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EDITORIAL

Dear Readers, We are pleased to present the third issue of the Association of Women Judges (AWJ) of Bosnia and Herzegovina (BiH) newsletter. In addition to featuring a variety of recent AWJ activities, this issue is also dedicated to the topic of domestic violence. It is our aim to begin adding articles on substantive topics to each issue of the newsletter. As such, we welcome your ideas and contributions both in terms of topics for exploration as well as the submission of articles.

Newsletter highlights include the approved **strategic priorities** of the AWJ, an increase in membership including significant improvement in national representation and a summary of several high-level visibility events with representatives of the AWJ.

DOMESTIC VIOLENCE AS A SOCIAL PATTERN OF BEHAVIOUR

Since ancient times there has been an uneven distribution of power between men and women that continues to persist today. Thus, in many of today's societies, both men and women are confined to certain traditional roles ascribed to them according to their sex (gender roles), which often hinders their individual self-realization. Without debating the so-called issue of determinism of gender roles in society, and even in the private sphere, it is notable that within most societies men dominate the positions of power. The connection between these positions and the deeply

ingrained social patterns of behaviour or stereotypes regarding sex/gender has resulted in the explicit or tacit approval of the uneven distribution of power between men and women. Namely, the underlying assumption by those in positions of power can be directly linked to their sense of authority and corresponding right to punish those who step out side the realm of established social norms. Because this authority is accepted by the larger society, society may also accept and even endorse this use of authority to punish individuals who do not conform to the accepted roles, behaviors and values of the society. This can and does include the use of violence.

In the context of domestic violence this means that the so called *head of the family*, usually the man, is allowed to punish a female family member, and in particular his wife, because of her *immoral behaviour*. For example, a woman who conducts an act of adultery and cheats on her husband, is in many societies branded as a woman who is *immoral* and deserves punishment. She may also feel ashamed because of her actions and thus accept punishment as a natural consequence. This means she is likely to suffer violence in silence – to not report or disclose the violence, because she knows as well, that the society does not approve of her behavior or conduct. This woman is aware, for example, of her husband's socially assigned role as *head of the family* and the social belief that he has a right to punish his wife (and children) for immoral behavior.

Thus it follows that society has curtailed women's freedom as individuals and tied them to a social pattern of behaviour that is primarily based on sexual identity. Women are expected to act in accordance with these patterns. A man who commits violence against a woman within a family unit, in any patriarchal society which are the majority, will not be regarded as an offender because it is assumed that he rightfully has authority over the family unit. If a woman has not acted in accordance with the social patterns of behavior expected from women, the society will even justify the man's violence against her. That this dimension of the problem of domestic violence is not restricted to man-woman relationships is evidenced by the fact that in traditional societies the man or *head of family* can also punish, with full approval, a male family member, if he behaves outside of what is seen as *male behavior* (e.g. homosexual relationships). We can then come to the conclusion that domestic violence in a large number of cases is gender based because the transgression of socially defined *male* or *female* behaviour constitutes an offense in the eyes of the society. Thus the use of violence as a method of punishment for such offenses is not automatically regarded as a crime. It will become a criminal offense if it is defined as such by those who are in a position of power. The greater

social involvement of women in societies, who were as a result liberated from the conspicuous confines of tradition and patriarchy, also raised the question of the gendered conditioning of violence, and led to a re-examination of certain phenomena, which inevitably led to an examination of the society as such. The increased social involvement of women manifested itself through changes in positions of power through which a new concept was affirmed, and then turned into law and official government policy. This resulted in the concept of violence against women in the family as something that not only causes physical and mental pain and suffering, but also hinders women in the fulfilment of their individual freedoms. In one word, violence against women is also a form of **discrimination**. While this concept is accepted by a legal and policy framework, it still has not been broadly accepted by society, which continues to be based on traditional patriarchal models of male and female roles and behavior. Thus it is evident that addressing the problem of domestic violence as a gender-conditioned behavior, can only be efficient if the society and the state, are prepared to address the legacy of a tradition that is totally incompatible with the concepts of the eradication of violence against women and domestic violence in general.

