

NGO Shadow report with regard to Bosnia and Herzegovina's combined fourth and fifth periodic reports

VULNERABLE AND INVISIBLE: REPORT ON VIOLENCE AND DISCRIMINATION AGAINST FEMALE SEX WORKERS AND WOMEN WHO USE DRUGS IN BOSNIA AND HERZEGOVINA



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List of Abbreviations

B&H – Bosnia and Herzegovina

CEDAW - Committee on the Elimination of Discrimination against Women

STI – Sexual Transmitted Infection

FIGAP - Financial Mechanism for the Implementation of the Gender Action Plan of B&H

NGO – Non-Governmental Organization

EMCDDA - European Monitoring Center for Drugs and Drug Addiction

SRH – Sexual and Reproductive Health

Executive summary

Sex workers and women who use drugs are large, but extremely marginalized and invisible community in Bosnia and Herzegovina. They are highly vulnerable to HIV/STI, harassment and violence due to multiple factors, including discrimination, social exclusion and criminalization. Most of female sex workers and drug users in the country face continuous human rights violations on daily basis by state and non-state actors.

This report seeks to highlight marginalization and systematic discrimination experienced by female sex workers and women who use drugs in Bosnia and Herzegovina. Despite their particular vulnerability to HIV and STI and violence their specific needs are continually ignored by state and they face systematic barriers in the realization of their basic rights, including the right to the highest attainable standard of health, reproductive and sexual rights, right to due representation and protection in court, and the right to decent treatment, free of humiliation and violence. The report pays particular attention to violations of vulnerable women's fundamental rights, high prevalence of violence against sex workers and women who use drugs and discriminatory practices against these populations in B&H.

The report is structured in line with Articles of the Convention on the Elimination of Discrimination against Women and contains information based on desk review of relevant documents, data from related researches and observation from the field. In the report we also supply with recommendations on effective interventions for improvement concerning sex workers' and drug users' rights.

Introduction

The combined fourth and fifth periodic state report submitted by Bosnia and Herzegovina (B&H) under article 18 of the Committee on the Elimination of Discrimination against Women (CEDAW) addresses the list of critical issues related to status of women in the country. However, the B&H government's report omits any mention of groups in highest risk to marginalization who meet multiple disadvantaged - female sex workers and women who use drugs. The prostitution is entirely observed through trafficking issue equating sex workers with victims of trafficking and issue related to drug use is absolutely neglected.

High level of stigma, tabooisation and illegality of sex work and drug use create situation where sex workers and female drug users are on margins of society in B&H. The government has undertaken no measures to ensure these populations have equal access to protection of the law in matters neither of discrimination or violence nor to their right to adequate living conditions.

Moreover, due to political, social and cultural norms in Bosnia and Herzegovina, sex workers and women who use drugs endure harsh discrimination and lack of equality before the law as mandated for all persons in article 15 of CEDAW. These violations of the Convention manifest in violence and misconduct from state actors and citizens with impunity, a criminalized and/or stigmatized status that keeps sex workers contained in an isolated sub-group of society, and discriminatory funding restrictions that hinder access to health and other services.

Sex workers and women who use drugs are often not welcome in conversations around violations of their own civil, political and social rights. The discrimination directed at those women, by both state and non-state officials, goes on unabated. In fact police harassment, lack of access to life-saving information about their health, particularly reproductive and sexual health, and the general criminalization and stigmatization continues to keep those women underground.

A. Sex work and relevant laws and regulations in Bosnia and Herzegovina

In B&H, sex work is illegal and sex workers are a hidden population. There is no official statistic about number of active sex workers in the country, but according to estimation of Association PROI the **rough number of active commercial female sex workers in Bosnia and Herzegovina is 4500**. Sex work is illegal and prostitution and use of prostitution is punished by a misdemeanour¹. Forced prostitution and sexual slavery is considered a criminal offense and punishing by imprisonment from one to ten years or by long-term imprisonment².

B. Substance use and related laws and regulations in Bosnia and Herzegovina

The location of B&H on the Balkan Route of drug trafficking contributes to increased availability of drugs in Bosnia and Herzegovina. The country faces a number of major problems in tackling problem drug use, including: small number of centres for drug addiction treatment, including those providing substitution therapy; an insufficient number of professionals in field of substance use; adopted state strategy and action plan and lack of prevention programmes at the local level; lack of technology (e.g. laboratory equipment) and an undeveloped drug information.³ Association PROI estimates between **2500-4000 women who use illicit drugs** in B&H.

