

ANALYSIS OF GENDER-BASED VIOLENCE
AGAINST PERSONS WITH DISABILITIES IN
BOSNIA AND HERZEGOVINA

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Authors

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Introduction

The analysis presented is the result of a study conducted under the project "Gender-based violence against persons with disabilities" supported by the My Right office (umbrella organization of the movement of organizations of persons with disabilities of Sweden) in Bosnia and Herzegovina together with coalitions of organizations of persons with disabilities, precisely, the Coordination Committees from the five Bosnia and Herzegovina regions whose centers are located in Sarajevo, Banja Luka, Tuzla, Doboj and Bijeljina. The research was conducted from July to October 2019, by the researchers from the Association of Women with Disabilities "Nika", who were also the authors of the Analysis, and by the members of the project team: Gospova Rađen Radić, Hazim Junuzović, Ira Adilagić, Jasminko Bijelić, Jelena Mišić, Milorad Jović, Predrag Radojčić, Radmila Simić, Sajma Pleh, Zoran Panić.

The focus of our attention was pointed towards gender-based violence against persons with disabilities by Committee for the Implementation of the Convention on the Rights of Persons with Disabilities having recognized the general trend of increasing gender-based violence against women and girls and by emphasizing the importance of comprehensive prevention of gender-based violence against persons with disabilities. In the Recommendations given in the Final considerations of the Bosnia and Herzegovina's initial report, the Committee has expressed concern regarding gender-based violence to which persons with disabilities in Bosnia and Herzegovina are exposed. At the same time, there is an increasing amount of information on violence against persons with disabilities, which is, in most cases, obtained through the media. It is becoming clear that gender-based violence against persons with disabilities is a topic that needs to be thoroughly investigated in order to produce concrete actions to protect persons with disabilities from violence and to ensure greater enjoyment of human rights.

Therefore, the first thing that was necessary was to conduct an initial research on gender-based violence against persons with disabilities in order to figure the course of action for both, institutions responsible for prevention and protection against gender-based violence and institutions responsible for improving the quality of life of persons with disabilities, as well as the organization of persons with disabilities, with the aim of providing prevention and protection from the violence against this multiple vulnerable social group.

The study entitled "Gender-based violence against persons with disabilities in Bosnia and Herzegovina" was conducted by the Association of Women with Disabilities "Nika" in cooperation with a project team composed of representatives of the five mentioned regional coalitions/coordination committees.

I Research methodology

The subject of the theoretical part of the research are regulations, procedures, protocols and mechanisms that do (or do not) exist in Bosnia and Herzegovina, and which serve to identify, prevent and protect persons with disabilities from various types of gender-based violence.

In order to gain comprehensive insights into the various fields of regulating the problem of gender-based violence, we have analyzed international documents relevant to addressing this problem (some of which are binding on Bosnia and Herzegovina), domestic legislation on gender equality and prevention and protection from gender-based violence and domestic violence, along with the laws, strategies, action plans and other documents for improving the position of persons with disabilities in Bosnia and Herzegovina. By doing this, we have seen the level of recognition of persons with disabilities (a peculiarly vulnerable social group) in documents primarily dedicated to gender-based violence, and also how much is the gender-based violence, as a problem, recognized in documents primarily dedicated to the regulation of social position of persons with disabilities.

The subject of the empirical part of the research is the analysis of the level of recognition and understanding of gender-based violence against persons with disabilities by persons with disabilities, institutions and organizations, the assessment of its prevalence and frequency, as well as the degree of tolerance for gender-based violence.

The aims of the research were:

1. Assessing the prevalence and incidence of gender-based violence against persons with disabilities;
2. Determining whether in society exist mechanisms for recognizing and protecting persons with disabilities from gender-based violence;
3. Identifying whether the problem of gender-based violence against persons with disabilities is institutionally recognized and whether the system has mechanisms to record and respond to it;
4. Determining whether persons with disabilities recognize gender-based violence, and whether they recognize what types of gender-based violence exist;
5. Exploring the connection between gender-based violence and disability, precisely, examining how disability enhances risks for occurring of gender-based violence;
6. Verifying if there is any connection between:
 - Type of disability and type of violence
 - Sex/gender and the exposure of persons with disabilities to violence
 - Sex/gender and types of violence against persons with disabilities
7. Examining the opinions and attitudes of persons with disabilities about the relevance of gender-based violence for the position of persons with disabilities in society.

Research methods and research techniques

The research conducted a detailed analysis of legislation, regulations and procedures relevant to the topic of the research, as well as the collection of data from institutions and organizations recognized as significant actors in the protection from gender-based violence activities in order to gain a thorough insight into a legal and institutional framework and specific practices governing the issue of gender-based violence against persons with disabilities.

Data from institutions and organizations were collected by project partners, regional organizations of persons with disabilities gathered in 5 coalitions/coordination committees, and according to a pre-defined list of relevant institutions and pre-defined questions, submitted by the Association of Women with Disabilities "Nika". Data from institutions and organizations were collected through queries sent in the form of a letter and requests for access to the data. The aim of collecting data from institutions and organizations dealing with gender-based violence is to identify whether the problem of gender-based violence against persons with disabilities is institutionally recognized and whether the system has mechanisms to record and respond to it.

Collecting the data from persons with disabilities themselves and representatives of organizations of persons with disabilities was conducted through focus groups, questionnaires and semi-structured interviews. The data collected through the questionnaire were statistically processed using the statistical data processing software SPSS. The materials collected through interviews and focus groups were qualitatively analyzed and presented through the final conclusions.

II About gender-based violence

Gender-based violence is a problem that still causes serious human rights violations on a large-scale, and is a global phenomenon deeply rooted in structural relations of inequality, precisely, disproportionate power relations arising from the social construction of women and men and the resulting standards of "normality", customary practices, and punishing of any deviations. Violence based on gender norms and unequal power relations can manifest itself in different forms or in a combination of several: physical, emotional, economic, psychological or sexual violence. In some countries, it occurs openly and directly, assuming the form of the most brutal crimes, such as infanticide of female children, harmful traditional practices, early and forced marriages, honor killings, female circumcision, sexual abuse and slavery, while in other countries it occurs perfidiously, taking an almost invisible form, allowing for continuous and unhindered exploitation, domestic violence, institutional discrimination and the deprivation of human and civil rights.

Gender-based violence means violence directed at an individual based on his/her biological sex and gender identity, which is socially imposed or self-selected, and / or sexual orientation. The term gender-based violence, in this context, means that it is violence perpetrated against a particular person because she or he is a member of a particular gender and/or because he or she does not meet the expectations arising from socially imposed gender roles, and involves all forms of human rights violation, discrimination, deprivation of liberty in public or private life, as well as any act of violence. Gender-based violence takes on many forms and intensities, and can occur throughout all stages of the life cycle, from the prenatal phase through childhood and adolescence, reproductive years and old age.

Numerous studies and statistics on the prevalence of gender-based violence show that it predominantly affects women, children and especially girls, although violence against men is also present. Therefore, women and girls are at the biggest risk, which is why the terms “violence against women” and “gender-based violence” are often used synonymously, however, this is misleading because of both boys and men are also victims of gender-based violence, as well as sexual and gender minorities, such as, men who have sex with men and transgender men.

Gender-based violence particularly emphasizes the gender dimension of violent acts, namely the relationship between the subordinate position of women in society and their exposure to the risk of being victims of violence. A woman in a traditional family is a victim of stereotypes and her “role” is to endure everything that happens to her, and the victim finds it so difficult to recognize many forms of violence until the situation escalates.

The most common consequence of gender-based violence against woman is having control over them and stop them from making decisions on their own, thus destroying relationships in the family and the community, which negatively affects the entire society and creates a vicious circle in which violence creates more violence and victims find it difficult to find a way out. It should be emphasized here that the victims of gender-based violence are not just women, but the entire population with all its characteristics, each being victimized in a specific way. As a result of structural inequality deeply rooted in society, gender-based violence is characterized by the use and abuse of physical, emotional or economic power and control, and such types of violence “are not excessive forms of violence, as is the case with certain other crimes, but are the result of systematic gender inequality and disproportionate power relations between men and women.”(Council of Europe Convention on Prevention and Combating Violence against Women and Domestic Violence, the so-called Istanbul Convention, 2011)

The 2013 Study¹ on the prevalence and characteristics of violence against women in Bosnia and Herzegovina, for the first time has thoroughly examined the prevalence of gender-based violence in Bosnia and Herzegovina and clearly indicated an alarming situation. The study shows that women in Bosnia and Herzegovina are at high risk of violence, most often in their immediate, intimate environment, or family. Another disturbing fact is that 47.2% of women experienced some form of violence during their lifetime after the age of 15, and that only 5.5% of women who survived violence turned to institutions to seek help and support. Reasons should certainly be sought in the prejudice and stigmatization of victims of violence in society, in the lack of knowledge regarding their rights or in distrust in the work of institutions. A mild criminal policy and practice unfavorable to the victim is a significant factor causing general distrust of the citizens in the work of the institutions, precisely it is one of the causes of not reporting violence, since most convictions and sanctions in the case of domestic violence are probation or fines, and a case is very rarely solved by imprisonment, removal of the abuser from the home or any solution that is favorable to the victim in the long-run². The study also found that the most common form of violence was psychological violence, followed by physical and sexual, and very few women cited economic violence as a problem, unaware that deprivation of material resources and property rights, as well as blackmail, were punishable behaviors. Economic violence includes: restricting access to money in the household; leaving a person without material means (if the victim is not employed or does not have personal income, he/she does not earn money); withholding money for personal use; employment ban; confiscation of personal money.

The Istanbul Convention³, the most important international document in the field of combating gender-based violence, in addition to the above mentioned, lists the following categories of gender-based violence, which, in addition to physical violence, are subject to criminal responsibility:

- psychological violence (threats, coercion, verbal abuse, etc.) that impairs the mental health of a woman;
- persecution, meaning threats that make a woman fear for her safety;
- sexual violence, including rape, which means any sexual act on a woman's body without her consent, where inducing someone to such acts is also considered as sexual violence;

¹ Available at:

http://arsbih.gov.ba/wp-content/uploads/2014/01/studija_prevalenca.pdf

² See details in the Orange report, available at http://soc.ba/site/wp-content/uploads/2016/02/NARAN.IZVJESTAJ_02_20.02.2014._FINAL_web.pdf

³ Council of Europe Convention on the Prevention and Combat of Violence against Women and Domestic Violence the so-called Istanbul Convention, that is primarily aimed at combating violence against women and domestic violence.

- sexual harassment, which is defined as "unwanted conduct of a sexual nature (verbal, non-verbal, physical) that offends a person's dignity by putting her in a humiliating situation and creating a frightening atmosphere."

Another form of violence that is being recognized regards the development of digital technologies, is cyber violence. It involves threats, insults, control and things alike, through social networks (Facebook, YouTube) and digital technology (e-mail, cell phones, etc.). Cyber violence usually involves the same situations of violence that women are exposed to in the real world, but these situations of violence can now be 'transmitted' to the public through the use of new technologies.

A particularly important element in the fight against violence, as a very sensitive social problem that often includes stigmatization and powerlessness of the victim, is the "due diligence" standard, requiring countries to take proactive action and, in the design of laws and in the process of their implementation, include various national agencies and actors: the judiciary, the police, service providers, non-governmental organizations, as well as national, regional and local parliaments. Bosnia and Herzegovina was among the first countries in the region to ratify the Istanbul Convention, however, it has not yet taken seriously the implementation of all the laws and obligations imposed by the Convention.

The practice and numerous researches conducted by non-governmental organizations indicate that it has not been done enough to improve the situation on the field, as well as they show the fact that laws in Bosnia and Herzegovina are easily enacted and that there is no responsibility for the creation of serious approach to their implementation. This is especially true when it comes to the laws on the EU accession agenda. In this context, it is very important to mention the Convention on the Rights of Persons with Disabilities⁴, ratified by Bosnia and Herzegovina in 2010, but also, did not sufficiently enable its implementation.

When discussing the inconsistent implementation of the Council of Europe Convention on the Prevention and Combating of Violence against Women and Domestic Violence, on the one hand, and the Convention on the Rights of Persons with Disabilities, on the other, we have to wonder what the experience of multiple marginalized groups in Bosnia and Herzegovina is. Almost every research on persons with disabilities assumes the unimportance of their gender, as well as other social dimensions such as class, race, ethnicity and sexual orientation. Disability often overshadows other dimensions of social experience, which leaves room for inadequate treatment of the problem of multiple marginalizations.

⁴ Available at: http://mhrr.gov.ba/PDF/Konvencija_bos.pdf

Women and girls are predominantly victims of gender-based violence, regardless of their other specificity, but numerous studies also show that their other characteristics also increase the risk of gender-based violence. Specificity such as race, sexual orientation, disability, or any combination of characteristics that act as factors of exclusion and marginalization in society, lead to potential further exposition of women and girls to violence throughout their life cycle. They experience an increased risk of violence and encounter multiple obstacles to ensure their safety. According to data from the 72nd UN General Assembly report⁵, women with disabilities are estimated to be twice as likely to experience emotional or physical violence and three times more likely to experience sexual violence than women in the general population.

However, very few studies and research address this issue and it should be emphasized here that women with disabilities have historically been neglected in studies and research reports on persons with disabilities, feminist studies, and other important issues directly related to their lives. They were also often ignored in the disability movement as well as in the women's movement⁶.

Marginalized groups are not only at increased risk of violence, but they often face a lack of resources, fear or obstacles to finding safety and support after the violence has occurred. Talking about violence and getting protection and help is a challenge of its own, especially if support services and information are inaccessible and unavailable.

III Analysis of the international and domestic legal framework on protection persons with disabilities from gender-based violence

In the part of the report that regards the analysis of the domestic and international legal framework for protection from gender-based violence against persons with disabilities, we must begin with giving a broader picture of the protection of human rights and the introduction of a gender perspective in legal regulation. Only then, we can talk about regulations that protect persons with disabilities from gender-based violence, which has been talked about directly and setting a normative framework, since the adoption of the UN Convention on the Rights of Persons with Disabilities in 2006.

⁵ Report available at <https://www.un.org/development/desa/disabilities/news/dspd/women-and-girls-with-disabilities-crpd.html>

⁶ For more details, see 'Barriers to Equality - Double Discrimination against Women with Disabilities' Summary of the Collection of Texts on Women with Disabilities and an excerpt from the DPI World Disability Women's Disability Information Brief

As the Beijing Declaration puts it, "Improving the status of women and achieving equality between women and men is a human rights issue and a precondition for social justice, and should not be viewed in isolation - as a women's issue."⁷

In the analysis of legal regulation, we will include those regulations that govern protection against various forms of gender-based violence: physical, sexual, psychological violence, various forms of abuse, threats, coercion, deprivation of liberty, economic deprivation, whether in public or private life.

General international acts protecting human rights

The international instruments referred to in this subsection, precisely, the documents adopted by the United Nations and the Council of Europe, have been incorporated into the Constitution of Bosnia and Herzegovina (the text of the Constitution and its Annex I), which means that they have priority legal significance and apply directly in the legal system of Bosnia and Herzegovina. In order to understand the role and importance of some of the international instruments, we are talking about here, it is important to note that some of them, more precisely, conventions, are documents that set the norms and obligations for states to implement prescribed in their legislation and apply in practice, while others (declarations, resolutions and recommendations) give guidance to the Member States to improve domestic legislation and practice.

As early as the mid-19th century, Europe recognized the need to protect a person/individual from inhumane treatment, and by the time of World War II, the three *Geneva Conventions* (1864, 1906, 1929) were adopted, followed by the *Fourth Geneva Convention* in 1949, which protected individuals from inhumane treatment in war conflicts, protection of war victims, sick, pregnant women, as well as other persons in need of medical care.

After the end of World War II, work on the *Universal Declaration of Human Rights* (UN, 1949) ensued, and in the preamble to this document, the members confirmed that everyone had equal rights and inherent dignity, and pledged to ensure the application of human rights and basic freedoms in practice. Article 1 accurately defines the preceding statement: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any

⁷ *Beijing Declaration and Program for UN Action, Fourth World Conference on Women*, 15 September 1995, Bosnia and Herzegovina Ministry of Human Rights and Refugees, Agency for Gender Equality, Editor: Samra Filipović Hadžiabdić, Arch Design d.o.o. Sarajevo, Sarajevo 2008 <https://arsbih.gov.ba/wp-content/uploads/2014/01/04-PEKINSKA-DEKLARACIJA-kb.pdf>

kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. "⁸

The Bosnia and Herzegovina Constitution, in Article 2, which prescribes the human rights guaranteed in Bosnia and Herzegovina, refers to the Council of Europe European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, with its protocols, which provides that it is directly applicable in Bosnia and Herzegovina and takes precedence over other laws. This Convention guarantees fundamental human rights and freedoms without discrimination and introduces the European Commission of Human Rights and the European Court of Human Rights as monitoring and protection authorities in this field.

From the point of view of our analysis, it is worth mentioning that this act of the Council of Europe does not specify the concept of disability, as well as the previous ones, and in Article 14 prohibits discrimination on the following grounds: gender, race, skin color, language, religion, political or other opinion, national or social origin, affiliation with a national minority, wealth, birth or other status.⁹

Acts that are also listed in Annex I to the Constitution of Bosnia and Herzegovina, or Annex IV to the Dayton Agreement, are the agreements of UN members, the *International Covenant on Civil and Political Rights* (1966) with optional protocols (1966 and 1989), and the *International Covenant on Economic, Social and Cultural Rights* (1966), which also recognize the need for a different approach in protecting the rights of women and men in particular areas of life in the private and public spheres. In addition to the United Nations documents already mentioned, these two pacts are the basis for future documents in which Member Countries are given recommendations for introducing a greater degree of rule of law and gender equality.

The *EU Charter of Fundamental Rights* dating from the year 2000 establishes 49 human rights, and the right guaranteed to persons with disabilities is defined as the "...the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community."¹⁰ This indicates that even though the Charter generally provides for the right to equality between men and women, it presents persons with disabilities as a single group without recognizing the need for a gender perspective.

⁸ <https://www.un.org/en/universal-declaration-human-rights/>

⁹ Council of Europe European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950 https://advokat-prnjavorac.com/zakoni/Evropska_konvencija_o_ljudskim_pravima_i_osnovnim_slobodama.pdf

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>

International documents that protect women's rights, prohibit gender discrimination and emphasize gender equality

In order to understand gender-based violence against persons with disabilities, we consider it is useful to address the development of international instruments that focus on the protection of women's rights and gender equality, given that gender-based violence has its roots in the unequal distribution of power and influence of men against women, and not even vulnerable social groups such as the disabled are excluded. Thus, for the analysis of gender-based violence against persons with disabilities, it is justified to become acquainted with the international legal framework through which an awareness of the importance of developing mechanisms to prevent gender-based violence emerged. In addition, the existing mechanisms for protection against this type of violence in Bosnia and Herzegovina has a foothold precisely in these international instruments.

The 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹¹

A milestone in the development of women's rights is marked by the adoption of the *Convention on the Elimination of Discrimination Against Women*, which was adopted by the UN General Assembly on 7 November 1967. This *Declaration* indicates the commitment of the UN to the establishment of equality for men and women. The Convention on the Elimination of All Forms of Discrimination against Women, which has a normative power and is an internationally binding instrument in the protection of women's rights, was adopted in 1979.

The Convention is the first legally binding agreement in which countries commit themselves to the principles of non-discrimination against women in their legislation. The *Optional Protocol* was subsequently adopted in addition to the Convention, further emphasizing the importance of monitoring of the implementation of the *Convention* in national legislations.

In its preamble, the *Convention* highlights what we will repeatedly emphasize in this analysis (when speaking specifically about the protection of the rights of persons with disabilities and the need for a gender perspective in their protection), the concern that despite all the instruments adopted earlier that guarantee equality, discrimination against women is present in almost all areas of private and public life.

The Convention recognizes that the traditional roles of women and men in society are dominant in the world, which must be changed in order to achieve full equality.

¹¹<http://www.unmikonline.org/regulations/unmikgazette/05bosniak/BConEliminationDiscriminationWomen.pdf>

Article 1 of the Convention defines discrimination against women, and defines it as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

Thinking about the fact that Bosnia and Herzegovina has also included this *Convention* in its *Constitution* and thereby given it the highest legal force, and thus committed itself to its implementation in practice, here are the concrete measures from Article 2 of the *Convention* that countries need to implement: to embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; to establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; to repeal all national penal provisions which constitute discrimination against women.

Although the Convention itself does not specifically address violence and measures to combat it, General Recommendation No. 19 of the Committee on the Elimination of Discrimination against Women, introduced by the *Convention* to monitor progress in the implementation of the provisions of this document, clarifies the articles of the *Convention*, stating that Article 2.e calls on countries to “take all appropriate measures to combat violence against women by any person, organization or business. Under general international law and individual human rights instruments, countries may also be held liable for the acts of individuals if they do not act with “due diligence” to prevent violations of rights or to investigate and punish perpetrators of violent acts, or to secure redress.”¹²

¹² General Recommendations of the Committee on the Elimination of All Forms of Discrimination against Women, General Recommendation No. 19 “Violence”, adopted at the 11th Sitting of the Committee in 1992. - <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Op%C5%A1te-preporuke-Komiteta-za-ukidanje-svih-oblika-diskriminacije-%C5%BEena.pdf>

Other relevant UN acts in this area

In the 1990s, significant declarations were made in the field of protection against violence against women and in domestic violence, and we will give a brief overview of their views and recommendations. Their purpose is to help put the CEDAW Convention into practice.

