

Family Rights and Legal Protection in Bosnia and Herzegovina: Compliance with International Norms

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Abstract

This paper explores the role and status of the family within the legal framework of Bosnia and Herzegovina, analyzing how international norms and national laws affect the rights and protection of families. The paper specifically examines the alignment between national legislation and international legal standards, with a particular focus on the challenges of implementing these norms. The study focuses on the definition of family in a legal sense, fundamental principles regulating the status of families in international law, and the significance of families in society. Key issues related to domestic violence, economic instability, and institutional weaknesses are highlighted as central obstacles to effective family protection. It also examines how international obligations are implemented in the national law of Bosnia and Herzegovina, identifying key challenges that families face, including social, economic, and legal aspects. The objectives of this paper are to analyze the legal frameworks applied to families, identify challenges in the everyday lives of families, and propose solutions to improve their status and protection. The recommendations aim at improving institutional capacities, enhancing legal enforcement mechanisms, and providing stronger support for vulnerable families, especially in post-conflict settings. The methodology includes comparative analysis of international conventions and national laws, literature review, case studies, and analysis of statistical data. The expected outcomes of this paper include a deeper understanding of the legal and social context affecting families in Bosnia and Herzegovina, identification of key barriers hindering the full protection and realization of family rights, and proposals for specific solutions to improve their position in society. The paper provides concrete recommendations for strengthening the legal framework and suggests policy improvements to support families, focusing on compliance with international standards, and aims to contribute to strengthening social cohesion and economic stability through a better understanding and protection of the family as a fundamental social unit.

Keywords : Family law; Socio-Economic challenges; Family protection; Domestic violence

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حقوق الأسرة والحماية القانونية في البوسنة والهرسك: الامتثال للمعايير الدولية

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ملخص

يهدف البحث إلى بيان دور ومكانة الأسرة ضمن الإطار القانوني للبوسنة والهرسك، مع تحليل كيفية تأثير المعايير الدولية والقوانين الوطنية على حقوق وحماية الأسر. ويهتم البحث بشكل خاص بمدى توافق التشريعات الوطنية مع المعايير القانونية الدولية مع التركيز بشكل خاص على التحديات المتعلقة بتنفيذ هذه المعايير، كما يسلط الضوء على تعريف الأسرة من الناحية القانونية، والمبادئ الأساسية التي تنظم مكانة الأسر في القانون الدولي، وأهمية الأسرة في المجتمع، وكذلك القضايا الرئيسية المتعلقة بالعنف الأسري وعدم الاستقرار الاقتصادي وضعف المؤسسات، التي تعدّ عقبات مركزية أمام الحماية الفعالة للأسرة. بالإضافة إلى ذلك، يهتم البحث بكيفية تنفيذ الالتزامات الدولية في القانون الوطني للبوسنة والهرسك، ويحدد التحديات الرئيسية التي تواجه الأسر، بما في ذلك الجوانب الاجتماعية والاقتصادية والقانونية. وتسعى هذه الدراسة إلى تحليل الأطر القانونية المطبقة على الأسر، وتحديد التحديات في الحياة اليومية للأسر، واقتراح حلول لتحسين وضعها وحمايتها. تشمل المنهجية التحليل المقارن للاتفاقيات الدولية والقوانين الوطنية، ومراجعة الأدبيات ودراسات الحالة، وتحليل البيانات الإحصائية.

تركزت توصيات البحث على تحسين قدرات المؤسسات وتعزيز آليات إنفاذ القانون وتقديم دعم أقوى للأسر الضعيفة، خاصة في البيئات ما بعد الصراع. كما توفر الدراسة توصيات ملموسة لتعزيز الإطار القانوني وتقدم تحسينات في السياسات لدعم الأسر، مع التركيز على الامتثال للمعايير الدولية. ومن المتوقع أن يساهم هذا البحث في فهم أعمق للسياق القانوني والاجتماعي الذي يؤثر على الأسر في البوسنة والهرسك، وتحديد العوائق الرئيسية التي تعرقل الحماية الكاملة وتحقيق حقوق الأسرة، وخاصة من خلال تقديم اقتراحات لحلول محددة لتحسين وضعها في المجتمع وتعزيز التماسك الاجتماعي والاستقرار الاقتصادي من خلال فهم وحماية أفضل للأسرة كوحدة اجتماعية أساسية.