- Submitted by Edin Šaćirović, February 2013

THE GENDER AND JUSTICE REFORM PROJECT

DCAF is an international centre for security, development and the rule of law based in Geneva Switzerland. The Atlantic Initiative is a BiH NGO that conducts security policy research and promotes an open and informed debate on the Euro-Atlantic integration of BiH. In 2011 DCAF, together with the Atlantic Initiative and Žene Ženama, conducted a comprehensive assessment on the current state of gender integration in security sector institutions in BiH. In particular, the resulting report illustrated that although BiH is one of the few countries with a clear majority of women judges, these numbers have not yet translated into a justice sector that promotes women and men on an equal basis. The report also highlighted the AWJ as having significant potential to promote the development of a more gender responsive justice system, including changing the behaviour and attitudes of professionals within the judiciary. Based on these findings, the AWJ was identified as one of the key partners in the DCAF and AI three-year project on gender and justice reform supported by the Norwegian Ministry of Foreign Affairs. Within the framework of this project, DCAF and AI are working with the AWJ to build both individual professional capacities as well as the capacities of the national association as a vehicle for judicial reform. In addition, DCAF and AI are working with other international partners to increase the visibility and credibility of the AWJ at the national and international level.

THE ASSOCIATION FOR WOMEN JUDGES DEFINES NEW STRATEGIC PRIORITIES

On 4 October 2012 DCAF/AI organized a strategic planning workshop for a limited number of AWJ members, including representatives of the Coordinating Committee. At this workshop AWJ members identified stakeholders, discussed the vision and mission of the AWJ and drafted key activities and broad priorities for the AWJ. At the 16 November 2012 AWJ Coordinating Committee meeting the identified activities and broad priorities were further refined in order to establish the strategic priorities for the AWJ in the coming year(s). The following Strategic Priorities were outlined by the Coordinating Committee and approved at the General Assembly meeting on 21 December 2012:

- 1) Strengthening the gender sensitivity of women judge for further action in the field of judicial reform and integration of gender component in the process in itself as well as in its results,
- 2) Strengthening of the Association at the state level through the provision of membership throughout the whole country and strengthening of the internal communication among members,
- 3) Strengthening partnerships with other organizations that work in the justice sector in order to contribute to strengthening other initiatives that contribute to the restoring of confidence in the courts and ensure better implementation of the law.

CAPACITY BUILDING WORKSHOP ON PROJECT GOVERNANCE AND MANAGEMENT IN KONJIC



On October 6-7, 2012 the AWJ gathered thirty judges and court associates from the Federation of BiH and Republika Srpska for a two-day workshop in Konjic. The workshop, entitled *Project Governance and Management*, was intended to provide AWJ members with the beginning knowledge and skills necessary to systematically identify, develop, coordinate and manage projects and activities. In addition, the workshop was aimed at capturing member input for

the development of key project activity areas for the AWJ in the coming year.

The workshop was opened by Kathrin Quesada from DCAF, together with judge Adisa Zahiragić, president of the AWJ. Training sessions were facilitated by Amra Selesković from the association "Vesta", together with Heather Huhtanen from DCAF and Maida Čehajić from the Atlantic Initiative. During several small working group activities participants developed a series of project ideas with preliminary objectives, activities, partners and budgets, and looked at effective ways of managing the projects from the perspective of a professional association.



ORDINARY GENERAL ASSEMBLY OF THE ASSOCIATION OF WOMEN JUDGES



On 21 December 2012 the AWJ held its annual General Assembly at Hotel Europa in Sarajevo. Approximately forty members of the AWJ participated. Mirjana Dević, president of the general assembly, moderated the event. Coordination Committee members, Amela Mahić and Rada Bjeljic, presented an overview of AWJ activities since the last general assembly as well as the recently drafted strategic priorities of the AWJ. Adisa Zahiragić, president of the AWJ, presented the association's financial report for the year.