The 1993 *Convention on the Elimination of Violence Against Women*¹³ states that, among other members of minority and vulnerable groups, women with disabilities are also more exposed to violence. This *Declaration* recognizes the term “violence against women” as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”¹⁴. In addition, the forms of violence (physical, sexual and psychological violence, and violence related to all forms of exploitation, as well as violence committed or forgiven by the state itself) are clearly emphasized.

The *Declaration* provides guidelines for countries that include advancing criminal and civil legislation, developing action plans to improve the protection and prevention of violence against women, developing a women's movement and cooperating with the NGO sector in providing protection, offering specialist care in situations where this is necessary, which means entailing development of health and social services, benefits and programs, as well as adequate education of enforcement officials and public officials responsible for implementing policies to prevent, investigate and punish violence against women, maintaining quality records of violence in the private sphere. For us, the most significant proposed measure is one that addresses the elimination of violence against women who are particularly vulnerable to violence.

In the same year, the *Vienna Declaration and Program of Action*¹⁵ were adopted, which ultimately defined the term "women's human rights", confirming that women's rights are inseparable human rights, i.e. the formulation used is that all human rights are universal, indivisible, interdependent and interconnected.

Although one section of the *Declaration* is dedicated to persons with special needs (a term used in the *Declaration*), this group is still not viewed in terms of the different positions and roles of men and women. It is significant for persons with disabilities that the *Declaration* recommends

¹³ text of the *Declaration* used in the publication: Violence against Women - Obstacle to Development, International Documents, Editor: Tanja Ignjatovic, Autonomous Women's Center, MarDox, Belgrade, 2006.

¹⁴https://www.un.org/en/genocideprevention/documents/atrocitycrimes/Doc.21_declaration%20elimination%20vaw.pdf

¹⁵ https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2014040309092165bos.pdf

that Countries guarantee equal opportunities by removing all socially produced barriers that impede full participation of persons with disabilities in society, and recognizes that these barriers, besides physical (architectural) barriers, are also financial, social or psychological. The 1995 *Beijing Declaration and Platform for Action*, adopted at the World Conference on Women¹⁶, confirms that women should equally participate in decision-making in all social matters. The *Declaration* underlines that social milieu, religious and traditional customs cannot be a reason for not respecting human rights.

The importance of this *Declaration* for the issues we are addressing here is obvious already in the preamble, which states that when making decisions in women's issues, it is necessary to take into account "the diversity of women and their roles and opportunities." The *Declaration* recognizes multiple discrimination, meaning that because of various factors, apart from gender, women may find themselves in an unequal position that causes their isolation and further marginalization. In practice, this means that they are "denied their human rights, denied access in general, or denied access to education and training, employment, and economic independence and they are excluded from the decision-making process."

In the part where recommendations are made (we remind that declarations are not binding documents), countries are reminded of developing counseling and treatment programs for young women who have suffered violence, especially those housed in institutions where such abuse occurs. It also recognizes the need to take special measures to eliminate violence against women from marginalized groups, including women with disabilities, and recommends that this protection has to be provided through the introduction of new regulations or adaptation of existing ones. Countries are advised to fully implement the recommendations contained in the *Standard Rules on the Equalization of Opportunities for Persons with Disabilities*, and reiterates the need to ensure non-discrimination and equal enjoyment of all human rights and fundamental freedoms for women with disabilities and female children, including their access to information and services for protection against violence against women, as well as their active participation and economic contribution in all aspects of society.

On the practical side of the identified difficulties in providing protection against violence, especially against women with disabilities, we emphasize the importance of the recommendation to provide adequate education of representatives of institutions on acts of gender-based violence and threats of violence in order to ensure fair treatment of victims.

¹⁶ <https://arsBosniaandHerzegovina.gov.ba/wp-content/uploads/2014/01/04-PEKINSKA-DEKLARACIJA-kb.pdf>

2006 Convention on the Rights of Persons with Disabilities¹⁷

The *Convention*, adopted in 2006 and ratified in Bosnia and Herzegovina in 2010, uses the terms women, men and children with disabilities which makes it clear that their differences are respected, as well as the attitude that they have been historically neglected, even in documents that are protecting human rights in which these groups are approached as a homogeneous group.

The *Convention* pays special attention to the protection of women with disabilities in the articles 6 and 16. In Article 6, the *Convention* recognizes the particular vulnerability of women and girls, as subsequently clarified by the Committee on the Rights of Persons with Disabilities in its *General Comment* No. 3 to the Convention (2016). "On women and girls with disabilities": There is strong evidence to show that women and girls with disabilities face barriers in most areas of life. These barriers create situations of multiple and intersecting forms of discrimination against women and girls with disabilities, particularly, with regard to equal access to education, access to economic opportunities, access to social interaction, access to justice and equal recognition before the law, the ability to participate politically, and the ability to exercise control over their own lives across a range of contexts, for example: with regard to healthcare, including sexual and reproductive health; and where and with whom they wish to live."¹⁸

Violence against women and discrimination are crucial issues that particularly affect women with disabilities. The general commentary outlines the acts of sexual violence and abuse to which women and girls with disabilities are often exposed: forced sterilization, female circumcision, procedures and interventions regarding contraception, miscarriages, and abortions; invasive and irreversible surgical practices, such as psychosurgery, without their informed consent; electro-shock treatment and the use of chemical, physical or mechanical restraints; and isolation and separation, as well as sexual and economic exploitation, placement in an institution without free and informed consent.

The Convention obliges countries that have signed to take all measures necessary to eliminate gender-based violence and discrimination and to put in place policies that would ensure this. It is also necessary to take all measures available to provide adequate assistance and support to

¹⁷http://www.myright.ba/uiimages/Konvencija20o20pravima20osoba20s20invaliditetom20Ujedinjenih20nacija_Skracena20i20pojednostavljena20verzija.pdf

¹⁷[https://mdomsp.gov.hr/userdocsimages/zgrbac/Opci_komentar_br.3_\(2016.\)_o_zenama_i_djevojkama_s_invaliditetom.pdf](https://mdomsp.gov.hr/userdocsimages/zgrbac/Opci_komentar_br.3_(2016.)_o_zenama_i_djevojkama_s_invaliditetom.pdf)

¹⁸The full text of the recommendation of the UN Committee on the Rights of Persons with Disabilities is available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/BIH/CO/1&Lang=En

the victims and to identify and prosecute the acts. This includes the supervision of facilities and programs for people with disabilities. The UN Committee on the Rights of Persons with Disabilities, established by the Convention, with the purpose of monitoring the implementation of the Convention and harmonizing national regulations, notes that "the right to freedom from violence, exploitation and abuse enjoyed by women with disabilities can be hindered by harmful stereotypes that increase the risk of violence. Harmful stereotypes that treat women with disabilities as children and question their ability to make decisions by experiencing women with disabilities as asexual or hypersexual".¹⁹ The Committee notes that one of the forms of violence affecting persons with disabilities, especially women, to a greater extent, is the denial or inaccessibility to information on sexual and reproductive health in adequate formats, and therefore calls for the implementation of Article 16 in fulfilling the obligations of the countries that have signed to make more adequate the access to the information on how to avoid, identify and report cases of violence and abuse.

Council of Europe documents preceding the adoption of Council of Europe conventions on the prevention and combating violence against women and domestic violence (Istanbul Convention)

Given that we will deal more closely with the provisions of the Istanbul Convention, Bosnia and Herzegovina is one of the first in the world to ratify it, at this point we will only look at the recommendations made by the Council of Europe in the last 30 years, which preceded the adoption of the Convention and were the basis for the introduction as a normative framework. These recommendations, as well as the Convention itself, have, both in the previous period and in the current processes of creating strategic and legal acts in Bosnia and Herzegovina, had (and still have) a significant impact on legislation in Bosnia and Herzegovina (for example, the first law on protection against domestic violence was adopted in the Republic Srpska in the year 2005, before the Convention was made).

Highlights of the most significant declarations and recommendations: *Declaration on a policy to combat violence against women in a democratic Europe*²⁰ adopted at the 3rd European Ministerial Conference in Rome in 1993, Recommendation Rec (2002) 5 of the Committee of Ministers to member countries for the protection of women against violence²¹, that recognizes the difficulties of women who are exposed to multiple discrimination, and advocates for special protection of disabled persons in the criminal legislation. The recommendations, among other things, point to the necessity of introducing national plans for the prevention of gender-based

¹⁹ IBID

²⁰ text of the Declaration used in the publication: Violence against Women - Obstacle to Development, International Documents, Editor> Tanja Ignjatovic, Autonomous Women's Center, MarDox, Belgrade, 2006.

²¹ IBID

violence, as well as protocols for uniform multi-sectoral action on victim protection, including free legal aid, medical and social protection, and appropriate treatment of all care providers, as well as financial support to non-governmental organizations that provide assistance and shelter for victims, support, and work with perpetrators of violence, as well as the implementation of safeguards; the introduction of criminal responsibility for any domestic violence offense into national legislation; etc.

The 2011 Convention on the Preventing and Combating of Violence against Women and Domestic Violence, Istanbul Convention²²

The Convention was adopted in May 2011 in Istanbul and is often referred to in the literature as the Istanbul Convention. Bosnia and Herzegovina ratified the Istanbul Convention in November 2013 as the sixth country to do so. For the first time in Europe, the Convention sets a legally binding minimum standard for the prevention of violence against women and the prevention of domestic violence. The prevention of violence, the protection of victims and the criminal liability of perpetrators of violence are the main features of the Convention.

The Convention anticipate that gender equality can be incorporated into national law: by constitutional amendment or incorporation into another law, although it is not satisfied with this conceptual and formal inclusion of equality, but requires countries to introduce practical measures to implement this principle in meaningful ways through regulations enforceable in practice, and repealing policies and legislation contrary to this. Article 5 sets out a provision requiring Member Countries to put in place policies that focus on victims' rights and provide measures regarding this matter.

For the first time, the Convention introduces the distinction between sex and gender and it distinguishes sex from socially shaped categories of gender that assign women and men their specific roles, behaviors, activities and attributes (Article 3 of the Convention).

This definition of gender also arises the definition of gender-based violence against women, which the Convention refers to as "violence directed against a woman because she is a woman, or that affects women disproportionately."

When providing protection, safeguards must meet the specific needs of vulnerable persons, which indicates to us that the Convention has in mind that women cannot be treated as a single grouping, but rather take into account their characteristics that could affect protection. It was also emphasized that providing protection to the victim and prosecuting the perpetrators should not depend on the victim's willingness to report the violence.

²² <https://rm.coe.int/168046fc87>

The Convention distinguishes between general and specialized support services that a State should provide. General support services are those mainly provided by the state in the form of social and health care and employment i.e. those services that are part of the protection of all citizens, as opposed to special ones, that are intended for victims of violence, and include: providing shelter, i.e. safe houses (appropriate, easily accessible and where proactive measures are applied) establishing a 24-hour SOS hotline to assist victims and keep them anonymous, and opening crisis centers for victims of sexual violence with all appropriate emergency services of physical and psychological care as well as legal protection services.

When it comes to the criminal justice protection of victims, we will first note that the Convention gives clear guidance to Countries that it is necessary to enlist the acts that treat physical, sexual and psychological (coercion, threat, persecution) violence in criminal legislation. The following acts are recognized as detrimental to the victim's personal integrity, which we will particularize, since persons with disabilities are often exposed to them, due to their dependence on another person: vaginal, anal or oral penetration of a sexual nature on the body of another person without his/her consent, using any part of the body or object, other sexual acts with a person without her/his consent, making another person attempt sexual acts with a third person without her/his consent; sexual harassment which entails actions that result in a violation of the dignity of a person, especially when a frightening, hostile, degrading or the abusive atmosphere is created, and should be subject to criminal or legal sanctions. The same goes for forced abortion and undergoing sterilization - one that was done without the informed consent of the woman. When prescribing acts of physical and sexual violence, the most visible is the confrontation with traditional actions, which requires that the following acts be treated in the criminal legislation: circumcision, infibulation, or any other mutilation of the genitals in a woman, and the coercion and incitement of women and girls to these traditional actions. The *Convention* requests from countries to prescribe adequate criminal sanctions that would achieve the purpose of punishment and protect the victim from re-victimization. In addition to penalties, the *Convention* proposes to monitor or supervise sentenced persons and to abolish the right to parenthood if the safety of the victim cannot otherwise be guaranteed. The Convention also recognizes circumstances concerning an individual or the commission of criminal offenses as a reason for imposing more severe sanctions, which is also recognized by our penal code, among which is: "a crime committed against a person who has become endangered by certain circumstances".

The *Istanbul Convention* also establishes a mechanism for monitoring the implementation of the provisions of the *Convention*, consisting of two pillars: one constitutes an independent group of experts on action against violence against women and domestic violence (GREVIO) and the other is a political body, i.e. a committee consisting of the official representatives of the Member Countries. GREVIO prepares questionnaires and requests information from Member

Countries, while non-governmental organizations in the field of violence are given the opportunity to provide GREVIO with important local information at any time.

Gender representation in the Council of Europe and European Union documents relating to the rights of persons with disabilities

The Council of Europe has adopted the Disability Strategy 2017-2023²³, intended to make the UN Convention on the Rights of Persons with Disabilities more applicable in practice. This Strategy sets the achievement of equality, dignity and equal opportunity for persons with disabilities as a general goal, while, among the five specific objectives, the ones recognized are the fight against multiple discrimination and gender equality, and among the priority areas freedom from exploitation, violence and abuse.

The Strategy points to the prevailing harmful fact that disability is the basis for the abolition of workability and requires countries to introduce a system of assisted decision-making, instead of the abolition of working ability. The Strategy also notes that institutionalization, i.e. life in isolation from the community (prohibited by the UN Convention in Article 19) often results in some of the most serious forms of violence and violations of human rights. The Council of Europe, therefore, proposes greater involvement of the rights of persons with disabilities when promoting the Convention on the Prevention and Protection against Violence against Women and Domestic Violence and the mechanisms for monitoring the implementation of this Convention.

The European Parliament's resolution on the situation of women with disabilities of 2018²⁴ refers to the research and recognizes certain facts as causes of violence, such as that only 18.8% of women with disabilities in the EU are employed; that 45% of working-age women (i.e. between the ages of 20 and 64) with disabilities are not active, while this proportion in men is 35%, and that 34% of women with health problems or disabilities have experienced physical or sexual violence by a partner. Access to gender and reproductive health for women with disabilities has been recognized as the area in which this population experiences the most discrimination, and it is imperative that healthcare providers are gender aware.

The *Resolution* reiterates that sterilization of women with disabilities without their knowledge and consent is a widespread form of violence and emphasizes that women with disabilities belonging to minority groups (Roma women, women in the countryside) are more exposed to violence. For the first time, the Resolution lists unique forms of violence that are difficult to

²³ <http://posi.hr/wp-content/uploads/2018/02/Strategija-Vijeca-Europe-za-osobe-s-invaliditetom-2017-2023.pdf>

²⁴ http://www.europarl.europa.eu/doceo/document/B-8-2018-0547_HR.html

identify, such as removing or destroying their aids to move or denying their access to local disability-related resources.

Domestic strategic and legal documents

The Constitution of Bosnia and Herzegovina, the Constitutions of the Entities and the Statute of the Brčko District guarantee the exercise of human rights and fundamental freedoms without discrimination, but all these acts can be criticized for not approaching citizens from a gender perspective. The Constitution of the Republic Srpska vaguely and imprecisely recognizes the vulnerable categories as the Article 40 note that "youth, women and persons with disabilities need special protection". The Constitution of the Federation of Bosnia and Herzegovina and the Statute of the Brčko District do not list gender perspectives, nor do they name vulnerable groups.

It is important to note that the international acts are ratified by the state of Bosnia and Herzegovina, and to a large extent implemented by the entities, that is, local authorities and institutions, and that there are difficulties in their implementation. In addition, it should be considered that the strategic documents have no binding force and are not directly implemented but serve as guidelines for the introduction of new institutes and standards, and binding norms through new and amended laws and by-laws.

Strategic documents in the field of gender equality in Bosnia and Herzegovina

A Framework Strategy for the Implementation of the Council of Europe Convention on the Prevention and Combating of Violence against Women and Domestic Violence 2015-2018.²⁵

This *Strategy*, adopted by the Council of Ministers, is significant because it introduces the principles of the Istanbul Convention to the home field and places them in the context of Bosnia and Herzegovina.

The Strategy states that gender inequality is both the cause and effect of violence against women and recognizes that violence arises from a patriarchal understanding of the role of women in family and society and discriminatory policies and practices, which negatively affects the prevention of violence. The Strategy recognizes that legislation and governing practices are still at odds, and that laws in various areas are inconsistent and not enforced. There are numerous disagreements in the implementation of victim protection measures: only in some cantons and in the Republic Srpska are victims covered by social protection, Protocols on the

²⁵ https://arsbih.gov.ba/wp-content/uploads/2015/10/CAHVIO_Strategija.pdf

cooperation of protection providers are a legal category of the Federation of Bosnia and Herzegovina, but there are evident difficulties in financing safe houses and implementation of legal measures (funding 30% from the cantonal level and 70% from the Federal).

The frequency of violence and the effects of support and protection are still a poorly researched area. The lack of information on protection mechanisms are recognized among victims of violence, and it is noted that women from marginalized groups, including women with disabilities, are particularly faced with this difficulty, given the lack of adequate formats and designed ways of informing for those who belong to socially excluded categories and are distant from bigger centers. The isolation that often happens to these groups of women, and the indulgence to oneself and their closest surroundings, are the greatest danger of violence.

The Strategy also addresses the issue of non-harmonization of criminal legislation in Bosnia and Herzegovina and the possibilities of protection against discrimination, which will be discussed separately.

Within strategic objective 1. the Strategy proposes, as we have already discussed, the need to implement targeted and effective programs for the prevention of violence against women and domestic violence, including vulnerable groups, and to involve civil society organizations, including organizations of persons with disabilities, in creating preventive measures to combat violence.

By defining other measures within the strategic objectives, the specificities of both the manifestations and the provision of protection against violence against women with disabilities and domestic violence have not been taken into account. The Strategy requires that in the future, protection providers (police and judicial authorities, as well as providers of social protection and free legal aid) are to be educated on gender-based violence in order to respond more adequately in crisis situations and provide better quality protection.

Bosnia and Herzegovina Gender Action Plan (GAP Bosnia and Herzegovina) for the period 2018-2022²⁶

For our research, it is important to point out that in setting strategic goals, *GAP Bosnia and Herzegovina* (the third in line adopted by the Bosnia and Herzegovina Council of Ministers) recognizes that it is necessary that they also cover the field of advancement of the situation of marginalized women and men. As one of the priority areas under Strategic Goal 1, the *GAP* recognizes "Preventing and combating gender-based violence, including domestic violence as well as trafficking in human beings". *GAP* recognizes exposure to multiple discrimination, i.e. increased exposure to discrimination on multiple grounds: gender and age, gender and ethnic

²⁶ https://arsbih.gov.ba/wp-content/uploads/2018/11/GAP-BiH-2018-2022_B.pdf

minority status, gender and property status, gender and disability, sexual orientation, gender identity and gender characteristics.

It is stated that the Entity Laws on Protection against Domestic Violence establish the obligation to form coordination bodies, multisectoral teams and signing protocols on cooperation in the Federation of Bosnia and Herzegovina. In 2013, the Republic Srpska adopted the General Protocol on the Treatment of Domestic Violence Cases, which provides guidelines for the treatment of all actors involved in protection. Of great importance for the analysis is the fact that the protocols do not contain specific measures if the victims of violence are women or men with disabilities.

In the RS, the Gender Center, that is, the Ministry of Family, Youth and Sports, is responsible for, collecting data on violence against women and domestic violence, while in the Federation of Bosnia and Herzegovina the responsible is Gender Center that has established an electronic database.

Strategies for Combating Domestic Violence in the Republic Srpska and the Federation of Bosnia and Herzegovina

The *Strategy for the Suppression of Domestic Violence of the Republic Srpska (2014-2019)*²⁷ and the *Strategy for the Prevention and Combat of Domestic Violence (2013-2017)*²⁸ generally follow the objectives and strategic directions set by the *Istanbul Convention* and the Bosnia and Herzegovina *Framework Strategy for the Implementation of this Convention*. The Strategy of the Republic Srpska cites data from a 2012 survey that women from rural areas are more exposed to violence, younger, more than older aged ones, and that women with health problems and disabilities are equally exposed to violence. Since we do not know the methodology of this research, and whether it took into account specific manifestations of violence occurring to persons, that is, women with disabilities, we will not go deeper into the analysis of the above data, but will be satisfied here that violence against women with disabilities has been the subject of this research. The strategy also notes that a culture of "tolerance of violent conflict resolution" increases the risks of domestic violence against women, as well as the presence of various problems such as a sick or immobile member, alcoholism or aggressive member behavior. "²⁹

²⁷ The strategy is adopted by the National Assembly of the Republic Srpska. The text of the Strategy can be found at: <http://www.djeca.rs.ba/uploaded/Strategija%20za%20suzbijanje%20nasilja%20u%20porodici%202014-2019.pdf>

²⁸ The Strategy was adopted by the Government of the Federation of Bosnia and Herzegovina and published in the Official Gazette of the Federation of Bosnia and Herzegovina, No. 22/13. The text of the Strategy can be found at: http://www.gcfBosnia and Herzegovina.gov.ba/wpcontent/uploads/2015/10/Strategija_2013_2017_bos_za_web.pdf (new not yet adopted)

²⁹ quotes from Strategy for Combating Domestic Violence in the Republic Srpska (2014-2019)

The Federation of Bosnia and Herzegovina Strategy recognizes social violence (isolation, exclusion from the community and discrimination), and from the point of our analysis it is important to note that the Strategy states that these types of violence often occur to persons with different disabilities and both sexes.