الكلمات المفتاحية: قانون الأسرة، التحديات الاجتماعية والاقتصادية، حماية الأسرة، العنف الأسري

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Introduction

The family, as a fundamental social institution, occupies a central place in the structure of every society, serving as the basic unit for reproduction, socialization, emotional support, and economic stability. In Bosnia and Herzegovina, a country still recovering from the devastating consequences of the wars of the 1990s, the status and protection of the family are vital for preserving social cohesion and promoting sustainable development. In particular, the legal framework surrounding family protection must be analyzed in terms of the challenges of implementing both international and national legal standards, especially in the areas of family rights and domestic violence prevention. Family law, which encompasses both international norms and national laws, plays a crucial role in protecting the rights and interests of families, especially in a context marked by ethnic differences, economic challenges, and political instability. It is essential to examine how these legal standards are applied in practice, considering the socio-economic difficulties and institutional weaknesses that families face in Bosnia and Herzegovina. It is essential to analyze how international norms and national laws affect the rights of families in Bosnia and Herzegovina, identifying key challenges and proposing possible solutions to improve their position.

The family is undoubtedly a social group with social goals and functions, subject to social rules, laws, and conventions. The societal need to transmit basic principles on which a particular society is based, to future generations, and to protect and equip it for human existence explains the universal prevalence of the family throughout human history. For these reasons, the family has never been merely a private matter of the individuals comprising it; rather, it has always existed as a socially and legally regulated human construct, encouraged and considered socially desirable in all societies. In Bosnia and Herzegovina, this regulation is especially critical, as the family serves as the cornerstone for rebuilding social cohesion in the aftermath of war. The family is a specific social group because it is also biologically determined, unlike other social groups that are not. Therefore, the family is also created in line with the biological laws of reproduction and based on the blood relationship between its members.¹

1. THEORETICAL FRAMEWORK

1.1. Definition of family in a legal sense

In contemporary legal systems, definitions of family are rare because it is difficult to legally define a concept that is not static and influenced by numerous factors outside the legal domain. Family, as defined in the Family Law of the Federation of Bosnia and Herzegovina, is a life community of parents and children and other blood relatives, relatives by affinity, adopters and adoptees, and persons in a non-marital union if they live in a common household.²

However, it is important to emphasize that legal definitions of family, while providing a necessary framework, must also consider the socio-cultural and economic context in which they are applied. The

1 Marija Draškić, *Family Law and Children's Rights*, Ninth Edition, Faculty of Law, University of Belgrade, Belgrade, 2015, p. 38.

2 Family Law of the Federation of Bosnia and Herzegovina, Article 2(1), Consolidated Text (Official Gazette of the FBiH, 35/05 of June 20, 2005) and Law on Amendments to the Family Law of the FBiH, (Official Gazette of the FBiH, 31/14 of April 23, 2014).

legal system of Bosnia and Herzegovina faces challenges in implementing these definitions due to varying interpretations at different levels of governance and the lack of harmonization between national and international legal standards.

In social theory, definitions of family are, on the contrary, frequent and varied, but legal writers most often define family descriptively (by listing the members that constitute the family) or operationally (by listing the functions that the family typically performs). Thus, for example, family is defined as “persons bound by marriage and kinship,”³ as “a circle of persons bound by marriage (or non-marital union) and kinship, between whom there are legally established rights and duties, the violation of which entails certain legal sanctions,”⁴ as “a circle of relatives who have mutual rights and duties established by law,”⁵ as a community of a narrower or wider circle of individuals bound together by numerous ties, primarily by the community of life and kinship, between whom there are certain rights and obligations provided by law, morality, custom, or religion. The most significant functions of the family are reproductive, economic, educational, protective, and psychological-emotional.⁶ Similarly, family is defined in foreign legal literature as “the basic social unit typically consisting of a husband and wife and their children,”⁷ or “the family, depending on its geometry, which is variable, has an economic, political, social, and moral role.”⁸

These broad definitions, while useful in theory, must be applied critically in the legal context of Bosnia and Herzegovina. The diverse legal and cultural backgrounds of the country’s population demand a more nuanced understanding of the family unit, particularly in the implementation of laws aimed at protecting family rights.