The criminal codes of Bosnia and Herzegovina and of the entities address trafficking and unauthorised production, possession and sale of narcotic and psychotropic substances as well as the promotion of drug use. Police forces do not make allowances for possessions for personal use or possession in small quantities. This causes problems when harm reduction such as provision of needles and syringes are implemented, as possession of dirty syringes might be considered as misdemeanour in Republika Srpska and as a crime in the Federation of B&H.

C. Sex work and drug use overlapping

Many researchers around the world report a significant overlap between drug use and sex work. In countries like B&H poverty and an absence of employment opportunities make transactional sex a survival strategy for majority of women who use drugs. Women may have sex with someone who gives them a place to stay, food, drugs or protection. During their work, sex workers very often meet

with drugs and started using it because of curiosity or because of easier stress management and handling difficult conditions which is result of their situation. Results of Population survey on the prevalence of gender-based violence against female sex workers in Bosnia and Herzegovina reports that 37% of sex workers regularly use such drugs as heroin, cocaine and speed and other 37% use these types of drugs occasionally.⁴

Article 1-3

1. Bosnian drug laws that criminalize possession of small amounts of drugs fuel violence against women who use drugs. Women who use drugs are systematically subjected to violence from law enforcement agencies responsible for drug law implementation. Laws prohibiting drug use and possession of drugs for personal use put women who use drugs outside the law, treating them as criminals rather than as people who need health, social and other services.
2. Despite high level of stigma and discrimination against sex workers and drug users in Bosnian society, B&H Gender Action Plan overlooks the issues of sex work and drug use and doesn't contain specific activities focused on improvement of life quality of women engaged to sex work and/or who use drugs.⁵
3. Within Financial Mechanism for the Implementation of the Gender Action Plan of B&H (FIGAP) no single project is supported focused on improvement of life quality of female sex workers and/or drug users, among more than 50 supported projects of non-institutional partner.⁶
4. Official statistic on number of sex workers and female drug users in B&H is unavailable. In general, there is very little research into sex work and drug use in B&H, partly because of the stigma related to the sale of sexual and use of drugs. Absence of statistic and systematic monitoring sex workers and drug users' human rights status caused barriers for understanding of real situation and neglecting of direct human rights issues of these categories in national human rights reports.
5. The issue of these highly marginalized populations is also neglected by the report submitted by B&H under article 18 of CEDAW. The report contains no references to sex workers and women who use drugs, including in the sections of the report dealing with the state response to violence against women or HIV-epidemic, despite high vulnerability of these populations to these issues.
6. Representatives of sex workers and drug users are excluded from the mainstream processes on gender equality in the country and their influence is minimized. NGOs which directly represent sex workers and/or drug users are not engaged to government activities related to gender equality, violence, gender sensitive budgeting etc., and their role in actual gender policy formulation remain limited. NGOs representing/assisting female sex workers and/or drug users were not consulted within the process of preparation of adoption of B&H combined fourth and fifth CEDAW periodic report.

Recommendations:

- Bosnian government should work toward decriminalization of sex work and drug possession, and elimination of the unjust application of non-criminal laws and regulations against sex workers and drug users.
- Bosnian government should ensure antidiscrimination laws and regulations guarantee sex workers' and drug users' right to social, health and financial services.

- Bosnian decision makers should work together with civil society and community based organizations to confront stigma, discrimination and violence against sex workers and drug users, and transform punitive legal and social norms and practices that stigmatize and marginalize sex workers and women who use drugs towards ones that protect the rights of these populations.
- Bosnian government should strength the cooperation with NGOs representing female sex workers and drug users in implementing and monitoring CEDAW implementation.
- Bosnian government should ensure availability of statistics related to female sex workers and women who use drugs.
- Bosnian government should strength effective national machinery, institutions and procedures, at a high level of Government, and with adequate resources, commitment and authority to: (a) monitor the situation of most vulnerable women, including female sex workers and drug users; (b) formulate new policies and effectively carry out strategies and measures to eliminate discrimination against sex workers and women who use drugs.
- Bosnian government should ensure the necessary financial, technical and human resources to reduce discrimination and improve the life quality of highly marginalized women, including women engaged to sex work and/or use drugs.