In addition, the General Assembly featured presentations by Judge Radja Bjeljic and Professor Nerzuk Ćurak. Judge Bjeljic addressed women's age-old struggle for equal rights and emphasized the importance of the achievements made by the women's rights movement. She additionally highlighted the on-going and serious violations of rights that women continue to suffer in BiH

and beyond. The event enjoyed broad media coverage including individual interviews with AWJ members for both TV and print media. The event was organized and supported by AI staff.

Related Links

A video of the General Assembly can be found at: <http://vimeo.com/56199344>

News articles covering the general assembly can be found at: <http://www.radiosarajevo.ba/novost/97938/zene-sudije-u-bih-nezasticene-ali-nismo-ugrozene>

PROMOTION OF THE AWJ AND THE „GENDER AND JUSTICE REFORM PROJECT” IN BANJA LUKA

With support from AI, Judge Biljana Vučetić organized an outreach dinner on 21 January 2013 for women judges in Banja Luka interested in finding out more about the work and membership of the AWJ. Judge Vučetić, Maida Čehajić from AI and Heather Huhtanen from DCAF addressed the twelve participating women judges from Republika Srpska. Judge Vučetić talked about the various opportunities for professional development available through the AWJ as a result of the Gender and Justice Reform project; and emphasized the development of her own professional capacities as a result of participating at such events. The outreach activity was followed by a number of new member applications from Republika Srpska. Many thanks to Judge Vučetić for championing the AWJ and promoting statewide membership.

MEETING WITH THE DEPARTMENT OF JUSTICE OF THE US EMBASSY IN SARAJEVO

On Wednesday 16 January 2013 representatives of the AWJ met with representatives of the US Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT). The meeting was initiated and organized by DCAF and the AI. The objective of the meeting was to make introductions, share information and identify areas for possible collaboration and cooperation in the interest of gender and justice reform. The OPDAT representatives praised the AWJ's efforts and its contribution to the realization and strengthening of gender equality in BiH broadly and the justice sector in particular.

Connections at the meeting ultimately resulted in a number of collaborations between AI/DCAF and OPDAT on behalf of the AWJ. OPDAT sponsored expert trainer from the US Department of Justice on sexual harassment and gender-based discrimination for the AWJ annual retreat that took place 23-24 March 2013 in Mo-

star. OPDAT sponsored two trainers for two workshops for judges and prosecutors in Banja Luka on domestic violence (15 April) and sexual harassment (16 April) held at the Judicial and Prosecutorial Training Centre for the Republika Srpska.

LUNCH ON IN HONOUR OF THE ASSOCIATION OF WOMEN JUDGES IN BIH



On 7 February 2013 Swiss Ambassador to BiH, André Schaller and his wife, Brigitte Schaller-Schoepf, hosted a luncheon in honour of the AWJ. Norwegian Ambassador Vibeke Liloe co-chaired the luncheon. The purpose of the luncheon was to raise the visibility of the AWJ among international and state level institutions and promote opportunities for collaboration and cooperation. To that end, Adisa Zahiragić, Biljana Vučetić, Amela Mahić-Samardžić and Rada Bjeljac, who represented the AWJ at the luncheon, respectively made short presentations outlining the history, vision, activities and achievements of the AWJ since its inception in 2009. The judges also addressed some of the challenges confronted by the AWJ and identified the support necessary to overcome these challenges.

Also in attendance was US Ambassador Patrick Moon and his wife Danuta Moon, OSCE Deputy Head of Mission Nina Suomalainen, UN Women (BiH) Head of Office, Amna Muharemović, Deputy Director to the Secretariat of the High Judicial Prosecutorial Counsel (HJPC), Amra Jašarević, Advisor to the HJPC Secretariat, Sven Marius Urke, Project Coordinator for the Swiss Agency for Development, Almir Tanović, and Anja Ebnöther and Heather Huhtanen from DCAF, and Majda Halilović and Maida Čehajić from the Atlantic Initiative.