As such, definitions do not allow for distinguishing between what is essential and universal in the family from what changes under the influence of socio-historical changes; we have presented elements based on which it is possible to determine the universal characteristics of the family as a kind of social group.⁹

1.2. Overview of Basic Principles Regulating the Status of the Family in International Law

International law recognizes the family as the basic unit of society and emphasizes its vital role in preserving and protecting human rights. There are several key international documents and principles regulating the status of the family in international law, including rights and protections related to the family. These principles include:

Right to family. In international documents, this right includes the ability of individuals to enter into marriage based on their free and full consent and the right to establish and maintain family relationships.¹⁰

3 Bakić, Vojislav, *Family Law in the SFRY*, Savremena administracija, Belgrade, 1988.

4 Mladenović, Marko, *Family Law*, Books I and II, Privredna štampa, Belgrade, 1981.

5 Đurović, Ljiljana, *Family Law*, Naučna knjiga, Belgrade, 1988.

6 Cvejić-Jančić, Olga, *Family Law*, Book I – Marital Law, Faculty of Law in Novi Sad, Novi Sad, 1995.

7 Bromley, P. M., *Family Law*, Butterworths, London, 1981.

8 Colombet, Claude, *La famille*, Presses universitaires de France, Paris, 1985.

9 Golubović, Zagorka, *Family as a Human Community*, Naprijed, Zagreb, 1981.

10 Universal Declaration of Human Rights, Article 16.

Protection of the family. International law requires states to protect the family. This includes the obligation of states to provide legal and social protection for families, as well as special protection for families in situations of vulnerability, such as those affected by conflicts, migration, or poverty.¹¹

Children's rights. The United Nations Convention on the Rights of the Child specifically emphasizes the rights of children within the family context. This includes the right to live within a family, the right to protection from violence and neglect, as well as the right to care and education by the family.¹²

Prohibition of domestic violence. The European Convention on Human Rights underscores the importance of protecting individuals, especially women and children, from domestic violence. It emphasizes states' obligation to establish laws and policies that protect victims and prevent domestic violence, highlighting responsibility for prevention, investigation, and prosecution of perpetrators of violence.¹³

Migrant and refugee families. Relevant international documents such as the Geneva Convention relating to the Status of Refugees and its Protocol, as well as various United Nations (UN) and Council of Europe documents, extensively address the rights of migrants and refugees, including the rights of their families. These documents oblige signatories to ensure rights to family reunification, access to legal aid, healthcare, education for migrant and refugee children, and protection from violence and abuse.

Right to privacy and family life. The right to respect for family and private life is a fundamental right protected in international law, including the European Convention on Human Rights. This includes protection against arbitrary or unlawful interference in family life by the state.¹⁴

While these principles are integral to the protection of family rights globally, their application in Bosnia and Herzegovina presents unique challenges. The country's fragmented legal and political system complicates the consistent implementation of these international standards, often leading to disparities in family protection across different regions. A critical analysis of how these international principles are integrated into national law is necessary to address these discrepancies.

2. SIGNIFICANCE OF FAMILY IN SOCIETY

The family holds fundamental significance in society for several reasons, serving as the basic unit for socialization, emotional support, and economic stability. Its influence extends through generations and encompasses a wide range of functions and roles within the community. However, the practical implementation of family support mechanisms in Bosnia and Herzegovina is hindered by socio-economic challenges, weak institutional frameworks, and the country's fragmented political structure.