Article 5: elimination of stereotypes and prejudice

Violence

7. Stereotypes and prejudices associated with sex work and drug use feeds into the culture of violence in B&H, making family aggression against sex workers and/or drug-using women a common experience. Study indicates that it was found that 85% sex workers had been exposed to one or more types of violence (psychological, physical and sexual). The most common perpetrators of violence were husbands/partners, clients, family members and pimps. Four out of five sex workers had experienced psychological violence, two out of three had experienced physical violence, and three out of five sex workers had experienced sexual violence. Every seventh sex worker (16%) had suffered an attack with a weapon.⁷
8. 25% of sex workers suffered psychological and/or physical violence from police representatives. Most of these (92%) reported that they suffered psychological violence, while 44% had suffered physical violence. Most vulnerable to violence by the police are sex workers who regularly use drugs: about half of women in this group had suffered psychological violence by the police and over a quarter had suffered physical violence (28%).⁸
9. 80% of sex workers do not report violence cases to law enforcement institutions. More than 60% sex workers experiencing violence do not use any of available post violence services.⁹
10. Researching over the world indicate that intimate partner violence is more commonly experienced by women who inject drugs than women in the general population.¹⁰ The perpetrators of domestic violence toward women who use drugs are usually either parents or sexual partners, who generally also use drugs. According to European Monitoring Center for Drugs and Drug Addiction (EMCDDA), social, physical and psychological factors can predispose women to influence and exploitation by male partners.¹¹
11. On the territory of B&H there are nine safe houses for victims of domestic violence with 173 available places led by NGOs.¹² However, mapping of available services for most vulnerable and marginalized women in Federation of B&H showed that none of these shelters address substance use problems and needs of women who use drugs. The shelters are not designed for drug using women and avoid providing of services for this category.¹³
12. The protection gaps force sex workers and women who use drugs to remain in violent relationships or face potential homelessness, compromising their safety and violating their

right to live free from violence. Each case of violence makes woman even more vulnerable, causing sometimes life-threatening injuries, further pushing the woman into poverty, homelessness, and forced sex work, violating her maternal rights, prompting riskier types of drug use, making her more susceptible to HIV and Hep C, and increasing psychological trauma and self-loathing.

13. BiH government theoretically has established good framework for addressing gender issues and ending violence against women (The Law on Gender Equality in B&H, Laws on Protection from Domestic Violence adopted in both, the Federation of B&H and in the Republic of Srpska, Gender Action Plan of B&H, Social Inclusion Strategy of B&H), but neither of those laws and policies do not take into consideration vulnerable and marginalized population of female sex workers and women who use drugs and human rights abuses against them.

Recommendations

- Bosnian government should ensure for female sex workers and women who use drugs equal protection of laws against rape and other forms of violence and universal access for all women to a full range of high-quality and affordable health care, including sexual and reproductive health services.
- Bosnian government should address the issues related to access to shelters for women who use drugs and experience violence, in line with international standards. Shelters must be available for all women who experience violence, and special provisions for women with drug problems should be developed in order to close a clear protection gap.
- In order to encourage sex workers and women who use drugs to report acts of violence, Bosnian government should ensure safe mechanisms for them to do so without fear of repercussions, humiliation, or breach of confidentiality.
- Bosnian government should modify current laws and policies in order to ensure addressing the need of direct assistance, capacity building, and awareness raising in relation to violence against most marginalized women, including drug users and sex workers.
- Violence against sex workers and women who use drugs should be regularly monitored and reported.

Article 6: trafficking in women and exploitation through prostitution of women

14. There has been a growing trend of trafficking in victims B&H citizens on the territory of B&H, which number rose to 21 in 2010.¹⁴ Sex workers' illegality and lack of equal access to law and police protection creates the environment of impunity for abuse against sex workers and place sex workers at higher risk of being in situations of trafficking. Sex workers are often approached with offers of new job in the sex industry but deceived as to the conditions under which they will be working, ending up in exploitative or coercive situations.
15. Women who use drugs are more likely to become victim of trafficking due to their poverty, social exclusion and illegal drug activities. Trafficker target women with drug addictions to recruit into trafficking situation or supply drugs as a way to entice inexperienced drug users. Often traffickers use drug addiction to keep victim in the trafficking situation.
16. The overlapping between drug use and sex work makes women highly vulnerable to trafficking. However, in B&H there is no program focused on prevention of human trafficking which targets sex workers and/or drug users and these populations are not in focus within the priorities of "women belonging to vulnerable groups".¹⁵
17. At the same time, lot of Bosnian civic and government professionals engaged to human trafficking issue contemplate trafficking in misconception and assimilate victims of trafficking for the purpose of prostitution with voluntary sex workers. Equating sex workers with victims of trafficking prevents the expression of opinions and attitudes by sex workers, worsens their

working conditions, increases stigma and disables discussion on possible ways of preventing trafficking.

