transeksualnu osobu da se vjenča sa osobom suprotnog spola, ali s obzirom da mogućnost sklapanja ovakvog braka nije regulisan porodičnim zakonima BiH, ne možemo biti sigurni da li bi u ovim situacijama došlo do diskriminacije od strane administrativnih organa.

U Brčko distriktu trenutni Zakon o matičnim knjigama ne predviđa promjenu spola kao jednu od okolnosti koje se dodatno bilježe u matičnim knjigama,⁶¹ tako da se u praksi, promjena bilježi kao ispravka pogreške napravljene pri upisu novorođenčadi. U zakonima o matičnim knjigama Republike Srpske i Federacije BiH, promjena spola je identificirana kao jedan od podataka koji se naknadno upisuju u matične knjige čime je olakšana procedura izmjene i izdavanja ostalih ličnih dokumenata.⁶² Međutim, te procedure su različite u oba entiteta, a i u 10 kantona FBiH. Dodatne poteškoće nastaju kada osoba iz jedne od administrativnih jedinica pokuša promijeniti spolnu odrednicu i dokumente u drugoj.

Transeksualne žene u prijelaznom periodu suočavaju se sa marginalizacijom i društvenom isključenošću i nevidljivošću, one su zakonski priznate kao pripadnice jednog spola, a njihov fizički izgled odgovara onome što društvo prepoznaje kao suprotni spol, što ih čini više podložnim diskriminaciji i nasilju od ostatka LGBT zajednice i opće populacije.

PREPORUKE:

- Neophodno je pružiti bolju i adekvatniju zaštitu prava LBT žena i to kroz usklađivanje postojećih zakona sa Zakonom o zabrani diskriminacije BiH donesenog 2009. godine, koji je predvidio obavezu usklađivanja zakona i drugih propisa u roku od godine dana od njegovog stupanja na snagu.
- Potrebno je raditi i na temeljnijim i zahtjevnijim zakonodavnim izmjenama kao što su uvođenje zločina iz mržnje u krivične zakone u BiH i kriminalizacija govora mržnje, te harmonizacija krivičnih zakona u BiH.
- Neophodna je harmonizacija zakona o matičnim knjigama RS-a, FBiH i BD-a, kao

61 Zakon o matičnim knjigama Brčko distrikta

62 Zakon o matičnim knjigama Republike Srpske, Zakon o matičnim knjigama Federacije BiH

i zakonska regulacija prilagodbe spola kako bi ista postala dozvoljen osnov za promjenu podataka u matičnim knjigama.

- Institucije BiH moraju biti svjesne da zakoni sami po sebi nisu dovoljni za sprječavanje kršenja ljudskih prava, te da one moraju preuzeti aktivnu ulogu u sprovedbi tih zakona i propisa.
- Potrebno je organizovati obavezne treninge i edukacije za sve javne dužnosnike_ice i osoblje javnih uprava, a naročito za policijske službenike_ce.
- Kako bi se adekvatno kriminalizovali i sankcionisali predrasudama motivisani zločini, Krivični zakon FBiH treba izmijeniti na dva moguća načina:
 - 1) definicija mržnje treba biti uvedena u Krivični zakon Federacije Bosne i Hercegovine na isti način kako je to urađeno u krivičnim zakonima Republike Srpske i Distrikto Brčko; kao motiv za počinjenje krivičnog djela prepoznaju mržnju i to da se ona potpuno ili djelomično temelji na osnovu stvarne ili pretpostavljene etničke pripadnosti, nacionalnosti, jezika ili pisma, vjerskih uvjerenja, rase, boje kože, spola/roda, seksualne orijentacije, političkog ili drugog uvjerenja, socijalnog porijekla, dobi, zdravstvenog stanja ili drugih osobina, te zbog udruživanja s pojedincima_kama koji posjeduju neke od tih karakteristika. Zakon također treba regulirati obavezu suda da se mržnja prepozna kao otežavajuća okolnost krivičnog djela u svakom mržnjom motivisanom krivičnom predmetu.
 - 2) uvodeći izričitu definiciju zločina iz mržnje, na način na koji će biti usvojena u Krivičnom zakonu Republike Srpske sa nedavnim izmjenama i dopunama, te ga definisati kao bilo koje krivično djelo počinjeno zbog stvarne ili pretpostavljene rase, nacionalnosti, etničke pripadnosti, vjeroispovijesti, boje kože, spola/roda, seksualne orijentacije, zdravstvenog stanja, rodnog identiteta ili neke druge karakteristike žrtve, ili zbog saradnje/udruživanja sa pojedincima_kama koji imaju neke od tih karakteristika.
- BiH također treba educirati uposlenike_ce institucija zaduženih za provedbu novih izmjena i dopuna krivičnog zakonodavstva i organizovati programe obuke za policijske službenike_ice, tužitelje_ice i sudije_tkinje o tome kako tretirati, odnosno procesuirati zločine počinjene iz mržnje.
- Kako bi se pravno priznao i uredio status transeksualnih osoba, te kako bi se upis prilagodbe spola u matične knjige pojednostavio i olakšao, BiH bi trebala:
 - 1) regulisati upis prilagodbe spola Zakonom o matičnim knjigama Brčko Distrikta;
 - 2) razviti i provesti strategiju za borbu protiv diskriminacije i isključenosti transrodnih i transeksualnih osoba, te inkluziju ovih osoba u bh. društvo
 - 3) obrazovati radnike_ce zdravstvene i javne uprave o pitanjima transrodnosti i transeksualnosti; osposobiti tim medicinskih radnika_ca koji_e mogu ponuditi punu potporu prije, za vrijeme i nakon procesa prilagodbe spola.

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ALTERNATIVE REPORT

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



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

July 2013

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Annex to the 3rd Alternative Report
On the Implementation of CEDAW and Women's Human Rights
in Bosnia and Herzegovina

Authors:

Introduction, Violence against Women
Economic Status of Women, Marginalized Women
Women in Public and Political Life
Women Victims of War
Trafficking in Women
Women from Rural Areas
LBT Women

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Participating organizations:



Partner:



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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 žene (United Women)* from Banja Luka, *Buducnost (Future)* from Modrica, *Lara* from Bijeljina, *Forum žena (Women's Forum)* from Bratunac and *Zene ženama (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-hercegovačka inicijativa žena (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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