Here are several key aspects illustrating the significance of the family in society:

¹¹ Ibid., Article 23.

¹² Convention on the Rights of the Child, adopted by the United Nations General Assembly, November 20, 1989.

¹³ Convention for the Protection of Human Rights and Fundamental Freedoms.

¹⁴ European Convention on Human Rights, Article 8.

2.1. Socialization and Upbringing, Protection, and Care

Social upbringing and prevention within the family are crucial in preventing social and problematic behaviors. The family, as the basic social unit, is the foundation for developing effective preventive programs that reduce risks and strengthen protective factors for the healthy development of youth.¹⁵ In Bosnia and Herzegovina, the absence of adequate social services and support structures for families—particularly those affected by poverty, unemployment, or post-conflict trauma—makes it difficult to implement effective preventive programs. The family can be a source of risk, such as parental depression and conflicts, but also of protection, through clear rules, support, and positive communication.¹⁶ Family resilience, or the ability to adapt to adverse situations, plays an important role in protection.¹⁷ Given the high rates of unemployment and economic instability in the country, families often struggle to provide the necessary support for children and youth, which can lead to an increase in social problems

Developmental advantages, including family support and boundary-setting, are crucial for young people.¹⁸ Social pedagogues are central in identifying risk and protective factors and in conducting preventive programs. Active involvement of the family and parental cooperation are essential for the success of these interventions.¹⁹

2.2. Economic Stability and Support

The economic aspect of the family plays a crucial role, acting as an economic unit that shares resources and provides financial support. Through joint management of income and expenses, families achieve economic security and vary in consumption of goods, especially between developed and developing countries. In Bosnia and Herzegovina, families face significant economic challenges, including high unemployment rates and the migration of young people in search of better opportunities. These economic differences stimulate migration and changes in family structures, with technology and economic consumerism influencing the formation of new family models and communities, changing social bonds and relationships.²⁰ The economic instability in Bosnia and Herzegovina particularly affects rural families and those in lower socio-economic brackets, often leading to intergenerational poverty.

2.3. Preservation of Heritage

The family plays a crucial role in preserving cultural heritage and transmitting identity across generations. This role is particularly significant in maintaining linguistic, religious, and cultural

15 Šunjić, Vanja, *Socio-Economic Conditions for Establishing a Family in Contemporary Bosnian-Herzegovinian Society*, Master's Thesis, Faculty of Political Sciences, University of Sarajevo, 2019.

16 O'Connell, Boat, & Warner, *Preventing Mental, Emotional, and Behavioral Disorders Among Young People*, 2009.

17 H. I. McCubbin, A.I. Thompson, & M. McCubbin, *Family Measures: Stress, Coping, and Resiliency*, Hawaii: Kamehameha Schools, 2001.

18 P. L., P. C. Benson, Scales, & A. K. Syvertsen, The contribution of the developmental assets framework to positive youth development theory and practice. *Advances in Child Development and Behavior*, 2011, 197–230. <https://doi.org/10.1016/b978-0-12-386492-5.00008-7>

19 P. Moss, and P. Petrie, Education and social pedagogy: What relationship? *London Review of Education*, 17(3), 2019, pp. 393–405. <https://doi.org/10.18546/LRE.17.3.13>.

20 Adnan Fočo, Transition and Transformation of the Family, *Sophos - Journal of Young Researchers*, Issue 13, pp. 53-64.

traditions that shape social and individual identity. In Bosnia and Herzegovina, where ethnic and religious identity play a central role in society, families are often responsible for maintaining traditions that foster social cohesion. However, post-conflict fragmentation and economic migration have disrupted this role, weakening intergenerational ties and cultural transmission. Families raise future generations of citizens, leaders, and workers, directly influencing the social, economic, and political development of the community. Healthy and functional families contribute to the creation of a stable and cohesive society.²¹ Yet, without adequate institutional support and legal protection, families face difficulties in fulfilling these roles, particularly in the context of domestic violence and economic hardship.