Gender perspective representation in disability strategy papers

The *Bosnia and Herzegovina Disability Policy*³⁰, adopted by the Council of Ministers in 2008, recognizes the need to introduce a gender perspective in all areas of the life of persons with disabilities (education, employment, access to social and health care, development of social services, etc.) in which it sets goals and measures to overcome the current situation, i.e. clearly emphasizes the need to work to improve the situation of women and men with disabilities. However, the *Policy* does not address the issue of violence against persons with disabilities at all.

The text of the *Strategy for the Advancement of the Social Status of Persons with Disabilities in Republic Srpska (2017-2026)*³¹, which, although persons with disabilities were consulted, did not cover the topic of domestic violence and gender-based violence, except emphasizing the need to ensure security in the family for members, especially children with disabilities. The same situation is present in the *Strategy for the Advancement of the Rights and Situation of Persons with Disabilities in the Federation of Bosnia and Herzegovina (2016-2021)*³². Also, the need to take greater account of the position of persons with disabilities in this area in strategies for protection against domestic violence has been recognized.

Legislation protecting gender equality in Bosnia and Herzegovina

Law on Gender Equality in Bosnia and Herzegovina³³

The *Law on Gender Equality in Bosnia and Herzegovina* is a basic law providing the introduction of gender equality in the exercise of all human rights and treatment at all levels. The *Law*

³⁰ <http://www.ibhi.ba/Documents/Publikacije/2008/Politika%20u%20oblasti%20invalidnosti.pdf>

³¹ The strategy was adopted by the Government of the Republic Srpska. The text of the Strategy can be found at: <http://www.vladars.net/srSPCyrl/Vlada/Ministarstva/MZSZ/dokumenti/Documents/Strategija%20unapre%C4%91enja%20dru%C5%A1tvenog%20polo%C5%BEaja%20lica%20sa%20disability.pdf>

³² The Strategy was adopted by the Government of the Federation of Bosnia and Herzegovina. The strategy text can be found at:

[http://www.fbihvlada.gov.ba/file/Strategija%20za%20unapre%C4%91enje%20prava%20i%20polo%C5%BEaja%20soba%20s%20invaliditetom%20u%20Federaciji%20Bosne%20i%20Hercegovine%20\(2016.-2021.\)%20.pdf](http://www.fbihvlada.gov.ba/file/Strategija%20za%20unapre%C4%91enje%20prava%20i%20polo%C5%BEaja%20soba%20s%20invaliditetom%20u%20Federaciji%20Bosne%20i%20Hercegovine%20(2016.-2021.)%20.pdf)

³³ (Official gazette of Bosnia and Herzegovina, nr. 16/03, and 102/09): Text of the Law can be found at: https://advokat-prnjavorac.com/zakoni/zakon_o_ravnopravnosti_spolova_Bosnia_and_Herzegovina.pdf

adopted definitions and criteria for protection against discrimination in accordance with international standards, i.e. incorporates in its text the provisions of the *CEDAW Convention* defining direct and indirect gender discrimination and includes harassment, sexual harassment, incitement to discrimination and gender-based violence as forms of discrimination.

The *Law*, just like the *CEDAW Convention*, only mentions women from rural areas among the marginalized groups in terms of guaranteeing their economic rights, while women with disabilities, as a specific grouping, are not mentioned in the text of the *Law*.

The *Law* requires from the competent institutions (the Agency for Gender Equality and the Entity Gender Centers) to maintain statistics and monitor law enforcement, and to receive and resolve citizens' complaints, and that judicial protection in these matters is also provided without discrimination.

Article 29 of the *Law* provides for a sentence of imprisonment of six months to five years for the commission of violence, harassment or sexual harassment on the grounds of gender, which threatens peace, mental health and physical integrity.

Law on Prohibition of Discrimination in Bosnia and Herzegovina³⁴

This *Law*, adopted for the first time in Bosnia and Herzegovina in 2009, deserves our attention, given that discrimination precedes many forms of violence, and has been repeatedly emphasized by participants in this research, as an introduction to emotional violence.

Unlike the *Law on Gender Equality*, which recognizes the difference between sex and gender but does not introduce it terminologically, the *Law on Prohibition of Discrimination* in Article 2 introduces the term “gender” and prohibits, among other things, discrimination on the basis of gender identity and sex features. It is important to note that this *Law*, in its 2016 amendments, also introduces disability as a possible basis for discrimination, but does not define multiple discrimination, that is does not recognize the possibility of greater exposure and more severe forms of discrimination occurring on multiple grounds, e.g. women with disabilities. In addition to harassment and sexual harassment, discussed earlier, this *Law* also provides the following definitions, which we recognize as important for the protection of persons with disabilities, in the light of the experiences we have gained from persons with disabilities who participated in focus groups:

³⁴ (Official gazette of Bosnia and Herzegovina, nr. 59/09, 66/16): Text of the *Law* can be found at: <https://www.osce.org/bs/mission-to-bosnia-and-herzegovina/378835?download=true>

"Mobbing is a form of non-physical harassment in the workplace that involves repetition of actions that have a degrading effect on the victim, the purpose or consequence of which is the degradation of working conditions or the professional status of the employee.

Segregation is an act whereby a (natural or legal) person separates other persons on the basis of one of the enumerated grounds referred to in Article 2 of this Law, in accordance with the definition of discrimination contained in Article 2 of this Law. "

The *Law* states that the central institution for the protection of human rights is an ombudsman institution, to which citizens can complain, and introduces the following legal remedies: a lawsuit for discrimination, a lawsuit for prohibition or elimination of discrimination, a lawsuit for damages, and a public announcement of a judgment finding violation of the right to equal treatment, at the defendant's expense. In addition to the above, the Law introduces a collective lawsuit for protection against discrimination - a legal remedy available to associations or other organizations dealing with the protection of human rights, that is, the rights of a particular group of persons.

Legislation in the field of domestic violence protection

The entity strategies in the field of combating domestic violence, which have been discussed earlier, cite family laws as one of the legal sources for protection against domestic violence, i.e. this laws regulates family relationships, equality of family members and the obligation to provide support and assistance between them. Extra-marital community was also afforded equal legal protection, as later confirmed by the law on protection against domestic violence. *Family Law of the Federation of Bosnia and Herzegovina* in Article 4 prohibits violence in the family of a spouse and any other member and recognizes that violence is any violation of physical or psychological integrity and refers to its definition in the *Law on Gender Equality of Bosnia and Herzegovina*. Also, one chapter deals with special protection procedures, and in Articles 380-382. provides that protection from violence is provided by the police, the guardianship authority and the minor offense court.

Both entity laws also contain a provision stating that marriage "cannot conclude a person who is incapable of reasoning because of a mental illness, mental development or other reasons" (Article 32 FLRS). In recent times, this provision has been the subject of debate in international relations, given that the deprivation of legal capacity was approached with insufficiently clear established actual capabilities of individuals, and whether such a procedure could be replaced by support in decision-making.

The focus of the analysis of the entity laws on protection against domestic violence³⁵ will be put on the possibility of protection against violence and the use of protection mechanisms for persons with disabilities, and the question of how gender sensitive the laws are.

As stated in Article 6 of the *Law* in Republic Srpska, domestic violence is any act by a family member that threatens the tranquility, psychological, physical, sexual or economic integrity of another family member or family community.

Article 8 of the *Law* in the Republic Srpska provides that special psychosocial assistance and social and medical care, in accordance with the laws in the field of health and social care, shall include, among other vulnerable groups (children, the elderly and guardians), persons with disabilities. Given that there are no by-laws governing this, nor are there guidelines for providing assistance and support to persons with disabilities, it is not clear what this particular assistance and protection is. Article 11 of the *Law* obliges the subjects of protection to provide protection and assistance without delay, considering the best interest of the victim, especially if the victim belongs to the specially protected categories of this *Law*. The *Law* of the Federation of Bosnia and Herzegovina does not have such an article, but citing actions that involve domestic violence, it explicitly lists those aimed at endangering the physical and psychological integrity of the child and the elderly, as well as neglect in their upbringing, that is, nurturing and treatment. It should be borne in mind that Article 3 of the *Law* in Federation of Bosnia and Herzegovina commits itself to the application of international standards for the protection of domestic violence, discussed earlier.

Speaking about acts of violence and the provision of special protection, both laws specifically mention the protection of children, for which there are special protocols, while, from the acts listed as acts of violence, it is not visible that the law specifically addresses more specific behaviors that perpetrate violence against persons with disabilities. The laws also list acts that are sanctioned by misdemeanors, while both entities recognize the crime of domestic violence. Both entity laws establish a legal framework for establishing and placing a victim in a safe house as a way of temporary housing. The *Law* of the Federation of Bosnia and Herzegovina also recognizes the measure of placement of a victim in another appropriate institution or family when the guardianship body considers it more favorable to the victim and with the consent of the victim of violence. The provision of assistance and support to the victim is approached multisectoral, which is provided by the expert team of the Center for Social Work. The effectiveness of these measures is questionable if the victim of violence is a woman or a man with a disability.

³⁵ Law on Protection against Domestic or Family Violence in the Republic Srpska (Official Gazette of the Republic Srpska, nr. 102/12, 108/13 and 82/15),

Law on Protection against Domestic Violence in the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of Bosnia and Herzegovina", Nos: 20/13 and 99/15)

Both entity laws provide for the same safeguards, and their implementation is further regulated by the by-laws of the competent ministries.

For our research, it is important to note that neither the law nor the by-law obliges the bodies of protection against violence to enter in their records information on whether the victims of domestic violence belong to one of the special groups, and if they are persons with disability, which type of physical, sensory or intellectual disability is at stake.

Safeguards and conditions for establishing safe houses are implemented in accordance with the by-laws of both entities. The relevant ordinance in the Republic Srpska prescribes the obligation to provide access to a safe house without architectural barriers, while the accessibility of premises, programs and activities intended for victims is not mentioned in the citation of standards (we especially point out the difficulties of women with disabilities facing health care, i.e. gynecological and other examinations). When it comes to professional work with victims, it is foreseen that a safe house should include social worker, psychologist, lawyer and medical technician, while other staff, important for people with disabilities, can be hired as needed.

The Rulebook on the Implementation of Protective Measures for Perpetrators of Domestic Violence, in jurisdiction of the Federation of Bosnia and Herzegovina Police, dated March 2014, Article 37 provides that an expert team may be formed in providing protection to women or children from police representatives, guardianship bodies, health institutions and non-governmental organizations dealing with domestic violence issues. They have the task of assisting in the proper implementation of the protective measure and proposing other measures and actions to ensure protection and prevent further violence against the victim in the family, as well as better accommodation of the victim of violence. It is important to note that this *Rulebook* provides a multisectoral approach in assessing the vulnerability of the victim to violence and determining the protective measure and its duration, which takes into account the characteristics of the perpetrator and the victim. An important role in the preparation of this assessment have social security professionals, whose role is to make and submit a social history of the family and the opinion of an expert team to the police authority, and the conditions for the safe implementation of the protective measure. This provides an opportunity to adequately protect people with disabilities who are in need of other people's care and assistance and special conditions regarding the accessibility of the accommodation.

On the other hand, the *Rulebook* does not contain provisions on how to overcome the situation on the ground when police officers are to provide primary protection for the victim to a disabled person, and how, if there is a difficulty in communication with a disabled person (hearing and speech impaired, as well as people with intellectual disabilities) adequately take a statement from that person..

Once again, it will be emphasized that the protection of victims from domestic violence and the implementation of these measures have taken into account the general, or average, state of

the victim, and that the protection of certain categories of persons who face specificities in the manner of exercising their rights remains within the sphere of ad hoc treatment of expert persons which are, in these situations, additionally engaged in providing protection.

Legislation on the protection of persons with mental disabilities³⁶

The residence of persons with intellectual disabilities and impaired mental health in health and social care institutions has recently been equated with life in the family, i.e. the relations of rights and obligations in the treatment of these persons in institutions could be compared with those of the family, because often, especially in less developed systems such as ours, they resort to this method of care even when there is no real and legal justification for it. This is due to the underdeveloped mechanisms of supporting their community life.

Entity legislatures in this field oblige providers of protection to respect for their dignity, prohibition of abuse and unequal treatment, and the obligation to protect themselves against gender-based violence, harassment and sexual harassment within the meaning of the *Law on Gender Equality* in Bosnia and Herzegovina, which points to the principle of gender sensitivity to providing protection. At the same time, the results of the field survey indicate a diametrically opposite situation in the field than the law intended to achieve. Other provisions of the entity laws are gender neutral.

The law also requires that treatment be carried out with as little restrictions as possible on the rights and freedoms of the person, that medical treatment be carried out in outpatient settings with the involvement of the local community, to enable the person to receive treatment, work for remuneration, access to legal protection and assistance, communication and meeting other cultural and religious needs, and to ensure that their consent to take medical measures is secured whenever possible or to obtain the consent of legal representatives and guardians if it is not possible for a person with intellectual disabilities or mental illness to understand the treatment and care process . It is also possible at any time for the consenting person to withdraw his / her decision and discontinue medical treatment. The same is true of biomedical research. It is forbidden to use psychosurgery and castration, forcible placement in an institution and for disclosing information on medical records and the condition of persons with mental health disorders.

The law prohibits the use of physical force and isolation, that are allowed only if it is the only means to prevent a person from behaving without endangering the safety of other persons or

³⁶ Law on protection of persons with mental disorders (Official gazette of the Republic Srpska, nr. 46/04) – text of the law can be found at <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/MZSZ/Documents/Zakon%20o%20zastiti%20lica%20sa%20mentalnim%20poremecajima.pdf> and the Law on protection of persons with mental disturbances (Official gazette of the)

property, only for the duration of such danger and with constant monitoring of medical personnel.

Protection against gender-based violence against persons with disabilities in criminal legislation³⁷

In the last 15 years, the criminal legislation in Bosnia and Herzegovina has been gradually harmonized with the international regulations we have been talking about (e.g. the Istanbul Convention), which protect the personal integrity of women, including women with disabilities. This has the effect of introducing new offenses, that is, treating acts of violence that were not previously considered a criminal offense, which affects the way in which the perpetrator is punished.

We will give examples³⁸ of crimes against life and bodies treated by penal codes, which we note are acts of which persons with disabilities are at particular risk: unlawful termination of pregnancy; genital mutilation, forced sterilization, abandonment of a helpless person, rape against a helpless person, breach of family obligations, restriction of freedom of movement.³⁹ Especially challenging for the representatives of the judicial authorities are the crimes committed against persons with disabilities, since the rather imprecise formulations used in the law are "helpless person", "a person who is legally obliged to care for, by a family member", "a person who findings in a situation of subordination or dependence."

In some offenses such as unlawful deprivation of liberty, threats, etc., which also threaten personal integrity or use a position of subordination or dependence, there is no specified incrimination in the case of the offense committed against family members or using their personal characteristics that constitute them more vulnerable to the commission of criminal offenses.

³⁷ Penal code of the Republic Srpska (Official gazette of the Republic Srpska, nr: 64/17) – text of the Law available at: <https://advokat-prnjavorac.com/zakoni/Krivicni-zakonik-Republike-Srpske-2017.pdf> and the Penal code of Federation of Bosnia and Herzegovina ("Official gazette of Federation of Bosnia and Herzegovina", nr: 36/03, 21/04, 69/04, 18/05, 42/10, 42/11, 59/14, 76/14, 46/16 i 75/17) – text of the Law available at: [https://advokat-prnjavorac.com/zakoni/Krivicni_zakon_FBosnia and Herzegovina.pdf](https://advokat-prnjavorac.com/zakoni/Krivicni_zakon_FBosnia%20and%20Herzegovina.pdf)

³⁸ In many of the mentioned cases, the Criminal Code of the Federation of Bosnia and Herzegovina did not specify family relations, the situation of subordination or dependence of the victim, and, for the offenses we will mention, prescribes equal or milder penalties, and therefore we will use the names of the offenses and indicate the penalties prescribed for them in the Criminal Code of the Republic Srpska issued in 2017. as the younger in terms of the date.

³⁹ That indicates the breaking of family duties prescribed by Law towards a family member that is not able to take of himself, and that is the reason of bad situation of the family

Position of persons with disabilities in proceedings toward public administration and judicial authorities

The right to equal access to justice is one of the basic human rights that is represented in international and domestic legal principles that are well-known in these regulations. Here we will highlight the possibilities of exercising these rights for persons with disabilities, with emphasis on women.

As stated in the literature, the right to access to justice is a complex right, because its realization not only satisfies one right, but is also an instrument for the exercise of other rights. Here, too, we must distinguish between the possibilities afforded by legislation, which entails the principles of legal equality for all citizens, equal access to justice and non-discrimination on any basis, basic principles, and practices in which numerous factors influence that these principles cannot be implemented in practice for individual minority groups.

"Equality in the application of the law in procedures is achieved by exercising the right of access to justice, the core of which is procedural rights: the right to effective access to a competent decision-making authority, the right to a public and fair trial, the right to decide within a reasonable time, the right to an effective remedy, the right to adequate compensation. "

The exercise of each of these rights for persons with disabilities could be analyzed separately, which should be the subject of a new report. We will only be satisfied here with a lump sum assessment of the inconsistency of the constitutional and legal obligations of the state and the practical possibilities for exercising rights, especially given that the subject matter of our report implies the urgency of taking measures to protect a victim of disability, adequate care and conduct of a fair and adequate procedure.

International documents, including the *UN Convention on the Rights of Persons with Disabilities*, Article 13 oblige Countries to prescribe measures enabling, as stated in the aforementioned publication, the principle of affirmative action, apropos, measures enabling access to mechanisms for exercising the rights of particular groups and respecting differences. The aforementioned article of the Convention uses the phrase "the right to make reasonable adaptations in all types of proceedings, including preliminary stages such as examination and investigations."⁴⁰

Considering the context of Bosnia and Herzegovina, we can conclude that the legislation, both at the public administration bodies and in the proceedings before the courts, guarantees that persons with sensory impairments (especially hearing impairment) are adapted to the procedure, and that help or assistance is provided to those who, caused by different reasons,

⁴⁰ Term used in the publication: The right of persons with disabilities to equal access to justice, a prior issue of all rights - publication, Association of Youth with Disabilities of Montenegro, Author: Miroslava-Mimalvanovic, Podgorica, 2016

cannot participate in the proceedings. In this sense, people with disabilities are largely labeled as unskilled persons, although the help and assistance they need is different. It is therefore very questionable to put into practice the principles of equality of parties to the proceedings, i.e. the question arises is to how much understanding we have, for the testimonies of persons with disabilities in the front of the authorities, since they are often not in a position to present their case and use records in a majority manner.

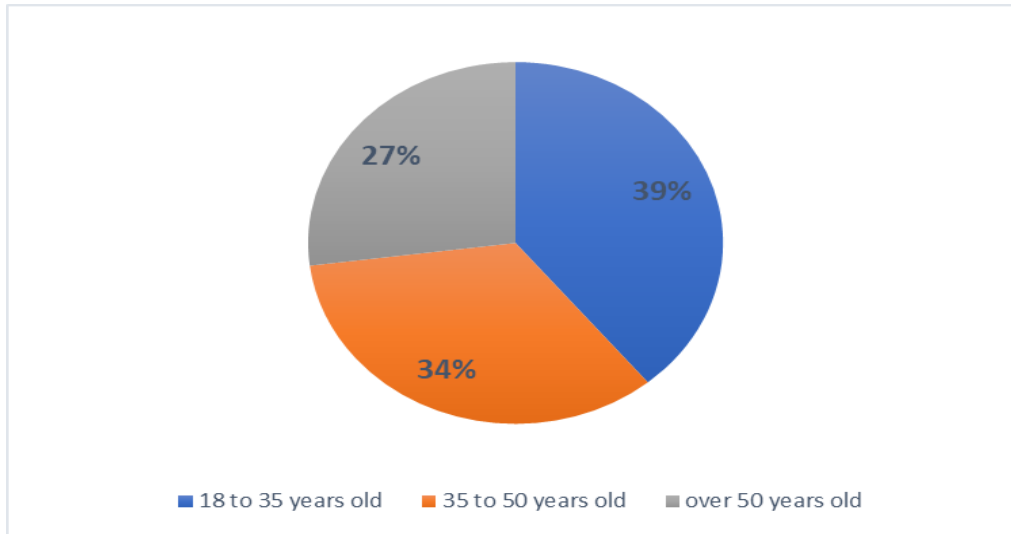
IV Analysis of the results obtained through surveys

In this chapter we will present an analysis of the response to a survey that was created for the purpose of this research and distributed to focus group participants before the start of the focus group, to see participant's attitudes and opinions regarding gender-based violence without becoming familiar with the topic.. The questionnaire was also distributed by e-mail to persons with disabilities who did not participate in focus groups. The information contained in the questionnaire is a complement to the information and materials obtained through focus groups and interviews with experts and has also been used as an instrument to collect more quantitative data and to identify connections between variables.