Recommendations

- The Bosnian government must actively undertake initiatives to ensure that sex workers and women who use drugs have access to police protection. These must be publicized to dissuade traffickers and other violent perpetrators who might otherwise target these populations.
- The Bosnian government should undertake an anti-discrimination campaign among service providers and law enforcement agencies to pro-actively ensure that sex workers and drug users have equal access to police protection and other available services if they are targeted with abuse, including trafficking.
- The Bosnian government should provide support for service providers and civil society organizations for carrying out anti-trafficking programs and prevention activities, which raise awareness on the danger of trafficking and provide appropriate victim assistance services for sex workers and women who use drugs.
- The Bosnian government should undertake awareness raising activities to ensure professionals engaged to human trafficking issue understand the difference between voluntary sex works and human trafficking.

Article 11: work, pensions and social welfare

18. In 2004, the Government of FB&H adopted the decision to utilize the standard classification of occupations, which is based on International Classification of ISCO. Under this classification, the occupation “salesgirl of love” is identified under code 5149.04, Section „Service and sales workers”.¹⁶ This occupation would be the closest to correspond with the currently used term “sex worker”. However, at the same time prostitution in B&H is illegal and punished by misdemeanour.
19. Because of illegality of sex work activities, sex workers are excluded from B&H Labour Law as well as other legal regulations in the area of labour and employment. As a result sex workers do not have pension and disability insurance, health benefits, parental or family leave, retirement plans or vacation pay. Nor do they have recourse when they are wrongfully dismissed or discriminated against at work.
20. Sex workers cannot organize into labour unions through which they could address labour site exploitation, bargain for better working conditions, or collectively negotiate wages.

Recommendations

Bosnian government should consider laws and regulation which will decriminalize sex work and recognize sex work as an occupation so that it can be regulated in ways that protect workers and customers.

Article 12: equal access to health care

1. While overall women and girls experience vulnerability to HIV and STI, this vulnerability is particularly heightened in the case of female sex workers and drug users. B&H is country with low HIV-prevalence, however almost 30% of sex workers in B&H have had other STI.¹⁷
2. Results of numerous research show that the key factors of risk behaviour for HIV transmission are unprotected sexual intercourse, inconsistent use of condoms, multiple

sexual partners, common change of partners, frequent untreated STIs with a considerable role of the social and biological context and co-factors which enlarge the possibility of exposure to HIV risk. The social climate in B&H, similar to many countries, is negative towards this especially threatened population, limiting their rights, which has side effects to their psychosocial health and represents additional, contextual risk factor for HIV, including a limited approach to corresponding services and support. Vulnerability of sex workers in relation to HIV infection also increases through their economic situation that is often made more difficult by criminalisation, violence and stigma.¹⁸

3. In case of suspecting having an STI, more than half of sex workers in B&H refer to a private doctor which can point to a certain lack of trust, fear of stigma and thus insufficiently available health care.¹⁹ Discrimination against sex workers and drug users, a lack of free and respectful health services and a lack of or insufficient access to harm reduction services all impede sex workers' and drug user's right to health.

Recommendations

- Health services should be made available, accessible and acceptable to sex workers based on the principles of avoidance of stigma, non-discrimination and the right to health
- Partnerships should be strengthened between the government, civil society organizations, service providers and community organizations working with sex workers and drug users. In order to achieve wide collaboration among actors, action needs to be taken to sensitize different actors to issues sex worker face.
- The access to confidential and affordable/free STI/SRH services for sex workers and drug users has to be improved and access to confidential and free of charge harm reduction services for sex workers and drug users has to be secured by Bosnian government

About the author

The report is the product of joint efforts of colleagues working for the Association PROI.

Association PROI is non-governmental organization established in 2001 in Sarajevo that offers locally accessible services for most vulnerable populations in solving problems associated to social exclusion, drug use, risky sexual behavior and psychosocial development.

Association PROI is dedicated to the most vulnerable groups of women in Bosnia and Herzegovina. Our target groups are: female sex workers, female injection drugs users and female partners of injection drug users. We advocate for civil and human rights of marginalized women and foster equal opportunities and access to services of our target population. Association PROI tends to prevent, respond and stop violence against sex workers and women who use drugs.

For any feedback about this report, readers are welcome to write to info@ugproi.com.

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