The luncheon facilitated several opportunities for further cooperation between the US Embassy and the HJPC. The US Embassy hosted a pre-International Women's Day event in honour of the AWJ on 7 March 2013 and featured several local and international speakers as well as media coverage (look for a summary of the event inside this newsletter). As well, the

HJPC agreed to hear a presentation from AI/DCAF on the Gender and Justice Reform project on 18 February 2013 and subsequently offered official support for associated project activities including a research project on the structural, operational and procedural differences between courts in BiH.

THE AWJ'S YEAR 2012 IN NUMBERS

Number of members on 01.01.2012: 62

Number of members on 31.12.2012: 86

Capacity-building workshops: 4 (Member retreat in Jahorina, capacity building workshop on advocacy skills in Vlačić, capacity building workshop on project governance and management in Konjic and a short workshop on strategic planning for coordination board and selected members in Sarajevo)

Total number of workshop participants:

105 (30+35+31+9)

Coordination board meetings: 4 (25 January 2012, 11 May 2012, 19 July 2012, 16 November 2012)

Court visits organized: 1 (9 May 2012, Ilidža)

Participation in international events: 1 event, 2 judges (International Workshop "Female Staff Associations in the Security Sector", 24-25 September 2012 in Brussels)

Other events: 3 (2 Focus group meetings with AWJ members to identify needs on 10 May 2012 in Banja Luka and on 1 June 2012 in Sarajevo + 1 General Assembly, 22 December 2012 in Sarajevo)

Publications issued: 2 newsletters

Member satisfaction: 100 %

THE AWJ PARTICIPATES IN THE CELEBRATION OF THE INTERNATIONAL WOMEN'S DAY

The Agency for Gender Equality of BiH, the NATO headquarters in Sarajevo and the US Embassy in BiH have organized a celebration for the 8th of March, the International women's day. The day's programme included a conference which aimed to address both the challenges women in BiH still face and the positive steps and achievements made in the process of reaching gender equality and equal rights.

Conference speakers were: The BiH Minister for Human Rights and Refugees, Damir Ljubić, the US Ambassador to BiH, Patrick Moon and the director Agency for Gender Equality of BiH, Samra Filipović Hadžić, the commander of the NATO Headquarters in Sarajevo Walter Lord as well as Marina Zović, from the Association of Women Police Officers, Marija Milićević from the BiH Armed Forces, Amna Popovac

from the Association of BiH Business Women, Nejra Kadić from the Institute for Youth Development KULT and judge Biljana Vučetić from the Association of Women Judges in BiH.

Biljana Vučetić, the judge of the Municipal Court in Banja Luka, stressed that the AWJ is committed to fight against any form of discrimination in the justice system, regardless of whether judges, prosecutors, lawyers or service users of the judiciary are concerned. *"Our goal is to ensure equal access to justice and both individually and jointly address issues that until now our judiciary has not sufficiently taken into account, which are most of all issues related to domestic violence, sexual harassment and gender-based discrimination,"* said judge Vučetić.

ROUND TABLE DISCUSSION „PROMOTING GENDER EQUALITY IN THE JUSTICE SECTOR“

The US Embassy to BiH and the AWJ on 6th March 2013 has organized a round table discussion on the topic of **„Promoting gender equality in the justice sector“**. On the topic of gender equality in the justice sector were debating judge Adisa Zahiragić, the American judge Mary Davis, the Fulbright scholar Lisa Renae Muftić and Ruth Rosenberg, an independent consultant on questions related to human trafficking.



Ambassador Moon in his address to the public emphasized the importance of the rule of law in BiH, which directly affects the quality of life, security and social welfare of BiH citizens. Ambassador Moon especially highlighted the AWJ's commitment to improve the performance of the judicial sector and stressed the need for greater involvement of women in decision-making positions in order to improve the rule of law in BiH.

During the discussion, a number of questions related to gender discrimination, sexual harassment and gender-based violence were addressed and experiences from the two states were shared.

DOMESTIC VIOLENCE IN BOSNIA AND HERZEGOVINA

According to the Statistical Yearbooks of the Federation of BiH (FBiH) and the Republic of Srpska (RS), the number of reported criminal offences against "marriage, family and youth" are significant: in FBiH in 2010 there were 790 reported criminal offences and 448 convictions; and in RS there were 520 reported criminal offences and 201 convictions. Thus we know, at least in terms of reported cases of domestic and family violence, the BiH judiciary is routinely confronted with this socio-criminal issue.