General data

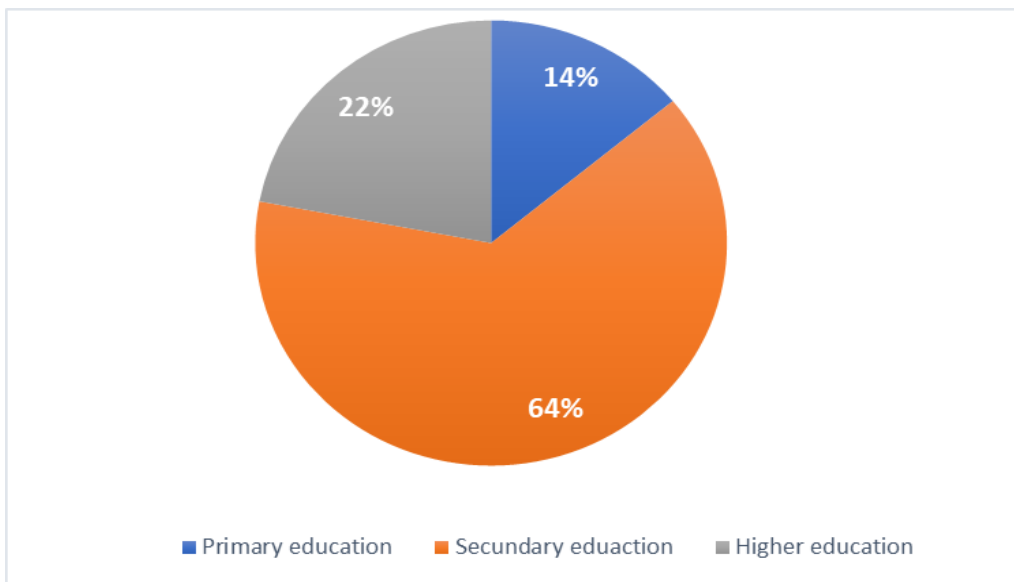
A total of 102 people responded to the questionnaire, with 54% of the respondents being female and 46% male, achieving an approximately equal ratio of both sexes to the survey. Respondents ranged in age from a minimum of 15 to a maximum of 71 years.

As we can see from Chart 1, young people with disabilities (18 to 35 years old) are slightly more represented than middle-aged people (35 to 50) and persons over 50 years of age.



Graph 1
Age structure of respondents

The educational structure of the participants shows that the majority participants in this survey were persons with secondary education, 64% of them. Out of the total number of respondents, 14% have completed primary education, while 22% have higher education.



Graph 2
Educational structure of participants

The majority respondents belong to the category of unemployed, 49% of respondents precisely. Of the total number of respondents, 31% are employed, while 8% are students or in another form of education process, and 12% are occasionally engaged in the non-governmental sector. If we add up the percentage of the unemployed to the number of persons occasionally engaged in the non-governmental sector, we see that the persons with disabilities even in our

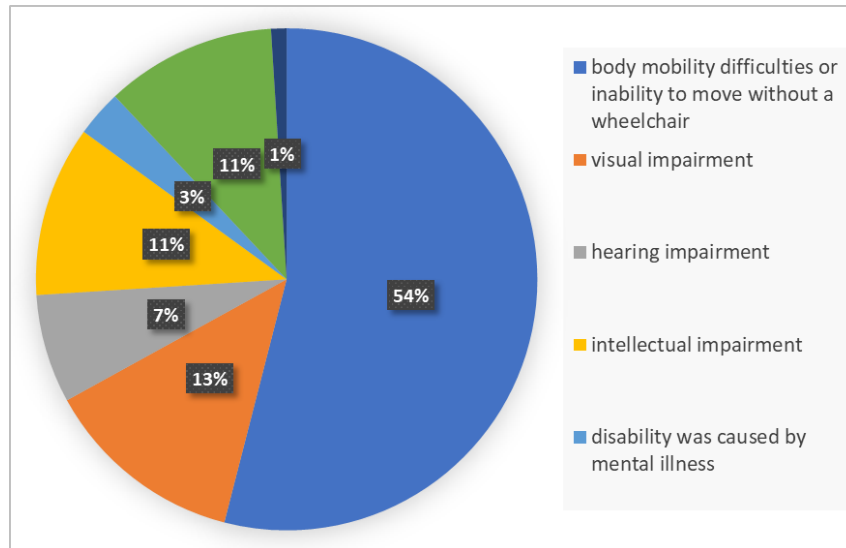
sample are in an unenviable position in the labor market, although in this case, a big percentage of them is in the possession of professional or higher education diplomas, and that (if we exclude persons currently in the education process) almost 75% of the persons in our sample are either unemployed or have an unstable employment status.

, According to the data seen in Table 1, we can note that there is a higher percentage of unemployed among women and there are more employed men, which indicates a general trend of unfavorable conditions for women in the labor market and tendencies in society to passivize women, trap them in the private sphere and make them economically dependent. However, although the difference in percentages is visible (Table No.1), in our sample Chi-square (χ^2) test, adequate to analyze the relationship between nominal scales, does not confirm any significant discrepancies or differences.

		Employment status				Total	
		Employed	Unemployed	Currently in the process of education	Occasionally engaged in the non-governmental sector		
Your sex?	Male	Total	15	19	3	6	43
		Percentage	34.9%	44.2%	7.0%	14.0%	100.0%
	Female	Total	15	28	5	5	53
		Percentage	28.3%	52.8%	9.4%	9.4%	100.0%

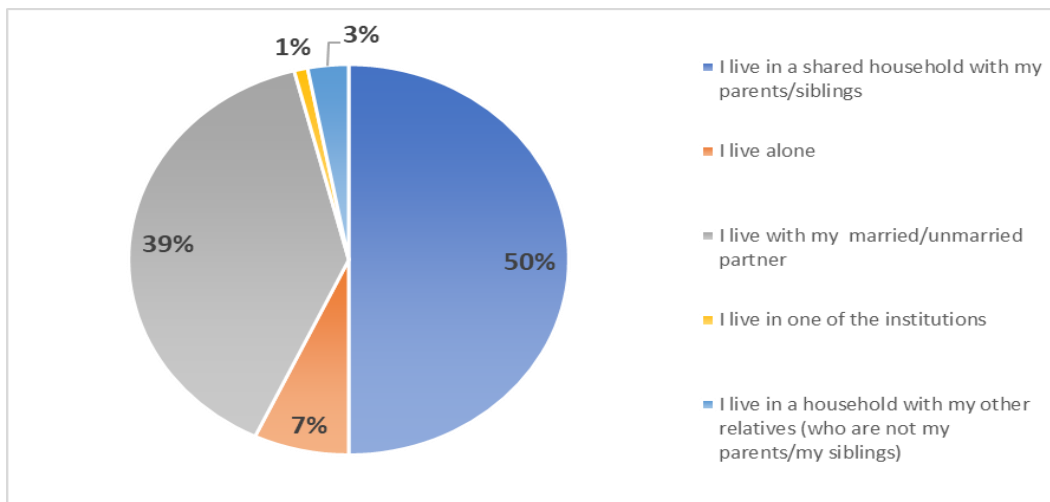
Table nr. 1
Employment status vs. sex

Based on the answers given by the respondents, 54% of them have a disability caused by body mobility difficulties or inability to move without a wheelchair (graph 3). After them, there are respondents whose disability is caused by visual impairment (13%), while 11% have a disability caused by intellectual impairment. Disability caused by hearing impairment is reported by 7% of respondents, and 3% said that their disability was caused by mental illness. 11% of responders gave the answer listed as "other cause", which mostly involves combined disabilities. A negligible number of respondents, when asked about the type of disability, point out their diagnoses (for example multiple sclerosis, muscular dystrophy, disease of the modern age, etc.), indicating a tendency to observe and define their own condition through diagnosis (medical model), not through the degree of functionality. In the analysis, we have classified such answers in the associated category of functionality. However, 1% of the answers referred to an inaccurate data of the disease (such as the answer "modern age disease") that could not be processed.



Graph nr.3
Type of disability

Out of the total number of respondents, 50% of them live in a shared household with parents/siblings, while 39% live with a married/unmarried partner. Further in the analysis we see that 7% live alone 3% live in a household with other relatives, while 1% of respondents live in one of the institutions for the care of persons with disabilities.



Graph 4
Type of household

Gender-based violence – opinions and attitudes

At the beginning of the questionnaire section, we asked respondents in the questionnaire whether they were familiar with the meaning of the term gender-based violence. Of the total,

70% said they were familiar with the meaning of the term gender-based violence, and 30% said no.

Given the fact that more than 95% of the people who responded to the questionnaire were also focus group participants, it is useful to recall focus group analysis data indicating that participants mostly cannot explain the term gender-based violence or they define it incorrectly. If we compare these two facts, we can conclude that although the majority of respondents, according to the data from the questionnaire, consider themselves familiar with the term gender-based violence, still the majority of the misunderstand it wrong or too narrow.

Traditional attitudes vs. modern attitudes

Respondents were asked to express the degree of agreement or disagreement with the given statements on a scale of 1 to 5, where 1 indicates strongly disagreement and 5 indicates absolute agreement with the mentioned statement.

Of the total number 60% of respondents strongly disagree, and 6% of them partially disagree with the statement **“It is best for a family that man earns money and woman devotes herself to home and family”**. Further, 18% of them completely agreed, and 4% of respondents partially agree, so in a total of 22%. 11% of them are not sure about the mentioned statement. 49% of respondents completely agree with the statement **“The right man should know how to repair household things that breaks”**, which is almost half of the total, and this information can be related to the stereotype about men's technical skills (when they perform tasks in the home, it is usually related to the tasks of home repairs, managing money, paying bills, etc. while women have traditionally been in charge of cooking, maintaining cleanliness in the home, caring for children and taking care of children and the infirm, etc.). Of the total number 15% do not agree with this statement at all, and 13% are uncertain about the accuracy of the statement. According to the results, 9% of the respondents partially disagree, and 14% partially agree with the above.

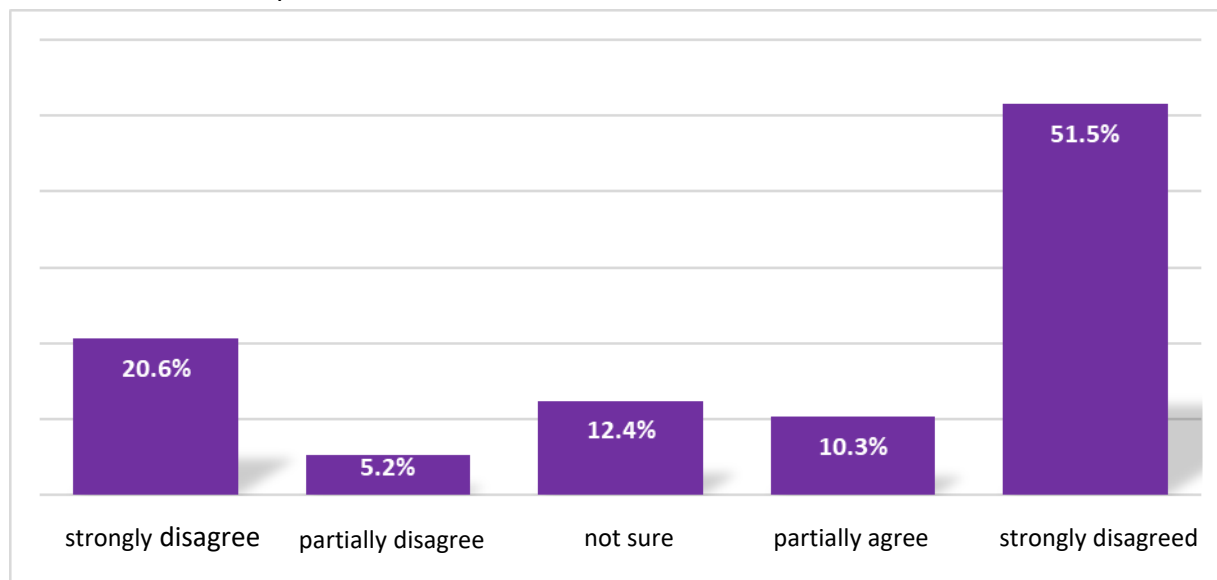
Using the degree of agreement or disagreement with the two statements above, we tried to obtain data on the degree of traditional attitudes in persons, in order to examine the impact of those attitudes on other responses. We have transformed the overall result of the previous two answers into a new variable that tells us the degree of traditional attitudes among the respondents, which we will use in the continuation of the analysis.

Gender-based roles and persons with disabilities

Of the total number of respondents, 51.5% absolutely agree with the statement **“For persons with disabilities, it is not so important if they are male or female if they cannot perform the tasks entrusted to men and women in the family”**, while 10% partially agree. Also, 21% of

respondents strongly disagreed, while 5% disagreed partially, and 12% are not sure about this statement.

This data confirms the findings of numerous studies that indicate that persons with disabilities are firmly identified primarily with their disabilities, often forgetting other specifics (such as class, gender, ethnicity, residence status, etc.) that determine their position in society, the possibility of social exclusion and the degree of vulnerability when it comes to exposure to violence, which is often a consequence of the society's attitude towards persons with disabilities and their position within it.



Graph nr. 5

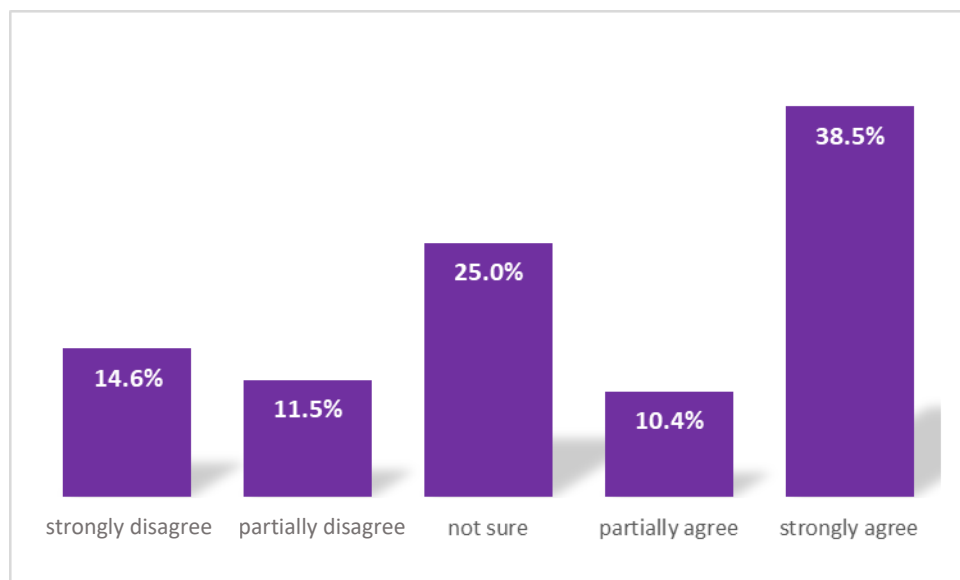
Statement: "For persons with disabilities, it is not so important if they are male or female if they cannot perform the tasks entrusted to men and women in the family"

In this context, we should recall that data from focus group analysis, where human rights activists and representatives of organizations of persons with disabilities state that the situation in Bosnia and Herzegovina is challenging for persons with disabilities when it comes to fighting for basic living conditions and access to social services and fundamental rights, so they hardly get to thinking about anything else, which is also reflected in the activities and work of the organizations themselves. On the other hand, the stigmatization and discrimination of persons primarily on the basis of disability makes it easier for other specifics to go unnoticed or even contested. Here it is useful to cite the example of young women and girls with intellectual disabilities, who, according to information obtained from focus groups and interviews with experts, are often victims of sexual abuse and exploitation on the one hand, and, on the other, are denied the right to live independently, to get married and become mothers. There is a tendency to objectify a woman with intellectual disabilities, with her body being a frequent target of sexual assaults, which is neither talked about nor responded to in public.

There is no significant statistical difference between the responses of men and women in our sample population when assessing the degree of agreement with the aforementioned statement, according to t-test (relevant in the analysis of the relationship between categorical and continuous variables). However, a statistically significant difference in the assessment of the degree of agreement with the stated statement can be noted in persons with a higher degree of "traditional" attitudes, as shown by the analysis of the correlation between the two variables. People with a higher level of the traditional understanding of gender roles and gender are significantly more likely and more strongly in agreement with the statement **“For persons with disabilities, it is not so important if they are male or female if they cannot perform the tasks entrusted to men and women in the family”** regardless whether they are men or women. Thus, persons who embrace the ideal of masculinity and femininity, the standards of normality associated with the gender-imposed role prescribed by a predominantly traditional and patriarchal society such as the society in Bosnia and Herzegovina, are more likely to contest the gender identity of persons with disabilities, and probably feel themselves less like men or women in relationships with others because of their disability.

Violence and exposure of persons with disabilities to violence

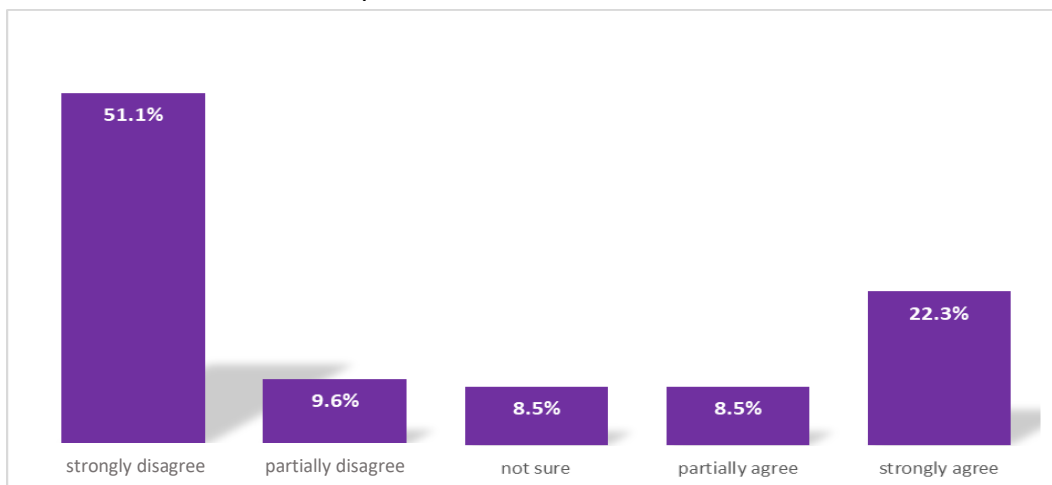
Out of the total number of respondents 15% strongly disagree with the statement **“Persons with disabilities are more exposed to violence than persons from the wider population”**, while 12% partially disagree. Also, 39% of the respondents completely agree, and 10% partially agree. Of the total number of respondents, 25% are uncertain about the accuracy of the statement.



Graph nr. 6
Persons with disabilities are more exposed to violence than persons from the wider population

Of the total number of respondents, 31% strongly disagree with the statement **“Caregivers can be violent due to too much work and fatigue”**, and 14% of respondents partially disagree. Also, 21% of them are not sure about the correctness and accuracy of the statement. A total of 22% agree with this statement, while 11% partially agree. Therefore, 45% of respondents in our sample do not agree at all or partially. For the analysis, there is an indicatively high (54%) number of respondents who indicated the assertion with a degree of agreement of 3 or more. Later in the analysis, we will see that this topic also appears in the focus group discussions.

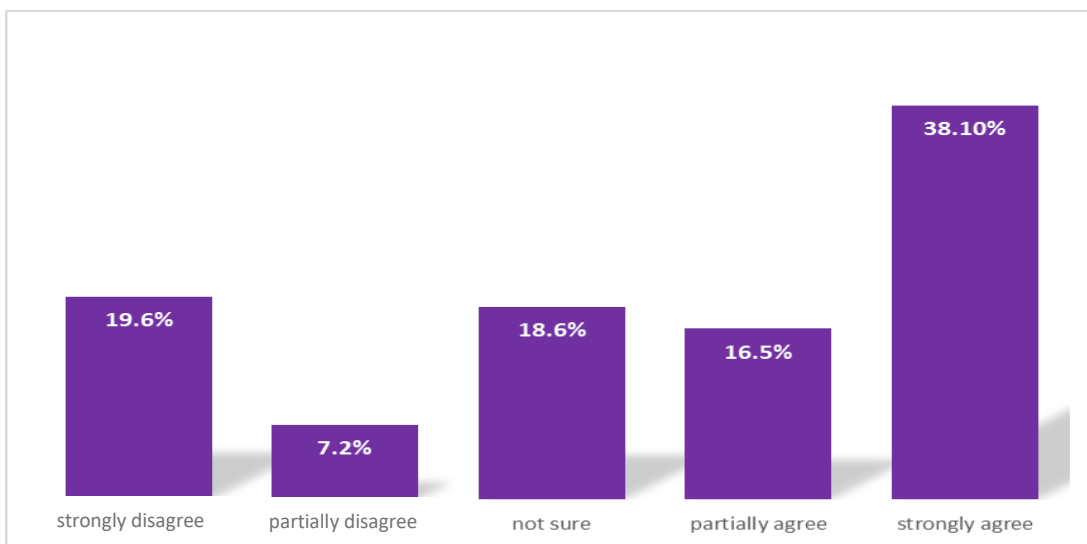
Considering the relatively high degree of agreement with the previously mentioned statement, it is particularly interesting to point out the degree of agreement with the following: **“Persons with disabilities have no choice but to tolerate violence, especially if it comes from those on whom they are dependent.”** Of the total number 51% of the respondents strongly disagree with this statement, while 10% partially disagree and 9% of them are uncertain about the truth of the statement. The number of respondents who absolutely agree with the statement is 22%, while 9% partially agree, which is overall a devastatingly high percentage of an explicit agreement with such an extreme statement. It is important to emphasize that a large number of persons who responded to the questionnaire were engaged in the non-governmental sector and can, therefore, be assessed as active citizens, connected and involved in the community, relatively informed about their rights and protection measures, and yet, as we can conclude on the basis of answers received, feeling of insecurity and powerlessness in respondents when thinking about violence. We can assume that the feeling of insecurity and powerlessness is even more visible in the overall population of persons with disabilities in Bosna and Herzegovina, where persons are not as socially engaged and aware of their rights and protection measures as in our sample.



Graph 7

Statement: Persons with disabilities have no choice but to tolerate violence, especially if it comes from those on whom they are dependent.

Based on the responses to our questionnaire, it can be concluded that there is a high degree of agreement with the claim that women with disabilities are more exposed to violence. The same trend is indicated by the responses in the focus group discussions, as we will show in the part where we analyze the results of the data obtained in the focus groups. With the statement **“Women with disabilities are more exposed to violence than men with disabilities”** - out of the total number of respondents, 38% absolutely agree, and 17% partially agree, while 19% are not sure of the stated truth. Further, 20% of respondents strongly disagree with the statement, while 7% partially disagrees with the correctness of the statement.

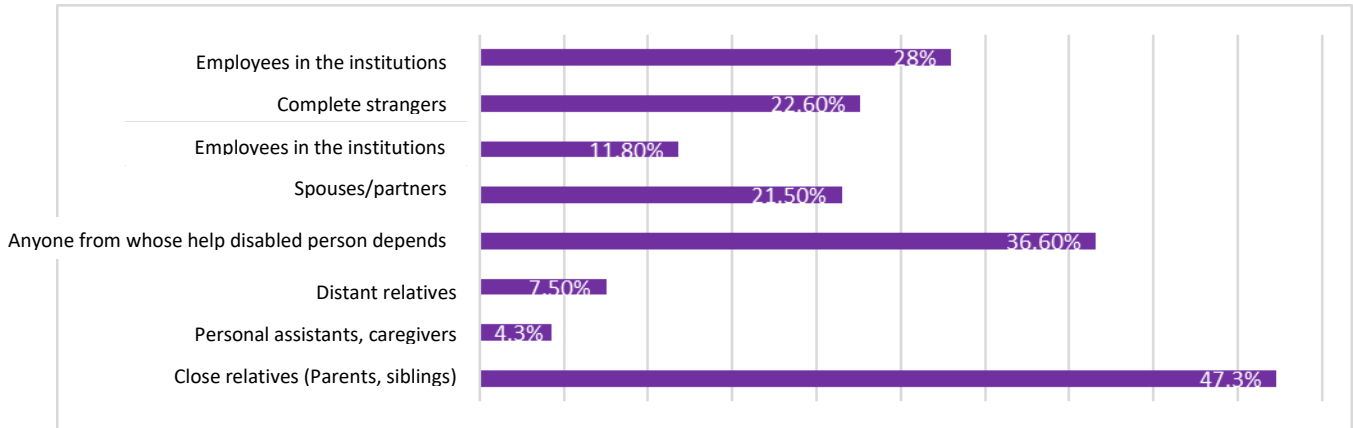


Graph 8

Statement: Women with disabilities are more exposed to violence than men with disabilities

The most common perpetrators of violence against persons with disabilities

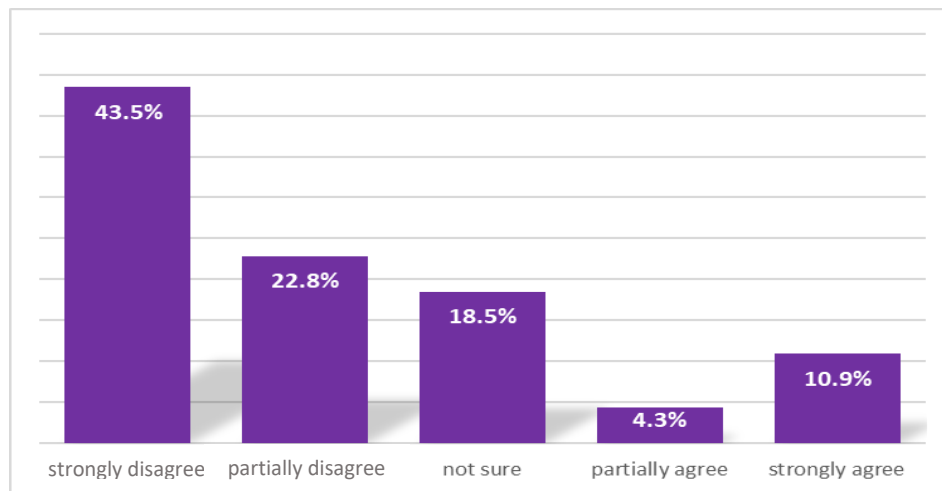
When asked for their opinion about who is the most common perpetrator of violence against persons with disabilities, it was possible to give more answers. Most of the respondents, in 47% of cases, state that they are members of the close family (parents, brothers, sisters), and 37% think that it is anyone whose assistance persons with disabilities depend on. 22% of respondents said that the most common perpetrators of violence are spouses/partners, 12% pointed out adult children. Of the total number 28% of respondents say that people working in institutions are the most frequent perpetrators of violence, and 23% of respondents believe that the most frequent perpetrators are complete strangers, 8% indicated distant relatives as the most frequent perpetrators, while 4% have chosen personal assistants or helpers. Therefore, according to the answers, we can conclude that the respondents believe that violence against persons with disabilities is most often occurring within the family “behind closed door”.



Graph 9
Who is the most common perpetrator of violence against persons with disabilities?

Availability of help and support

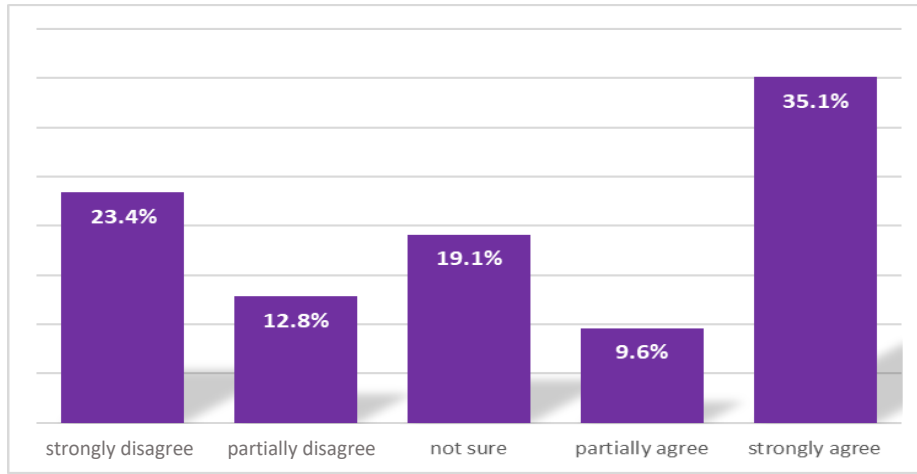
When it comes to the statement **“Adequate and timely assistance for the prevention and protection of violence against persons with disabilities by the state and state institutions is available”**, 43% of respondents strongly disagree with it, while 23% partly disagree. A total of 11% agree and 4% of the respondents partially agree. Of the total, 19% are uncertain about the accuracy of the statement given. Therefore, persons with disabilities in our sample show a high degree of distrust regarding protection provided by the state and state institutions.



Graph 10
Statement: Adequate and timely assistance for the prevention and protection of violence against persons with disabilities by the state and state institutions is available

Out of the total number of respondents, 35% absolutely agree with the statement **"Assistance in prevention and protection against violence are available in organizations of persons with disabilities"**, and 10% partially agree with the above mentioned. Also, 19% of them are not sure

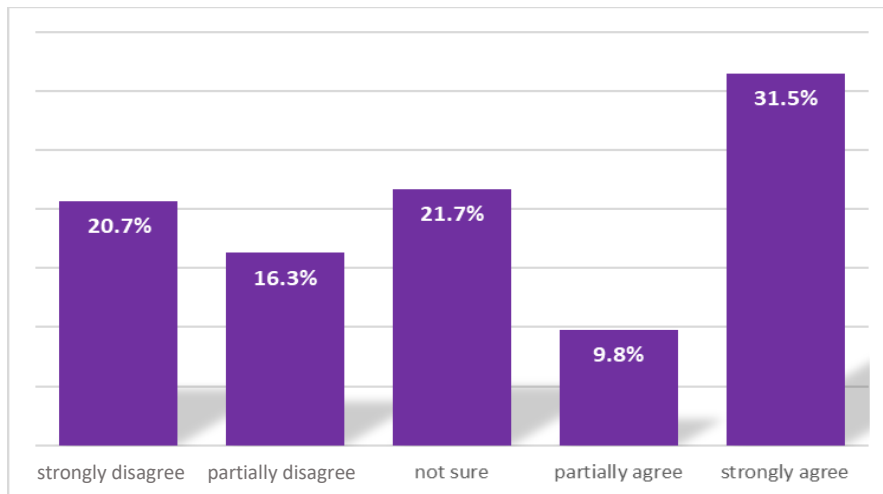
about the truth of the statement and 23% strongly disagree with the statement, while 13% partly disagree.



Graph 11

Assistance in prevention and protection against violence are available in organizations of persons with disabilities

Regarding the statement **“Society and the environment (primarily referring to acquaintances, friends, neighbors, but also more broadly to fellow citizens, etc.) react adequately to ensure that persons with disabilities are protected from violence and report violence if noticed.”** Of the total number, 22% of the respondents are not sure of the accuracy of this statement, while 21% strongly disagree with the above and 16% partially disagree. On the other hand, 32% completely agree, and 10% partially agree with the statement.

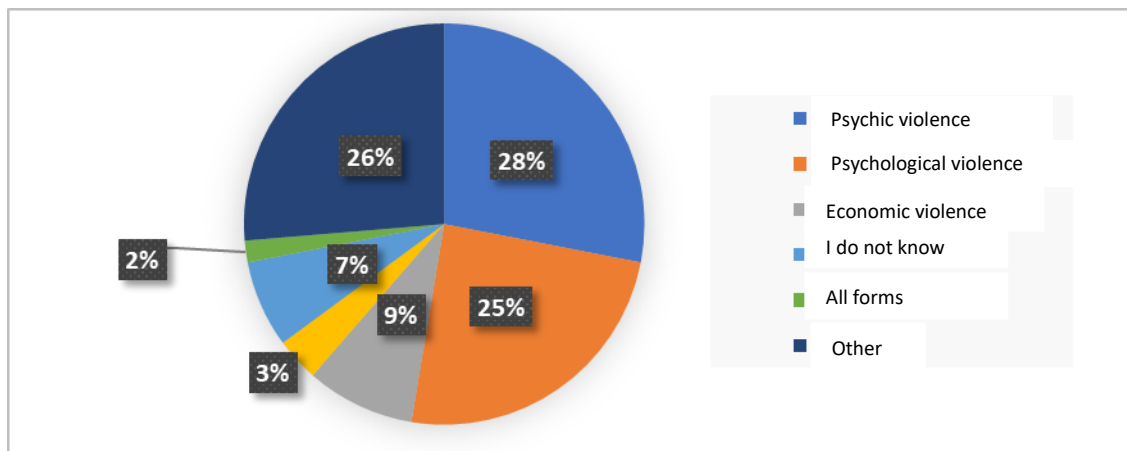


Graph 12

Statement: Society and the environment (primarily referring to acquaintances, friends, neighbors, etc.) respond adequately to protect persons with disabilities from violence and to report violence if noticed.

Types of violence, disability and gender

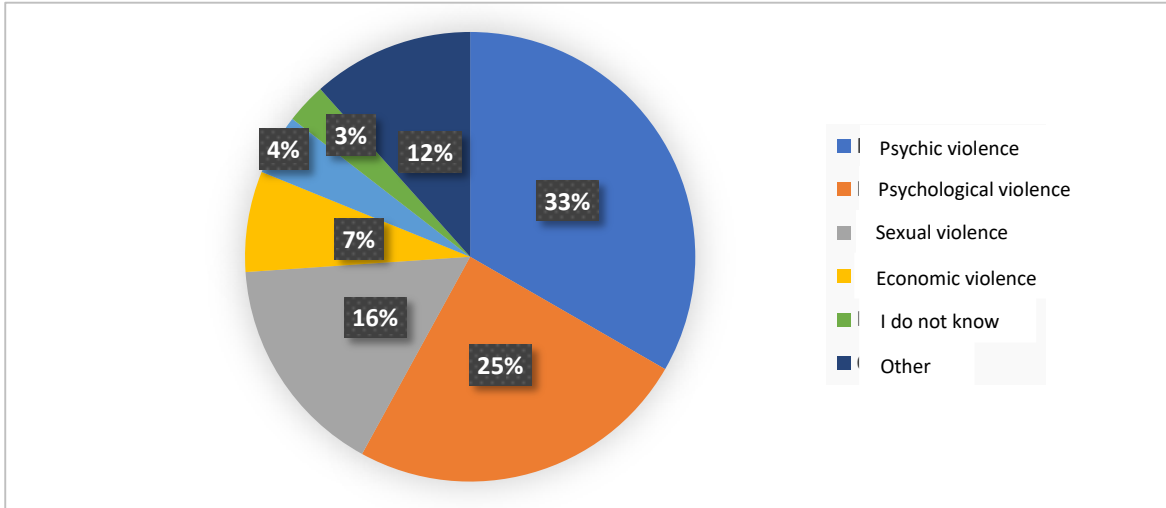
Out of the total number of those who answered the questionnaire the answer to the question **“What forms of violence are men with disabilities exposed to?”** was given by a total of 56% of the respondents, and most of them gave more than one answer. The majority of respondents, precisely 28%, said that men were most often exposed to psychological violence, 25% consider physical violence was the most present, while 9% stated economic violence. When it comes to the question of what forms of violence men with disabilities are exposed to respondents mentioned also denigration, underestimation, domestic violence, understating of strength/power and masculinity.



Grafikon 13

What forms of violence are men with disabilities exposed to?

The question **“What forms of violence are women with disabilities exposed to?”** was answered by 52% of the respondents and some of them provided more answers to the question. Out of the total number of answers, 33% of respondents answered that women were most exposed to physical violence, 25% of respondents said that they were said that they were psychologically abused, and 16% said that women were exposed to sexual violence. Respondents also provided the following answers to the question asked: discrimination, violence at work, humiliation, cyber violence.



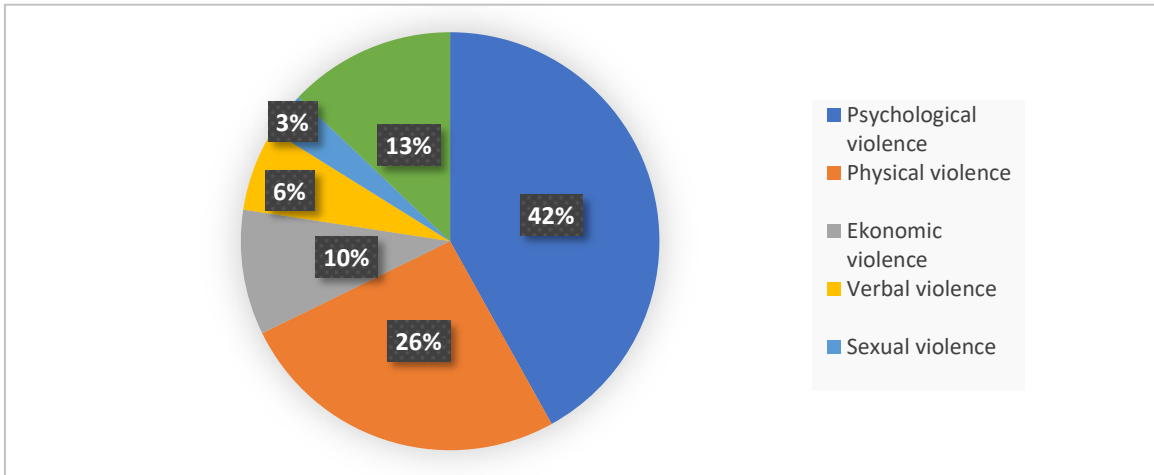
Graph 14
What forms of violence are women with disabilities exposed to?

Of the total number of people who answered the questionnaire, 29% explicitly stated that there was no difference between the form, exposure, and type of violence experienced by women and men with disabilities.

Analyzing the responses of people who think that there is a difference between the form, exposure, and type of violence experienced by women and men with disabilities, it can be observed that respondents cite greater exposure to physical and sexual violence for women than for men.

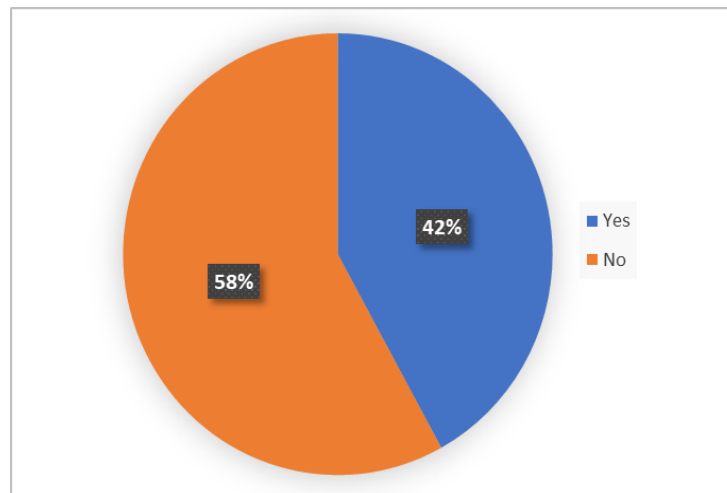
Personal experience regarding gender-based violence against persons with disabilities

Of the total number of respondents, 73% answered that they were not personally nor are currently exposed to violence, while 24% positively answered this question, while the rest of respondents did not answer this question. Of the total number of respondents who answered positively to the previous question, 42% were exposed to psychological violence, while 26% were exposed to physical violence. The 10% of respondents were exposed to economic violence, while 3% were exposed to sexual violence. Of the total number 6% of persons were exposed to verbal and other types of violence, such as, according to the respondents' answers, humiliation, being laughed at and being ignored by friends and institutions.



Graph 15
Types of violence to which they were exposed

When asked if they have reported violence to anyone out of the total number of respondents who stated that they had experienced some form of violence, 42% answered affirmatively. Thus, more than half, 58% of the respondents, did not report violence. When asked who they came to for help and to who they have reported the violence, 5 respondents indicated that they had approached the police, and 2 had contacted the relevant social work center. The same number of respondents, 2 of them reported the violence to a local non-governmental organization, and 2 reported the violence to a close relative, precisely to the mother. The principal of the school was addressed by 1 of respondents.



Graph 16
Have you reported the violence?

When asked if they know of other persons with disabilities who were or are still victims of violence, 44% gave the affirmative answer, while 45% said that they do not know anybody, and the rest did not answer this question.

Additional information

In the end, the respondents were given the opportunity to share additional relevant information or thoughts on the topic, which were not covered by the questions in the questionnaire. Most of the responses indicated the general position of persons with disabilities and the need to provide them with basic rights to life, education, and employment, to provide them with free legal aid, to work on reducing discrimination against persons with disabilities and to raise awareness of the whole society about the needs of this social group. Participants of all focus groups are also pointing out the same issues and problems. It is emphasized the tendency of persons with disabilities in Bosnia and Herzegovina to often neglect or fail to recognize the other specifics of their position, due to their unenviable position, poor living conditions in the community and disability to exercise their basic rights, so that, when responding to the question asked, do not consider the cross-cutting discrimination on the basis of disability and gender. In their replies, they also state that society in Bosnia and Herzegovina needs to work more intensively on educating people with disabilities, their families and the whole society on gender-based violence and gender-related topics. Regarding this matter, one respondents emphasized that she did not report violence “because she had not known then that she was exposed to it and that she should have reported it”, and that in “Bosnia and Herzegovina / Republic Srpska there are not enough educated persons that would provide any assistance to persons with disabilities, and, if help and support do exist, they are not adequate.” Therefore, investing in education, legal counseling, sensitization and enabling greater visibility and representation of persons with disabilities in society and the public is closely related to the topic of violence and protection against violence.