A review of existing research, primarily conducted in the form of court monitoring by the UNDP/UNFPA and the OSCE, illustrates that few of the cases that are reported to police and presented to courts result in the application of sanctions on the perpetrator or provide protective measures for the victim. For example, the OSCE project: "Ensuring Accountability for Domestic Violence" examined a sample of 289 domestic violence criminal proceedings in courts in the FBiH, RS and Brčko District between 2004 and 2010.

An analysis of sentencing practices revealed:

- The majority of cases carried a suspended prison sentence, almost 77.2 per-cent (or 223 cases);
- Custodial prison sentences made up only 8.3% of the total (or 24 cases). Within this category, most custodial sentences were of short duration: 70.8% of custodial sentences were from one to six months in length (17 cases), while 25% were from six to twelve months in duration (6 cases). Only one case resulted in a sentence of 21 years; and
- Offenders were required to pay a fine in only 13.5% of cases (or 39 cases).

It bears noting that the data shows that in the majority of cases where imprisonment sentences were suspended (in 88.8% of the 223 cases), the court determined the imprisonment sentence to be between one and six months.

*This shows that in the majority of the domestic violence cases monitored by the OSCE Mission (in 198 cases), the imprisonment sentences handed down were not only rather low, but additionally their execution was suspended by the court - which means that **in practice, there was no effective sanction imposed on the perpetrator.*** (OSCE: "Ensuring Accountability for Domestic Violence").

Yet according to the legal framework, punishment for the crime of domestic violence may constitute an imprisonment sentence or a fine. An imprisonment sentence may be suspended by the court provided that the perpetrator does not commit another offence during a certain period of time. As well, imprisonment may be substituted by a fine or community service under certain conditions. The question remains, how can the BiH judicial system

effectively uphold the rule of law and thus protect the community (victims of domestic violence) and deter future criminal incidents (hold perpetrators accountable) in the absence of imposing an actual sanction?

There is much debate about the extent to which judges have a responsibility for looking out for the short-term to long-term socio-economic concerns of the family in question. That is, if imposing an imprisonment sentence or a fine runs the risk of negatively impacting the livelihood of the victim (and her children) who are solely dependent on the perpetrator for support, should judges forgo such sanctions in the interest of the family? Perhaps it is also useful to consider the implications of not applying a sanction in such cases? That is, social science research has long documented that domestic violence is a significantly underreported crime. Moreover, of the cases reported to police, only a portion are filed by the prosecutors' office and appear in court. Thus, those cases that are ultimately adjudicated guilty in front of a court in BiH represent a small minority of the total incidents of domestic and family violence in the State. If victims do not receive validation from the court that domestic and family violence is criminal and unacceptable; and perhaps even more critical, if perpetrators do not learn that committing domestic violence is subject to real penalties, then the message to society has arguably negative consequences that both undermine the rule of law and put victims and families at continued risk of violence with impunity.

The reality is that there is no perfect solution or easy fix to the problem of domestic violence. This is a problem which confronts all societies – all States. However, sometimes it is necessary to identify the best solution from less than ideal choices. Moreover, it may also be necessary for the Judiciary to state their role and purpose – to uphold the rule of law in order to protect victims and deter future criminal incidents – and thus insist that other mechanisms and institutions within BiH address the other factors at issue; namely the socio-economic viability and opportunities of families suffering from domestic and family violence.

Submitted by Adisa Zahiragić, March 2013

UPCOMING ACTIVITIES

The following activities are planned for the next few months. AWJ members will receive detailed information sufficiently in advance.

- Capacity building workshop-Judicial Leadership and Legal Development, 24-25 May 2013 Konjic
- Second AWJ meeting - Identifying Good Practices to Sentence and Adjudicate Domestic Violence in Bosnia and Herzegovina, 26 May 2013 Konjic.

We look forward to meeting you in one of these events and welcoming you among our readers for the next newsletter!