V Analysis of data collected from focus groups

Focus group discussions on gender-based violence against persons with disabilities were organized in Sarajevo, Banja Luka, Bijeljina, Tuzla, Doboj and Teslić for the purposes of this research (Teslić belongs to the Doboj region coalition, but because of the place of residence of the participants focus group was organized in Teslić).

A total of 12 focus groups were held in these 5 regions, 2 in Sarajevo, 2 in Tuzla, 2 in Bijeljina, 3 focus groups in Banja Luka, and 3 in Doboj /Teslić. A total of 84 participants, (35 men and 49 women) participated in focus group discussions on gender-based violence against persons with disabilities.

Due to the uneven response of the participants, the size of the focus groups varied, but the average number of participants in the groups was 7.

Focus groups met the criteria of diversity regarding the type of disability and age of the participants. Of the 84 focus group participants, 32% were under 35, 24% were over 50, and 44% were between 35 and 50. The largest number of participants, 49% were persons with disabilities related to impaired mobility, 7% with hearing impairment, 13% with visual impairment, 12% with intellectual impairment, combined impairments 12%, mental illness 4% and 2% in the category labeled "other"⁴¹. The focus group participants were persons with disabilities⁴², which provided the relevance of information and results obtained through the analysis of focus group responses and discussions in relation to the topic under study.

It is a methodologically significant observation that, although the individual behaviors of the participants in the group are interacting, we note relatively high independence of responses, that is, the diversity of attitudes within one focus group. This gave us the opportunity to choose an analytical approach that involves analyzing the individual views of participants in all focus groups, that is, to sort and analyze attitudes rather than focus groups. Since this is an initial study on gender-based violence against persons with disabilities in Bosnia and Herzegovina, a theoretical coding method was used to analyze the text obtained through transcription of focus group discussions in order to maximize openness to discovering new patterns and insights without the previously imposed restrictions.⁴³

All focus groups were guided by a unique concept that encompassed different topics and stimuli for discussion, in order to ensure the relative balance of the dynamics and flow of the discussion and to obtain data that could be systematized and analyzed in a unique way. The focus group preparatory concept consisted of a set of topics and discussion stimuli (in text/story format) divided into 3 phases, each aiming to gather as much diverse data as possible for individual research goals.

In the first phase of the discussion, after familiarizing themselves with the Protocol on Personal Data Protection and getting to know each other, the focus group participants began the discussion with questions aimed at determining the initial views and knowledge of the participants regarding the topic of gender-based violence in general and specifically regarding persons with disabilities. The answers to these questions and the discussion between them give us information on whether the participants (without any prior knowledge of the topic) know what gender-based violence against persons with disabilities is, whether they are aware of the meaning of the term gender and the difference between sex and gender, what kind of attitude they have towards traditional gender roles, and whether they consider the issue of gender identity and gender-based violence relevant to the issue of disability.

⁴¹ Data about structure of focus groups participants are determined when, from questionnaire analysis, online forms are excluded, and by that way analysis were conducted only on focus groups participants forms.

⁴² With exception of one focus group held in Sarajevo, with participation of 3 mothers of disabled children included in DPO movement, and by that way their participation was estimated as relevant.

⁴³ More details in: Glaser and Strauss, 1967 and Glaser and Corbin, 1990

Regarding the question of sex and gender differentiation, we notice a great difference in answers. The term „sex“ is known to all, but uncertainty arises when recognizing the term „gender“. Uncertainty is noticed in providing an answer to this question, so in most cases the first reaction is silence, and when the question is repeated or clarified, the attitude is mostly expressed by participants who generally have a good knowledge of terms and their meaning. Then (encouraged by participants who have already ventured), the participants who have heard about the terms gave their answers, and we see that they have some ideas that are but often imprecise or partial. Thus, there is at least one participant in each group who gave an answer from which we notice that they are not informed about the term gender well enough (although they seem familiar, from seminars, television), and they keep guessing its meaning on the basis of linguistic association⁴⁴ and they define the term "gender-based violence" in the same way. We emphasize this data because it indicates that a significant number of participants did not question and reflect on these topics earlier, which opens the space for manipulation and reproduction of negative behavior patterns. The concept of gender emphasizes precisely the social dimension of building disproportionate power relations, discrimination and disadvantaging one population over another, and, beyond purely biological determinations of differences, emphasizes the arbitrariness of imposed roles, attitudes, and experiences, and give room for reflection and change if the differences are arbitrary.

Male N41 (Answering the introductory question asked by the focus group leader: "So we said sex is male and female, and gender?"): "Child and parents."

Male P12: "I am ashamed to ask you - I do not know exactly what kind of question this is."

Male V12: "I don't know. I've heard it in seminars, on television, but I don't know what is. "

When asked to define gender-based violence, most participants avoided defining the term or linking it solely to domestic violence, physical violence, and violence against women or violence against persons with disabilities. They generally divide the issue into two parts, focusing separately on "gender-based" or "violence against persons with disabilities", hardly connecting with one another.

We cite a statement from a female participant who, when asked what gender-based violence is, briefly illustrated the frequent answers that will emerge during discussions, across all focus groups, in different variations, such as identifying gender-based violence with domestic violence, pursuit of traditional values with clearly defined roles in the family, the general increase of violence in society, the role of the media in actualizing the topic of violence, but also a sort of justification for violence against persons with disabilities who are highly dependent on family members in their daily functioning.

⁴⁴ Words „rod“ (gender) and „rodbina“ (family) in serbian language have semantic connection where the word rodbina (family) is derived from the word rod (gender).

Woman V41: "I suppose this is done inside the family, I have not even had the opportunity to see any violence, and especially to feel it myself. I grew up in a large family where it was well known what is the role of mother, father and child, but today it is all different. I guess there was less violence before the war. A lot of things are happening now, at least we see it on TV, we read about it. It is more widespread, or we now have a greater ability to hear that information. And gender violence, I suppose, is a burden on the family when there is a disabled person in the home, perhaps a severely disabled person. Persons with disabilities who are helpless are likely to be exposed to violence of those who care for them. It doesn't have to be physical abuse, the worse is psychological."

However, in each of the focus groups, we see participants who have experienced gender-based violence and understand that it was violence related to their sex and gender but feel insecure about defining it. Almost as by default, they are women who have encountered various cases of domestic and/or gender-based violence.

Woman P11: "I can say I'm sorry for having seen only the violence first and only then start learning and finding more about the terms."

It is very important to note that a total of 6 women with disabilities (in different focus groups) spoke openly about the personal experience of gender-based violence. Their experiences related primarily to psychological and physical violence in the family regarding their gender roles.

In addition, one woman was unsure whether her experience of being barred from choosing the education she wanted and targeting a craft that her parents thought was appropriate for a girl with a disability was, in fact, gender-based violence. One man spoke of the gender-based violence against a woman with a disability which he witnessed. Two men with disabilities told us about a difficult childhood in which they, along with their mother, were victims of severe forms of violence perpetrated by their fathers, who were alcoholics in both cases. In 2 cases, men with disabilities cite peer violence during their education but they believe that the violence was based only on disability.

It should be noted that the focus groups were attended by a smaller number of participants, whose answers make it clear that they are familiar with the term "gender-based violence" and can easily associate it with persons with disabilities as a very vulnerable group. People who are clearly familiar with the meaning of the term and topic often state that the problem is insufficient research and ignorance of the topic, which leaves room for manipulation and deterioration of the position of persons with disabilities.

Male V21: "There has never been enough talk about gender-based violence against women, first of all, that's what I would say, and this is just another moment, an indicator, in discrimination against persons with disabilities, a moment that unfortunately is still not open. Otherwise, it is a practice that they are reluctant to talk about violence, especially people with disabilities"

growing up... When it comes to violence, it is usually meant that you are being physically abused by someone, however, we have much more of a problem with psychological violence. When we talk about this dimension of the male-female, I think our problem is the under-investigation of the problem of violence. "

Woman P12: "Women topics remain for women's organizations, disability topics for organizations of persons with disabilities. Then one of the colleagues stands up and says: no women with disabilities, no men with disabilities, we are all persons with disabilities."

On the other hand, we note in the focus groups that participants have openly questioned the link between gender-based violence and violence against persons with disabilities through various statements. Part of the participants clearly recognize the position that "gender" does not matter, or a positive attitude towards the fact that there are no differences between men and women among persons with disabilities.

Male V11: "Gender-based violence is different from violence against persons with disabilities. The word itself says, it is based on gender, that is, on the feeling of which gender we belong to. And violence against persons with disabilities is something else. I don't know if that can be observed as the same thing. I think these are two different types of violence. That if you are a person with a disability, you are being discriminated against on the basis of disability, and when you are male or female, then they discriminate against you on that basis. I think there is no combination, but you are being discriminated based on one factor, and those are the stigmas that people set to one another. "

Woman P21 "When it comes to violence, sex and gender are not important, because violence is violence, and it is even worse if the violence is against persons with disabilities. And whether one is looking at whether one is male or female, I think that it is the society that classifies and categorizes persons in this way, and then looks first at disability and then at everything else. In fact, disability is more important than anything else."

In most cases, in at least half of the participants in each focus group, this disconnection of gender and exposure to violence is present but is more subtly expressed. Usually, we see it through the inability to affirm the attitude towards gender-based violence against people with disabilities. Discussion is mainly based on violence against women and men (identified with domestic violence) or on violence against persons with disabilities where the elements of gender are completely lost.

During the discussions, focus group participants typically do not use the terms "man with disabilities" or "women with disabilities", they use the general term "people with disabilities". There is a noticeable "linguistic awkwardness" when trying to speak in gender terms, which indicates that these terms are not close to them at the beginning of the discussion, but it is noticeable that they are adopted in the later discussion.

Male P52: "I can only speak on my own behalf, from a male perspective, I cannot speak on behalf of women with disabilities. To me, it's an obstacle, an obstacle. I never thought about it, how women with disabilities ... may have bigger problems, I don't really know. This research should show that, as I understand it. "

For most participants who are, at the beginning happy to note that gender is not important in the population of persons with disabilities, once we begin insisting on reflecting on the differences between women's and men's experiences regarding different socially imposed roles, expectations, and experiences of violence, they begin to agree that the dimension gender indeed has an impact and produces different experiences in general as well as regarding violence.

When recognizing gender stereotypes, most participants show significantly more awareness and interest in the topic. Participants recognize gender stereotypes and show an extremely high level of awareness of the topic, and generally speak with disapproval.

Woman V12: "I agree, but there are differences in our society, it is believed that the man is in the first place, that the man is the head of the house, that the man is the one who should be earning, and the woman should sit at home."

Despite recognizing gender stereotypes and negative (often through sarcasm) statements about them, participants are generally still subject to gender stereotypes regarding gender roles in family and society. They often compare the present situation with "earlier times", considering that the situation is much better now, but without identifying the still present gender stereotypes and often reproducing them through statements, without being aware of that.

Woman P53: "Well, it's like how you are going to raise a baby, will you be able to give birth to a healthy baby at all... in principle, women are more susceptible, after all. Having in mind that men are physically stronger, they can defend themselves. Otherwise, women are weaker by nature. "

Group leader: "What if men are not physically stronger if they are disabled?"

Woman P53: „Still, man is a man. “

Although the participant in question emphasizes natural predispositions, it is clear to us that she considers that the dominance and "strength" of a man does not lie in natural superiority but in a social position conditioned by gender.

In this context, the attitude of the participants who think that disability should not prevent a man from fulfilling gender roles is also interesting. It shows the inconsistency of the way in which gender roles are fulfilled, although it is believed that disability should not be a justification for abandoning them.

Male P52: "The definition of a good husband is that he has to take care of his family! Now, what he has to do, is a totally different subject. He has to provide for his existence, and the existence of the family, that is enough, not him fixing things around the house.

Group leader: Can disability stop man from fulfilling that role?

Male P52: „No! “

We also note that the conversation on gender roles in all focus groups draws attention to the topic of relationship and marriage, with the participants often emphasizing that women were harmed by a bad situation and opportunities for marriage on the one hand and social customs and the rule that "a woman should be at home and giving birth" on the other. Group leaders (on purpose) do not stimulate conversations about partnerships in any way, but this is obviously an important topic for most participants when linking disability to gender roles.

Male 53: "In this society, however, the old custom that a woman should be at home, giving birth, is still valid. In my opinion, finding a woman will be easier for men, whether disabled or not disabled, while it will be more difficult for a woman with a disability to find a spouse or partner. "

The conversation in the first phase, but also throughout the discussion, easily and often turns to the topics of discrimination against persons with disabilities in society and general disadvantage, inability to access education, health services, etc. Participants perceive as violence discrimination in society, and their disregard for the problems of persons with disabilities by institutions. Often, in virtually every focus group, participants cite discrimination and "behavior" of institutions as violence against persons with disabilities. Most of participants use the term "institutional violence". They do not recognize the gender elements in this type of violence, but there is a clear position that dominates all groups, that the obstacles faced by persons with disabilities in Bosnia and Herzegovina do not recognize the gender issue.

Male P52: "I see discrimination as violence. It is a denial of your rights. I see it as violence. I, if I seek something that the law allows me to do, and the other side ignores me, ignores my request, where I do not seek anything illegal. For me, it is psychological violence."

Regarding the institutional violence and attempting to relate to the topic, participants emphasize that economic dependency is the biggest reason for violence, as well as the fact that persons with disabilities often have no one to turn to for help because of dependency on others. They emphasize the inadequate work of the competent institutions, which contributes to the general mistrust that victims can be protected and get help.

In the second phase of the discussion, following the guidelines for guiding the focus group, we wanted to find out if the group members recognize and understand the different forms of gender-based violence. We also examine whether participants perceive a link between disability, gender, and risk of exposure to violence, and how widespread gender-based violence against persons with disabilities is. We encourage participants to discuss such issues as, "Does

disability increases vulnerability to gender-based violence? How? Why?”, “Are there any types of violence to which persons with disabilities are more exposed and which are the forms (if there are any)?”, “Do you think the risk of gender-based violence depends on the type of disability? “At this stage of the discussion, and as a continuation of the discussion on gender roles in society, the topic of violence suffered by women with disabilities due to the expectation of giving birth to (healthy) children is actualized. Participants of both sexes often emphasize the violence suffered by women with disabilities because of society's expectation of giving birth. It is a common attitude of the participants that regardless of whether women with disabilities may be mothers or not, the environment expresses doubt and often humiliates them on the suspicion that they will give birth to “sick” children.

Woman V12: “What do you think I felt when this (talking about her partner's mother) woman told me, in fact, told my ex-boyfriend that I was unwanted at her house, near her, for her son? And I really wondered when I was giving birth if my child would have a vision problem and whether I would be guilty. “One male participant states that due to his disability, his wife suffered insults and pressure that she would give birth to a “disabled person”. He also states that the victim is “in any case a woman”.

These attitudes already show that participants recognize that women with disabilities are often more at risk of being stigmatized and at greater risk of violence than men with disabilities.

Woman P42: “For example, I will take myself, I am a mother with a disability, but many wonder how I will do it. Fighting is not easy either for a healthy parent or for anyone who has a problem, but women with disabilities are more discriminated against than men. ”

Male I43: “I will agree with Madam. When I was in care, I lived in one family. The three of us were in that family. And of those three, one was a girl. We have all experienced discrimination and violence, however, more discrimination has been made against this girl and often with threats that she will end up in one of the institutions and that she will never see the streets and she will go blue (be beaten up) to the institution. For example, if she does not do a good job in the house, does not fulfill an order and so on, she suffered more exploitation than others... ”

It is a dominant opinion that disability increases exposure to all types of violence, but also that the degree of disability is not a decisive factor for the risk of exposure to violence. Persons who are more dependent on the help of family members / other persons in their daily activities are, according to participants of all focus groups, more exposed to violence in general, including gender-based violence.

Woman N42: “A person who is vulnerable can suffer various types of violence and on a larger scale, especially those who are totally dependent on someone else's help.”

Male V21: “You depend on me, that, more or less, is the message that is sent to them, you depend on me and I can do what I want and determine what is good for you and what isn't, and it is a type of violence that may be invisible, while in reality, it's very important.”

However, we note that on a small number of occasions, a completely opposite view emerges regarding the correlation between disability and the risk of gender-based violence, which nevertheless needs to be noted. The essence of that view can be illustrated by the statement of the following participant: *"I would not say that we are talking about a slightly higher percentage. When it comes to gender-based violence, there may be more empathy for the persons with disabilities, so they are not exposed to that extent."* (Male V11)

Discussing the prevalence of gender-based violence against persons with disabilities, participants generally spontaneously identify a wide range of types of violence, such as economic, physical, and psychological (verbal). They easily recognize the neglect and restriction of freedom as violence (forms more typically suffered by people with disabilities), but in a smaller number of cases identify sexual violence as a type of violence.

Woman N31: "People with disabilities are most at risk of domestic incarceration and psychological abuse... and economic. We are all a burden to the family. "

In the groups where there was a person who shared personal experiences of violence, discussion on this topic was extremely vigorous and focused on the fact that violence against persons with disabilities was frequent. A frequent response from the participants is that they do not have access to such information, while some participants believe that the incidence of gender-based violence against persons with disabilities is high. The general attitude of all participants (to whom no one objected) is that persons with disabilities suffer the most from psychological violence. They consider this type of violence to be the most common and as devastating as any other type of violence. Please note that the questionnaire responses indicated that participants felt that psychological violence was more common for men and physical violence was more common in women.

Male N42: "Psychological violence is worse than physical violence because it leaves a scar on the character."

Woman N42: "We had one case where a girl undergoes psychological abuse by her sister every day. But it's very difficult to prove it and deal with it. The worst part is that she depends on that sister because her sister is a guardian, a girl is a mentally disabled person. When there is physical violence, there is a bruise, but when you go and tell the police, my sister mentally abuses me, proving it is a bit complicated, right?"

Economic violence is the second-ranked when it comes to frequency of identification by focus group participants. Restrictions of liberty and neglect follow.

Woman P43: Economical violence, I know one hundred percent when a disabled person receives their "money for other person's care"⁴⁵, or whatever they get, they can't use it on their own, but give it immediately to their husband or parents ... Husband/parents have the credit card, they

⁴⁵ A colloquial term for social law entitled "Compensation for another person's care and assistance".

raise and spend whatever amount of money they want, they know what kind of t-shirt or socks the disabled person needs... And how many persons with disabilities treated like that are there? Male N12: "I know people who are bed-bound because of severe disability. There is economic violence against them. It is often the case that money is not used for the purpose of helping the person in need, but for example with the money for the help of someone else's care and assistance, they register the car. "

Violence in institutions for the accommodation/care/education of persons with disabilities is also identified by the participants and is seen by the reaction of other participants as if it was a well-known thing, which is often not responded to.

Woman P11: "Especially when it comes to people with disabilities, there is a lot going on in institutions. My generation has mostly gone through these institutions and we have all had the opportunity to feel something on our skin, both when we did not know and when we knew and saw, and often no one reacted to it."

Although participants generally do not spontaneously designate sexual violence during the discussion, when their attention is drawn to the topic or asked to discuss it, in many cases they identify women with intellectual disabilities as the category most exposed to this type of violence.

Woman V15: "Women with intellectual disabilities are certainly the most vulnerable to sexual violence. Man who commits violence only wants to physically satisfy himself. He does not feel any empathy, because if he did, he sure would not do something like that, and she does not understand and a man is in a situation where he doesn't even have to fight."

Woman P12: "Another topic, which we have not discussed sufficiently, is sexual violence against girls with intellectual disabilities who are very vulnerable to violence and have not been educated on how to defend themselves. My (...) ⁴⁶ experience shows that parents will not talk much about it. There is no understanding of the sexuality of persons with disabilities. On the other hand, children with disabilities are not educated enough to understand that they have completely normal needs like everyone else. The third thing is that while there is some sexual intercourse between them, we all close our eyes at it, it doesn't matter if it is appropriate or inappropriate, and if it happens by third parties who may be in charge of taking care of them, it is highly questionable would anyone ever say something happened. That's what is said under the radar, on the sidelines, and least where it should be talked about. I don't think we are aware of the extent to which this is happening. "

The general impression is that participants do not talk about violence in the context of gender, and the conversation often returns to disability-based violence. There is also confusion about what violence is all about, and discrimination and poor living conditions are often cited as violence. When moderators turn their attention to the gender aspect, we get answers that

⁴⁶ Part that could give away the identity was left out.

support the assertion that women with disabilities are more exposed to violence compared to men with disabilities and compared to men and women without disabilities.

Woman V12: "It makes a difference because women are considered as a weaker gender in our mentality, women with disabilities feel even more powerless than women without disabilities, that is, they are more dependent on men. They think they have no right to choose, that they have to suffer, that they have to tolerate, that they have to remain silent, and this is where men use it. In some cases, we even have a relationship in which both are disabled. This is the same situation as with non-disabled people. Most often, a man commits violence."

Woman V15: "As with healthy people, no matter how emancipated a woman is, she is still one step behind the man. And a woman with disabilities is two or three steps behind the man. "

Although it is already clear that most participants believe that gender-based violence against persons with disabilities is present and that women with disabilities are more at risk of violence, the dominant opinion of the participants is still that the issue of the importance of gender and sex is lost in the face of existential problems and social prejudices arising from disability.

In the third, final, phase of focus group discussions, we tried to examine the extent of participants' tolerance of gender-based violence as well as the willingness of persons with disabilities to report violence to authorized institutions. In addition, at the end of the discussion, we have examined how much focus group participants consider gender-based violence to be a relevant topic for improving the position of persons with disabilities in society, that is, whether they address this issue in organizations of persons with disabilities and whether organizations of persons with disabilities should deal with it.

Despite the relatively good recognition of the different types of violence against persons with disabilities, and the general condemnation of violence, we note through discussion that there is a degree of tolerance for violence and justification for violence that can be considered socially conditioned reactions. Because when we ask participants to clarify their position (related to justifying violence), they do not have many arguments that come from personal persuasion.

Male V11: "I do not consider that there is no violence against people with disabilities in the family because most of the persons with disabilities are subordinate to being with parents only and have a very poor social life, depending on the disability. And parents sometimes, I can't say, get fed up, but they get sick of the obligation to constantly care for their child, to take care of it. That is really exhausting. I do not think that this is possible to sanction."

Woman V15: "I went through that boarding school system. It happened, it happened to get beaten because we were restless. Like every other child, blind children were jumping. And now no voice should be raised, not even to mention to raise a hand. It's not violence to me, if someone hit somebody else because he/she gets annoyed ... and now the newspapers would write about it. "

Participants agreed that persons with disabilities do not report violence. The most common response indicates that the reason for not reporting violence is that persons with disabilities are often dependent on those who commit violence and that they distrust social mechanisms of protection against violence. When asked what they think whether persons with disabilities are willing to report violence, participants answered:

Woman 42: "Hardly, because they usually depend on the person who commits violence against them, they have a fear about who will look after them. And to some it may be the most normal thing, they cannot recognize that they have been abused."

Male V53: "Rarely, they are afraid, they are frightened. Because it happens to them repeatedly and then they think there is no solution."

Male P53: "They are afraid if they report what it will happen when police leave."

Focus group participants show extremely low trust in institutions when it comes to protection against violence. Opinions are that there is an inefficiency of social mechanisms in dealing with cases of violence (when it comes to persons with disabilities).

Male P53: "Well, these people come, sign what they have to and leave. They leave you with the same person again. I think every person would report violence if they knew it would be resolved. For example, I will be taken to someone who will take care of me, that person who harassed me will be questioned and punished."

Woman P11: "I don't think the mechanism is working properly. We, individuals, we push our heads through the wall, we go to the end to expel it, but there is no systemic solution that will take care of those who need protection and cannot do anything individually for that matter. I think this is quite general, but I place particular emphasis on women with disabilities. Come on, you're a woman and woman with a disability, can it be worse ?!"

Confidential persons are often specified by the participants as an option for reporting violence, and institutions (police, center for social work) in sporadic cases. When talking about institutions, participants show that they know who to report violence to, but this is not an option for them because of mistrust, which is caused by bad experiences in similar situations.

Woman N42: "Maybe to friends, to someone who has no connection with institutions. They are afraid of the institutions, the police or the social workers ... Maybe in associations, because they feel comfortable and protected there. And it often happens that people come to the association (...). In such an environment, they relax and say.

Woman N31: "They would report, but they are economically dependent on the family and there is a dose of fear, what about after? I had a case of a girl who lived there while her father was alive, it was an exemplary family ... When the father died, this was completely gone, chaos ensued and we eventually had to place her in a safe house. She later went to live in a shed because she was expelled, all because she reported the violence to a social work center. Only

then did chaos arise. So, they do not report because they are scared, because 90 percent are economically dependent, and if they report then it gets really, really bad.

We must also note that, more or less openly, the reason for not reporting is the idea that it is a shame to be a victim of violence (and to admit it). Non-recognition of violence also stands out as a clear reason for the low degree of reporting of gender-based violence against persons with disabilities.

Woman V12: "Here is an example, I, some ten years ago, survived psychic violence, not knowing that it was violence at all, and later through education, through practice, I learned that it was actually violence."

There is a consistent view, across all focus groups, that the topic of gender-based violence is not given sufficient attention in organizations of persons with disabilities. Collaboration with other non-governmental organizations and networking proves to be very useful for expanding the scope of activities and relevant topics within the association, specifically for sensitization to gender issues, and in this context, we note women non-governmental organizations as important actors. Four participants stated that they were involved in projects or activities that addressed gender-based violence, in collaboration with women's organizations.

Most participants stated that, during the focus group discussion, they have realized that this is a significant topic that has a far-reaching impact on many aspects of the life of people with disabilities.

Woman P43: "Frankly speaking, from this meeting today, if we come to any conclusion, it looks like that much more should be addressed on this topic."

Participants also make it clear that they have not met the topic of gender-based violence before, and that this topic has not been the subject of previous activities in associations of persons with disabilities.

Male P52: "And we have never thought about this before. We didn't even think about these questions. I didn't have contact with these experiences. "

Male V53: "We never had a conversation, a workshop on the subject. For the most part, let's make them literate, teach them how to walk, get voice programs, computers. We didn't talk about it. "

In addition to unanimously agreeing that disability associations have so far not addressed gender-related issues and gender-based violence, focus group participants mostly consider this to be a significant topic to address, along with other "burning" topics related to the social status of persons with disabilities. However, they often express doubts about the capacity of organizations as well as doubts about the interest of members of organizations.

Woman P15: "I think they do not and cannot deal with it, because organizations have so little capacity to deal with such a topic. I had three or four people (...) ⁴⁷ who went to a safe house.

⁴⁷ Data that could tell the identity of the respondents was left out.

They were placed there for three to four months, but this is only individual information. But we cannot deal as much as we should and with as many problems as there are. We do not have the capacity. Here we are all, from (...) ⁴⁸ me, we are one person who does everything in the organization and we are not able either physically or mentally to solve all these problems, from social welfare, economic, education, architectural barrier problems and everything else knowing what the priority is.”

VI Analysis of in-depth interviews

Semi-structured interviews with 4 representatives of organizations that advocate for the rights of persons with intellectual disabilities were conducted to supplement data on gender-based violence against persons with intellectual disabilities, and especially persons with moderate and severe intellectual disabilities (given the inability to participate equally in focus groups and understand the questionnaires). Representatives of organizations of persons with intellectual disabilities were selected on the basis of two criteria: recognition and long-term commitment of the organization working on the issues regarding the rights of persons with intellectual disabilities; and recommendations made by organizations of persons with disabilities involved in the research project. Two representatives of organizations of persons with intellectual disabilities work in the Federation of Bosnia and Herzegovina, and two come from the Republic Srpska.

The interview is focused on open-ended questions in order to give the interviewee the opportunity to formulate answers in his own words as thoroughly as he thinks necessary. Open-ended questions, on the other hand, have allowed us to explore specific topics that the interviewee finds relevant more thoroughly.

After the introductory part of the interview, which explained to the interviewees the purpose of the interview as well as the purpose of the research, it was found that the interviewees understood the concept of gender-based violence and, if necessary, we have clarified it. Afterwards, they were asked to give their opinions and share their knowledge on the relevance of this topic to the population of persons with intellectual disabilities, the frequency of gender-based violence, the specific forms of violence they encountered in their work, ways of learning about violence, reactions of competent institutions and the role the associations themselves. Due to the specific and sensitive topic of the interview, the respondents were made aware that their identity would remain protected.

While analyzing the responses of the in-depth interviewees, we note that the attitudes of all interviewees on key interview topics are uniform and we found no significant differences in

⁴⁸ Data that could tell the identity of the respondents was left out.

attitudes on any topic discussed, while the focus of the interviewees and the length of the responses varied depending on the topic/question. So, there is some consensus among organizations dealing with the rights of persons with intellectual disabilities about what are the key issues related to gender-based violence against this population, also there are similar experiences and practices that they face. Depending on the activity of the organization they represent, the interviewees were giving, more or less, significance to certain topics.

Because of the observed uniformity of views, their answers can be analyzed in groups and, as such, can be added to the research findings obtained by collecting data by other methods. Also, this uniformity of data we obtained suggests that the problems encountered here are not isolated cases or reserved for a community, but that the issue of violence and gender-based violence against persons with disabilities deserves a systematic and uniform approach at the whole level of Bosnia and Herzegovina, respecting the complexity of this issue.

All interviewees agree that there is much violence against people with intellectual disabilities and that violence against them is, very often, linked to their gender identities. It is emphasized the importance of a comprehensive approach and appreciation of the complexity of this issue, which contains several layers that should be considered separately. "We should always keep in mind that this population is first and foremost unable to recognize, and then tell what happened to them."

"Persons with intellectual disabilities are, in addition, in a more complex situation than the average person because of their credulity or lack of intellect that would help them distinguish between what is a real danger and what is not. From the different forms of violence among our users, within the family, and even between them. Again, this is extra. In my opinion, in terms of intellectual disabilities, this area should simply be divided into several groups, branches."

"Women and girls with intellectual disabilities are cited as a particularly vulnerable group because, as the interviewees observed, they are on the one hand exposed to sexual violence and insufficiently protected, and on the other, they are denied the right to reproduce and start a family because of prejudice and discrimination. The participants emphasize the right of persons with intellectual disabilities to partnering and parenting, where girls as well as women are at particular risk of forced sterilization and abortion⁴⁹, if that is what their parents and guardians decide. One interviewee cites an example of a girl who has not been allowed by her family (mother) to give birth but who is unsure of the correctness of her decision, which confirms, also very common, indications about big pressure on parents who frequently are not competent of making the decisions that will not cause "violence as a consequence of best intentions".

⁴⁹ The analysis of the regulations indicated that these acts, in violation of all international human rights conventions, are also criminal offenses.

The problem of sexual violence against persons with intellectual disabilities is especially emphasized as well as the problem of concealing it "due to prejudice, discrimination, fear, and distrust".

A representative of one organization cites the risk of gender-based violence in the wider community, stating people with mild intellectual disabilities "moving about in society" particularly exposed to this type of violence. *"And especially those who are independent. Because they seem average, their disability is not visible. Being manipulated by certain bad individuals is, in essence, an additional reason for them, an additional motive. This violence is even more intense when they see someone accepting their game as easy prey. This is, to me, the most dangerous, the greatest danger to them."*

Regarding violence that occurs in the wider community, one of the interviewed representatives of organizations of persons with intellectual disabilities made a significant experiential observation about a specific type of violence against persons with intellectual disabilities, which is highly intertwined with gender roles and sexuality, in which a role of men with disabilities has a double face, as they are victimized by being pushed into the role of abuser.⁵⁰

"There was a situation where two guys persuaded a guy with intellectual disabilities to bring his female friend to them. She went with him. For perpetrators of violence, she is potential prey. But it is also violence against him because he does not understand the gravity of the act."

This example has significant gender dimension, because the girl (we learn that from the background of the example) is labeled as weaker, more vulnerable, and is "entrusted" to her friend, male "in protection". However, as he is also a person with intellectual disabilities and, in an effort to please and be liked, he was pushed into complicity in sexual violence. They are both victims of both their gender roles and violence. When it comes to people with intellectual disabilities, manipulation should be considered as a specific type of violence. This problem also occurs in cases of sexual exploitation of women with intellectual disabilities who allegedly consent to sexual intercourse, and such exploitation is more difficult to prove as violence.

Two interviewees emphasized the topic of violence, especially sexual violence, in institutions (institutions for the care of persons with disabilities).

"The subgroups in this outside world are institutional care houses, which are very questionable when it comes to their security and protection of their human rights. So their rights in closed systems, areas, are very sensitive and seriously dangerous terrain of endangering their human rights, first of all, endangering life. "

⁵⁰ As stated in the "Istanbul Convention", convincing someone on sexual activities is also considered as sexual assault.

"... We do not just say this, but because we are witnessing very difficult topics when we talk about women with intellectual disabilities in institutions, where the Institute with 400 or 500 different categories, a young girl that comes from a local community, is taken to one of the institutions, after the devastation of families or the death of their parents, or taken away for any other reason. Imagine what this young girl with intellectual disabilities is going through, placed in one institution with 400, 500 protégés of different ages, categories, diagnoses, whatever. You can't imagine. We've had a few examples and testimonials on the subject, so we have made it one of priorities."

The initiative to introduce surveillance cameras in the rooms at which persons with disabilities reside tells us that the problem has already been recognized in the associations. Although the oversight of facilities and programs for persons with disabilities is part of the measures for the protection of persons with disabilities prescribed by the Convention on the Rights of Persons with Disabilities, this initiative has not yet reached the understanding of the competent institutions because, as explained by the interviewees, "privacy policy." There is also an awareness that camera surveillance will not completely solve the problem, but it could help increase employee's accountability as well as prevent any potential abuse of persons with disabilities by employees.

Restricting freedom and hiding people with intellectual disabilities is another form of violence we have identified through interviews, which is said to affect women and girls in particular. This type of violence is characteristic of the family environment.

"Being a girl who loves music and playing and who was locked up every time someone rings the door. So, the house is locked all the time, she is in the living room and if someone knocks on the door and enters the house, a girl gets locked up into a certain room because she is female (among other reasons).. In this depth of gender-based violence where a parent does not want the fact that he/she has a daughter with intellectual disabilities to be known, absolutely everything is denied. All areas of life were simply taken away from her."

In addition to restricting freedom, a specific type of violence is identified here, which is reflected in the denial of gender identity.

The other extreme of the family approach that leads to violence against family members with intellectual disabilities is not accepting their limitations, and hiding, not them, but their limitations, from the wider community, to fulfill gender roles, regardless of their desires and needs to fulfill them.

"The second segment are the parents who insist: you're female, you should marry. If parents want their daughter to get married, especially in the countryside, then they hide information

about girl, especially where we're talking about a girl with a mild intellectual disability⁵¹. The family hides the information, insist on the marriage, not wanting anyone to know that she is categorized. Girls are more vulnerable when it comes to that segment, where the family wants the girl to marry, at any cost. They are trying to provide a job for the son, and she (daughter) will, hopefully, marry. Sometimes parents do not accept that their son has limitations. And they see their child as a "capable man."

The cited is the example of a father committing a form of violence against a child, forcing him to go to work constantly, despite the fact that the young man keeps experiencing rejection from colleagues, employers, and feels less worthy because he fails to complete the tasks assigned to him. It is a matter of psychological violence that significantly affects a person's (certainly already shaken) self-esteem, and, at the same time, prevents persons from seeing and using real opportunities for the improvement of their life.

A representative of one of the organizations believes that complete deinstitutionalization, with the development of adequate support systems in the community, is a solution that would reduce the level of gender-based violence against persons with disabilities.

There is a consensus of the interviewees regarding the inadequate response of institutions when violence against persons with intellectual disabilities is in question.

The interviewees state that *"the civil service and responsible institutions are not sufficiently trained, do not have clear procedures to handle such cases and are not trained to work on the protection of persons with intellectual disabilities, and the investigation depends on the individuals employed in the services and their will to investigate and complete the case."*

The unwillingness of institutions to respond in cases of violence, in a way that protects a person with intellectual disabilities, also results in the fact that violence against persons with intellectual disabilities is not reported and creates a kind of tolerance for violence involving persons with intellectual disabilities. Regarding this, the inadequate response of the media and the completely un-sensitized public is emphasized. In the comment on the recent rape case of a girl with intellectual disabilities by three men, one interviewee noted that "there was no more writing or talking about it, the public was no longer interested in the case and all remained as a piece of local news. As soon as they hear that it is one of the persons with intellectual disabilities, they lose interest and ignore it."

"When it comes to the processing of violence the picture is very, very pale, I cannot say that it is not present at all but it is not visible, it is not clear, it is not recognized in the sense that those who would be potential perpetrators, or to stop the aggressive environment from repeating this type of violence. Because of this, of course, they happen again and again. "

All interviewees find the topic of protection of persons with intellectual disabilities against gender-based violence very important, but they believe that the associations themselves still do

⁵¹ Diagnosis: mild mental retardation

not deal with this topic enough and that institutions do not deal with it at all. On the other hand, associations have been recognized as a key capacity for identifying cases of violence "because it is the only space where both users and parents can come and seek understanding, and the users often tell what is bothering them through other activities within the organisation."

VII Analysis of the data obtained from institutions and organizations

In order to form an overall picture of the extent to which international and domestic regulations are implemented in practice and what is the extent to which they provide protection against gender-based violence to the persons with disabilities, and how many cases of gender-based violence against persons with disabilities are recorded, we have conducted an analysis of data regarding this subject that is used by authorized institutions and organizations. Therefore, the purpose of collecting data from institutions and organizations dealing with gender-based violence is identifying whether the problem of gender-based violence against persons with disabilities is recognized and does the system have mechanisms to record it and respond to it.

This analysis is based on data obtained from Gender Equality Agency of Bosnia and Herzegovina and Entity Gender Equality Centers, Police Bodies and Agencies of the five regions where the survey was conducted, competent Prosecutor's Offices, Courts, Social Welfare Centers, Free Legal Aid Providers and NGOs which are active in the field of protection against violence.

Analyzing the data collected from the mentioned entities, about 90% of which answered the submitted requests for access to information, we can conclude that there are no statistics on gender-based violence against persons with disabilities. The responses we have received indicate that there is some awareness among institutions and organizations that violence is occurring, but that the provision of protection is happening without previous planning, only when it is necessary, meaning that there is no clear guidance on how to apply existing mechanisms of protection against violence when persons with disabilities are victims. Also, institutions and organizations mainly register gender-based violence as data on domestic violence and collect data on gender, age, educational structure, and working status.

Special categories of minority and marginalized groups are not recognized in the by-laws that prescribe the manner of keeping records and mechanisms for providing protection, and thus, data on the incidence of crimes or violations in which the victims are people with disabilities can't be obtained, except sporadically in some institutions and organizations.

Answers collected from the police

Given that the legal obligation of all citizens and representatives of the system, who are witnesses to violence or in any way find out that violence or any violation of human rights has occurred, is to report it to the police or the prosecution, we will start this analysis from the data that we have collected from the aforementioned institutions. It should be noted that when it comes to physical violence, the first link in providing protection is a health care institution whose employees are obliged to provide free health care to victims of domestic violence, but also to report the violence to the police. Since victims often refer to health care institutions only after serious injuries (as evidenced by the fact that the numbers of victims of domestic violence in health care institutions in the Republic Srpska are three times lower than those recorded by the police on offenses and crimes), there are other forms of violence that do not necessarily involve a violation of bodily integrity, in the analysis of the data we will start from those obtained from the police.

The response of the Ministry of Internal Affairs of Zenica-Doboj Canton contains significant information on what data is recorded when receiving a report on domestic violence. These are: personal data about the victim, date of reporting the violence, place of registration of the report, sex of the victim, age, education, who reported the violence (victim, relative, third parties, etc.), type of violence (physical, psychological, sexual, economic, combined), the kinship of offender and victim, and the victim's condition at first encounter. The response of the Ministry of Internal Affairs of Zenica-Doboj Canton states that the information on the victim's disability is entered in the "other", meaning among the relevant information not covered by standard statistics, but given that there is no obligation to collect this type of data, it remains at the personal discretion of the police officer to consider or not consider the disability status relevant to the "other" heading.

From the answer received from Ministry of the Interior of the Republic Srpska⁵² we will mention the information about the data that gets registered in the record regarding domestic violence⁵³: records on the number of criminal offenses and misdemeanors, as well as the measures taken, requests made to authorized institutions, number of perpetrators (by sex and age), number of victims; the consequences of violence (murder - death, attempted murder, grievous bodily harm, bodily harm, fear and agitation). Other than that, records include the data on suggested

⁵² Although requests for access to information were submitted to the police departments of Banja Luka, Doboj and Bijeljina for the areas of these administrations, a unique response was obtained from the headquarters of the Ministry of the interior of the Republic Srpska

⁵³ Police administrations in the Republic Srpska keep records following the Law on protection against domestic violence or domestic union and Penal code of the Republic Srpska and so the records of criminal acts and violations are also kept, and they frequently match the information indicated in the response of Ministry of the Interior of the Zenica Doboj Canton.

and implemented urgent and protective measures⁵⁴ of one or combination of implemented measures. Although the response received from the Ministry of the Interior of the Republic Srpska did not state that records are kept separately for persons with disabilities as victims of violence, information on recorded violence against persons with disabilities was provided, and only on domestic or family violence, as a form of gender-based violence.

Thus, the response provided to us by the Ministry of the Interior of the Republic Srpska states that in 2018 two persons with disabilities were registered as victims of domestic violence (one male and one female), while in 2017 one male was registered as a victim of domestic violence.

The question arises is connected to the adequacy of keeping these records, since gender-based violence is registered as domestic violence, and neither the rulebook on record keeping nor the Law on Protection against Domestic or Family Violence and the Criminal Code provide a provision specifying which persons are considered as persons with disabilities.

Answers from the prosecutors and courts

Bearing in mind the existence of the unique manner of keeping record of prosecutors and courts in Bosnia and Herzegovina, introduced by by-laws on all levels in Bosnia and Herzegovina⁵⁵ the data obtained from judicial authorities was analyzed in correlation.

Although in criminal legislation of the Republic Srpska and the Federation of Bosnia and Herzegovina criminal act of „violation of citizen’s equality“, or „violation of equality of human and citizen“⁵⁶ containing in its description the denial of rights guaranteed by constitutional order and international instruments or the granting of more rights on the basis of differences in race, color, religion, sex, gender or gender identity, language, political or other persuasion, sexual orientation, national or ethnic origin, property, birth or social origin, education or social status or other personal attribute, as discussed earlier, the joint response of prosecutors and courts is that they are unable to provide information on acts of gender-based violence as well as cases in which persons with disabilities are victims, that is, the injured party. The reasons for this are, as we note from their answers, that according to these criteria in the CMS system - automatic case management system, records of reported violence are not classified by categories or criteria, and that "without physical insight into each case, it would not be possible to determine what form of violence is involved." In the reply of the Basic Court of Banja Luka,

⁵⁴ See the part of the report named: “Analysis of the international and domestic legal framework protecting persons with disabilities from gender-based violence”, *“Laws on protection of domestic violence*

⁵⁵ The Rulebook on automatic case management system (“Official gazette of Bosnia and Herzegovina”, nr. 04/16, 37/16, 84/16, 40/17 i 34/18 i 34/19)

⁵⁶ Article 139. Of the Penal Code of the Republic Srpska and the article 111 of the Penal Code of the Federation of Bosnia and Herzegovina.

we were told that the records were kept only by the number of cases, the unique identification number of the parties, and the name and surname and address of the party against whom the proceedings were conducted.

Despite this, it is noticeable that the courts in smaller cities, which are subject to fewer cases, have provided certain information. Thus, the Municipal Court of Tešanj, the Basic and District Courts of Bijeljina, and the Basic Court of Teslić stated that they did not have cases of gender-based violence against persons with disabilities, without further explaining how they acquired this information, and the Tuzla Municipal Court countries, that by looking at the records of the CMS system, concluded that there have been no such cases in the last two years. We notice that courts from different regions of Bosnia and Herzegovina have accessed data differently in a single CMS system.

In addition, by examining domestic violence cases conducted by the Banja Luka District Prosecutor's Office in the last two years, there were three cases in which the victims were persons with disabilities and in all three of these cases the investigation was suspended (reasons: suspect's death, lack of evidence, and in the third-place because the reported offense against the disabled person did not constitute a criminal offense). At the moment, three persons are undergoing an investigation for the crime of rape a helpless person, and it is an act against a female person "with intellectual disability" (case from 2019). Analyzing the data obtained from this Prosecutor's Office and the Ministry of Interior of the Republic Srpska), we can see that the data on the number of cases coincide.

When it comes to gender-based violence, a response indicating the lack of education and insensitivity of employees in institutions came to us from the Sarajevo Municipal Court stating: "The term gender-based violence against persons with disabilities" is not clearly defined and it is unclear what crimes you are referring to under it. In order to be able to act upon the request, it is necessary for the request to be clear and determined in terms of precise indication of the crime and the article of the law (parameter for searching through CMS))."⁵⁷

Answers from social care providers

In addition to exploring the social care providers' way to keep records of gender-based violence, it is also important for us to know if there are guidelines for the care of persons with disabilities that are victims of violence. From the analysis of the by-laws, it is clear that, although there are some guidelines on how to deal with domestic violence in the care of a victim, there are no guidelines that take into account certain specificities in the functioning of persons with disabilities nor are kept records of cases in which victims of gender-based violence

⁵⁷ Quoted from the answer of the municipal court in Sarajevo, dated 02. August 2019. number 08-02-633/19 delivered at the request for access to the information sent by the Coordination board of the associations of persons with disabilities of the Canton Sarajevo.

are persons with disabilities. These questions, as we learn from the answers of the social services, are not regulated by internal acts.

The Dobož Center for Social Work (CSW) states that the prescribed form for keeping records of domestic violence is organized by the type of violence (threatening to tranquility, psychological violence, physical violence, sexual violence, economic violence, a combination of the above), duration of violence (one-off, up to one year, more than one year), age and gender, the offender's relationship with the victim, socioeconomic data (students - primary and secondary school, preschool age, children with disabilities, children under guardianship) work status (employees, unemployed, pensioners), type of income (social assistance beneficiaries, living off their work, other sources of income), educational structure. Records of persons from which the information was received (victim, police, health institution, educational institution, court, prosecution, witness, others) are also kept, as well as the record of the number of notifications sent by the Center to the police, and of the number of interventions in which the Center officials participated.

The Centers for Social Work from the Republic Srpska state that they submit reports on the mentioned forms every six months to the competent Ministry for Family, Youth and Sports, which compiles information on the situation in this field. Please note that the information on the implementation of the Strategy for the Suppression of Domestic Violence does not contain data on minority groups that are victims of domestic violence, as well as on persons with disabilities.

Answers from free legal help services

Providing adequate protection to the victim also involves providing legal assistance to victims of violence, and it is therefore important to note that victims of domestic violence are among the categories to ensure free legal aid.

In order to properly understand the importance of the information we collect from legal aid services for the topic of our research, we note that the services provide the following types of legal aid: legal advice, general information about citizens' rights and obligations, assistance in completing forms, representation in court except in criminal proceedings, drafting letters and appeals, and legal assistance in procedures for the amicable settlement of a dispute (mediation).

It is clear from the response of the legal aid services that persons with disabilities turn to these services, but no special record is kept as to what legal assistance they need and for the protection of which rights they contact legal aid services. According to the information provided by the city's legal aid service in Bijeljina, no cases of gender-based violence against persons with disabilities have been reported. The Office for the free legal aid of the Sarajevo Canton states in

its reply that they record the persons who seek their legal assistance in accordance with Article 11 of the Law on free legal aid, stating that this right, on the basis of personal status, can be achieved by the following categories: victims of domestic or gender-based violence, as one category, members of the families of fallen soldiers, war veterans and honorees and war invalids in matters on these grounds, as well as other persons with disabilities in matters of exercise of rights based on disability, as a second category. The information we received is that 93 persons approached this service in the first seven months of this year, and 160 from the second category in the same period last year, and it indicates that this service does not recognize gender-based violence against persons with disabilities but by automaticity records and separates cases as cases of disability or gender/gender violence, without recognizing the significance of the cross-cutting issue.

Answers from non-governmental organizations

Non-governmental organizations that primarily deal with gender-based violence, and provision of assistance to the victims of violence, are an important link in providing immediate protection to victims of violence as well as legal aid. The role of non-governmental organizations is recognized by system, and legislation related to protection against domestic violence, recognized them as the founders of safe houses.

There is a total of eight safe houses in Bosnia and Herzegovina, and we have consulted those in the areas covered by this survey. The overall picture is that the NGOs that founded safe houses and others that we consulted (Association of Women with Disabilities "Impuls" from Bijeljina, Helsinki Parliament of Citizens of Banja Luka) are more aware of the occurrence of gender-based violence against persons with disabilities in Bosnia and Herzegovina as compared to institutions, as well as they are more able to identify violence and have more experience in providing protection.

From the answers received from non-governmental organizations we have found out that the data on the victim's disability is entered in other data, that is, among the data related to information on health status, that there are no specific guidelines for providing assistance to persons with disabilities, and that in the last two years persons with disabilities were not placed in safe houses, but they were beneficiaries of psycho-social and legal assistance. There is no more precise information on the number of persons with disabilities who have contacted associations and for which forms of violence.

The associations recognize the necessity of architectural accessibility. Answer of Citizens association "Viva žene" from Tuzla indicated that their premises are accessible while the "Udružene žene" say that safe houses are not accessible, and that persons with disabilities can only be accommodated in the ground floor. In their answers, associations point out ("Udružene

žene" from Banja Luka, "Budućnost" from Modriča, and foundation "Lara" from Bijeljina) that they appreciate the cooperation with association of women with disability "Nika" from Banja Luka, and "Impuls" from Bijeljina. In the answer of "Udružene žene" from Banja Luka we can clearly see the positive change in the treatment of persons with disabilities when offering protection from violence, that is proven by the fact that in the Handbook for understanding of domestic violence and violence against women, published by this association in cooperation with the association "Nika", exists a part that includes specific questions that regard persons with disabilities as victims of violence. Also, we are witnessing a great example of good practice of association of women with disabilities "Impus" and foundation "Lara" from Bijeljina that receive professional help from one another when it comes to conducting processes of protection against violence, precisely about specific questions regarding functioning of persons with disabilities.

The association "Impuls" brings together women with disabilities and is the place where they come because of the various difficulties they face. Only from their response we learn about more specific acts of violence that occur against women with disabilities, and which they have described: "They sometimes complain that they are powerless, they express their dissatisfaction by crying, trying to say that, for example, they cannot make decisions on their own, or that they do not leave the house in any way, that they are isolated from the outside world, belittled..., that they are forbidden from using their orthopedic supplies in living rooms as they will damage the parquet floor, the door, the furniture, the wall... They do not manage of their cash income on their own....", as stated in the reply of the "Impuls" Association.

"Impuls" has recorded only one specific request for help from a few years ago, a member with complete visual impairment, suffering from violence from her husband's family that she lived with who threatened to deprive her of child. With the support of her parents and family, this woman has successfully exited the cycle of violence without the use of safe house services.

Answers from gender equality institutions

The Bosnia and Herzegovina Gender Equality Agency, responsible for monitoring the implementation of international and domestic regulations in this field and collecting data throughout Bosnia and Herzegovina, confirmed that there is no unique database of persons with disabilities that were victims of gender-based violence, and there is no unique way of keeping records and no unique methodology of data collection, which makes it difficult to have a realistic overview of the situation in this area.

The requests for protection addressed to the Agency mainly relate to endangering the rights regulated by the Anti-Discrimination Law and the Gender Equality Act on various grounds.

The only statistical data on persons with disabilities as victims of violence that is available to the Agency is that in Republic Srpska there is only one person (of female gender) with disability

registered who, in 2017 and 2018, approached a health institution because of the difficulties caused by the violence that she suffered.

The Agency's response is more based on data gathered from the experience of NGOs and safe houses. We will quote part of the response that points to the most important information we have received: "Their experiences indicate that women with disabilities suffer physical, psychological, emotional, economic and even sexual violence from partners, husbands and family members, etc. No one reports violence if it happens once and usually endures for years, and they seek help when they find no other solution. For women with disabilities even reporting violence is a problem because some of them do not see, hear, speak, have no access to the phone or have mobility problems. If it is necessary to place a woman with disability who has an escort in a safe house it means it is needed to provide two places, or if her companion is a perpetrator, then it is necessary to provide escort for that person⁵⁸."

The Agency cites the importance of cooperation with non-governmental organizations, and as an example they mentioned the implementation of a preventive campaign in cooperation with the Association of the blind of Canton of Sarajevo, the municipality of East Ilidža - Gender equality commission and Association of persons with disabilities of West Herzegovina canton - Široki Brijeg, as part of the project named Support to building partnership between non-governmental organizations and competent institutions for the implementation of the Convention on prevention and combating violence against women and domestic violence in Bosnia and Herzegovina for 2016. The result of this campaign is that recommendations are given, which should contribute to improving access of the public and relevant institutions to the problem of violence against women and girls with disabilities. The recommendations should serve as a guide for NGOs and local authorities (police, health and social workers) on the specific needs of preventing and protecting women and girls with disabilities from various forms of violence.

We did not receive any more specific data from the entity gender centers, except that the Gender center - gender equality center of the Republic Srpska, in its response, stated that in the future period data from different levels will be collected for the preparation of reports on the implementation of the Istanbul Convention.

⁵⁸ It is probably thought that additional resources need to be found for a person to care for a victim of violence while staying in a safe house when the person, otherwise caring for the victim, is the perpetrator.

VIII Conclusions and recommendations

Persons with disabilities in Bosnia and Herzegovina are a significantly excluded social group characterized by high levels of poverty, high dependence on family members or institutional accommodation, low self-confidence in making decisions about their own lives, and they are exposed to various types of violence. In addition, this social group perceives themselves relatively homogeneously, identifying disability as a key part of its own identity while neglecting gender and other identities. They are perceived in the same way by the wider community, possibly respecting the cause and the type of disability, but without considering gender as well as other identities or affinities. However, in practice, we note the same model of inequality of women and men as well as the elements of gender-based violence against persons with disabilities, whether in the category of domestic violence or violence within care institutions, or within organizations/day centers, etc. However, as the society does not look at the person with disability through the gender category, gender-based violence remains completely invisible, and thus there are no solutions or mechanisms for possible protection of persons with disabilities from this type of violence. Social issues such as prevention of and protection against violence, access to guaranteed rights and social inclusion of marginalized groups cannot be treated as passive architectural objects that simply need to be accessed because they are supposedly designed to be universally accessible, but must be addressed proactively and contextually, based on clear and detailed information and research, as well as targeted action and data collection in the field. There is a relatively wide range of participants' attitudes, which gives us insight into a wide range of experiences and views on the issue of gender-based violence against persons with disabilities, but there is no difference in attitudes to which we can relate in a particular region. Therefore, we cannot say that certain opinions, topic views or dominant atmosphere are typical of any region in Bosnia and Herzegovina.

Bearing in mind the previously set research objectives⁵⁹ and considering results of analysis of the international and domestic legal framework concerning the protection of the rights of persons with disabilities and protection against gender-based violence, analysis of the results of questionnaires, focus group discussions in which men and women with disabilities participated, analysis of data obtained through in-depth interviews with representatives of organizations dealing with the protection of the rights of persons with intellectual disabilities, and analysis of responses from regarding gender-based violence against persons with disabilities, we conclude and recommend the following.

⁵⁹ See page 4

Conclusions

- 1.1 Persons with disabilities are exposed to various types of violence, women more than men, bearing in mind that psychological violence (disparagement, underestimating, insulting, threats, non-recognition of limitations caused by disability) is the most frequent type of violence against persons with disabilities. Economic violence is also present to a large extent, along with neglect and restriction of movement.
- 1.2 Answers lead to the conclusion that the most frequent perpetrators of violence are family members or persons that person with disabilities are directly dependent, and the private sphere is the area that needs particular intervention.
- 1.3 Violence that happens in the institutions for care of persons with disabilities has been identified as a special subject.
- 2.1. Work of user's associations is the key element because it represents a valuable resource in the community, and the resource that persons with intellectual difficulties/disabilities, and members of their families can rely on. However, associations can't and should not take over the role of institutions.
- 3.1. Persons with disabilities in our sample show a high level of distrust toward the availability of help and support provided by the State and its institutions.
- 3.2. There is no precise data on the number of persons with disabilities that are victims of violence, domestic violence, nor gender-based violence because in the existing protocols there is no obligation of keeping record of persons with disabilities that are victims of violence.
- 4.1. Persons with disabilities understand gender roles very well (generally between men and women), but mostly have no knowledge of concepts regarding gender or gender-based violence. Frequently, they consider that society does not, nor they themselves, consider them as persons of diverse genders, but the disability, as their common quality, puts a shadow over their other characteristics. Stigmatization and discrimination of persons in the society firstly on the basis of their disability makes it easier to leave other characteristics unnoticed or even denied.
- 5.1. Multiple vulnerability of persons with disabilities, as a social group, increases the risk that persons with disabilities become victims of gender-based violence. Poverty, social isolation, prejudices and the lack of services in society contribute to the exposure to violence in multiple manner.
- 5.2. Gender based violence is present, but the disability and the level of dependence in the daily activities is the main basis of the violence against persons with disabilities.
- 6.1. Women and girls with intellectual disability are in the biggest risk of sexual violence.

- 6.2. Problem of violence against persons with intellectual disability is particularly complex because of the fact that these persons more often unable to recognize the violence and to verbally express what happened.
- 6.3. The environment where the risk of violence is the highest depend on the level of the intellectual impairment. For persons with mild intellectual impairment the highest risk lies with the wider community, while the persons with severe disabilities are particularly exposed to risk in care institutions and within the family.
- 6.4. When we talk about gender in relation with the type of violence, it is emphasized that women with disabilities are more often exposed to physical and sexual violence.
- 7.1. Organizations of persons with disabilities in Bosnia and Herzegovina have not dealt with issue of gender and gender-based violence against persons with disabilities, due to lack of capacities of organizations (according to their own judgment).

Recommendations

- Educate the representatives of institutions responsible for prevention of and protection against gender-based violence about the characteristics of gender-based violence against the persons with disabilities and increase their collaboration with the organizations of persons with disabilities.
- Organize educations for employees in institutions and judiciary on how to provide protection to the persons with disabilities who are victims of gender-based violence during providing protection, and considering disability as a specific condition of the victim when bringing the decision in the litigation.
- Advocate for the introduction of a protocol for protection against violence for persons with disabilities, in the framework of already existing protocols for protection against domestic violence and violence against women, that will include guidelines for dealing with cases of violence against persons with disabilities and the obligation to record cases of gender-based violence against persons with disabilities.
- Advocate that the Law on prohibition of discrimination in Bosnia and Herzegovina, as well as other legal and strategic documents recognizing discrimination on the basis of disability, clearly include all forms of discrimination on the basis of disability, including multiple and intersectional discrimination, in accordance with the recommendation of the UN Committee for the rights of persons with disabilities.⁶⁰

⁶⁰ The recommendation we refer to is: *Review its legislation to incorporate a definition of disability-based discrimination that clearly includes all forms of discrimination on grounds of disability, including multiple and intersecting discrimination, and allocate financial resources for its effective implementation;*

- Establish an expert team for field work in case of violence against persons with disabilities, which will include professionals trained to work with people with intellectual disabilities.
- Provide budgets, clearer obligation by protocols and organize a more intensive control of the responsibilities and work of social protection services, and in particular social work centers that will enable field visit, access, monitoring and regular control of events "behind closed doors" in order to increase confidence in civil services and institutions.
- Educate and empower persons with disabilities to make greater use of mechanisms that would protect their human rights, in particular, the right to protection against discrimination and violence.
- Raise awareness of persons with disabilities about gender-based violence against persons with disabilities.
- Educate, empower and enable organizations of persons with disabilities to deal with gender-based violence in greater extent, precisely to develop an awareness of the need to incorporate a gender dimension into their plans, projects, and activities.
- Conduct specific research of violence against persons with intellectual disabilities that will apply a methodology specifically developed to collect data on various types of violence against this population. We recommend that this research include a highly specialized team of professionals trained to work with people with intellectual disabilities, which will allow collecting of data directly from people with intellectual disabilities.
- Sensitize and educate the media and the wider community on the issue of gender-based violence against persons with disabilities.
- Connecting activities of organizations of persons with disabilities with organizations dealing with gender-based violence in order to improve the work and activities of both. Organizations dealing with gender-based violence will gain the knowledge and perspective of persons with disabilities, and organizations of persons with disabilities will increase their sensitivity to gender and gender-based violence.

The full text of the recommendation of the UN Committee on the Rights of Persons with Disabilities is available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/BIH/CO/1&Lang=En

List of used terms and abbreviations

EU Accession Agenda - a European Union document setting out the objectives and criteria that Bosnia and Herzegovina must meet in order to access the European community;

United Nations General Assembly – one of the five major UN bodies. It is made up of all UN member countries that meet at regular annual meetings. The Assembly serves as a forum for members to discuss issues of international law and make decisions.

Person with disability - The provision of Article 1, paragraph 2, of the UN Convention on the Rights of Persons with Disabilities, defines persons with disabilities as persons who have long-term physical, mental, intellectual or sensory impairments, which in the interaction with various obstacles may impede the full and effective participation of these persons in society on the basis of equality with others.

Sex - Defines organic - physiological and anatomical differences between men and women, which are in the function of their reproductive roles, meaning biologically functional differences.

Ratification - Ratification is defined as an international act where a state, on the international level, gives its consent to be bound by an international treaty, the commitment of one party to the other party to accept a signed international treaty (for example some international convention) as binding.

Gender - represents the psychological and social level of difference, a socially constructed notion of femininity and masculinity, often taking into account the social stereotypical roles of men and women;

Gender-based violence - violence against a particular person based on his or her biological sex or gender identity and/or because he or she does not fulfill the expectations arising from socially imposed gender roles, including all forms of human rights violation, discrimination, deprivation of liberty in public or private life, and any act of violence;

Gender norm – rules of conduct of men and women imposed by society;

Council of Europe – regional international organization of European countries. The purpose of the Council of Europe is to realize fundamental personal and democratic rights and freedoms in Europe, and the most important act of this organization is the European Convention on Human Rights (1950.)

Acronyms used in the text:

CEDAW - *Convention on the Elimination of All Forms of Discrimination Against Women*

EU – European Union

GREVIO - *Group of Experts on Action against Violence against Women and Domestic Violence*

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5. ***UN Charter of 1945.***
6. ***UN Universal Declaration of Human Rights, 1949.***
7. ***Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.***
8. ***European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950.***

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MyRight – Empowers people with disabilities is the Swedish disability rights movement's umbrella organisation that brings together organizations of persons with different types of disabilities, for international development cooperation.

The goal for our joint work in Bosnia and Herzegovina is to strengthen the local partner organisation's abilities for running effective advocacy work for the rights of their members. MyRight's role is to provide administrative support for our local member organisations.

More about MyRight on www.myright.se and www.myright.ba