3. STATUS OF FAMILY IN INTERNATIONAL LAW

International law and organizations play a crucial role in protecting family rights, promoting their well-being, and ensuring the foundation for a stable and healthy society. Legal documents such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC), along with the work of the United Nations (UN) and the Council of Europe, provide the basis for preserving and advancing family rights at the global level. However, the implementation of these international norms in Bosnia and Herzegovina is met with numerous challenges, including legal fragmentation, socio-economic barriers, and weak institutional capacities.

The Universal Declaration of Human Rights (UDHR) of 1948 represents the cornerstone of international human rights law, emphasizing the right of men and women to marry and found a family without any restrictions based on race, nationality, or religion (Article 16). The Declaration also underscores that the family is entitled to social and state protection as the fundamental social unit.²² In Bosnia and Herzegovina, while these principles are incorporated into the legal framework, the practical enforcement of these rights varies across entities and regions, leading to inconsistencies in the protection of family rights.

The International Covenant on Civil and Political Rights (ICCPR), adopted in 1966, in its article 23, obliges states to recognize the family as the natural and fundamental group unit of society. The ICCPR guarantees the right to marriage and family protection, requiring member states to take all necessary measures to protect these rights.²³ The family, as the natural and fundamental unit of society, deserves protection from the state and the community. The right of men and women who have reached the age of marriage to found a family is recognized and indisputable. Marriage can only be entered into with the free and full consent of both parties.²⁴ In Bosnia and Herzegovina, although the right to marriage is legally protected, social and economic barriers often impede the realization of this right, particularly in

21 Šunjić, Vanja, *Socio-Economic Conditions for Establishing a Family in Contemporary Bosnian-Herzegovinian Society*, Master's Thesis, Faculty of Political Sciences, University of Sarajevo, 2019.

22 Universal Declaration of Human Rights, Article 16.

23 International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on December 16, 1966 (Resolution No. 2200 A/XXI), entered into force on March 23, 1976.

24 International Covenant on Civil and Political Rights, Article 23.

rural areas where access to legal services and family support mechanisms is limited.

The International Covenant on Economic, Social and Cultural Rights (ICESCR), also from 1966, although not directly addressing family rights, supports family stability by promoting economic, social, and cultural rights, including the right to housing, health, and education, all of which are key factors in preserving family well-being.²⁵ In Bosnia and Herzegovina, these economic and social rights are crucial for ensuring family stability, yet the country faces significant challenges in ensuring equal access to these rights, particularly for marginalized groups. Economic instability and high unemployment rates hinder the state's ability to fully comply with its obligations under the ICESCR.

The Convention on the Rights of the Child (CRC), adopted in 1989, specifically focuses on the rights and protection of children within the family context. The Convention recognizes the important role of the family in safeguarding and promoting children's rights, emphasizing the need for states to respect and protect them within the family environment.²⁶ Bosnia and Herzegovina has ratified the CRC, but the implementation of child protection mechanisms, especially in cases of family breakdown or domestic violence, remains inconsistent. Insufficient resources and institutional weaknesses further complicate efforts to fully protect children's rights as outlined in the CRC.

The Council of Europe also plays a significant role in promoting and protecting family rights, particularly through the European Convention on Human Rights (ECHR). Article 8 of the ECHR protects the right to respect for private and family life, directly contributing to the protection of family rights.²⁷ However, Bosnia and Herzegovina faces challenges in ensuring the consistent application of these protections across its fragmented political and legal landscape. Cases of interference in family life, particularly in the context of domestic violence or child custody disputes, often reveal gaps in the enforcement of Article 8 protections.

Bosnia and Herzegovina is formally committed to upholding the international standards for family rights protection, but the practical application of these norms is hindered by the country's socio-political complexities and institutional limitations. Addressing these gaps requires not only legal reforms but also stronger institutional support and better coordination between state and entity-level institutions.

4. STATUS OF FAMILY IN NATIONAL LAW OF BOSNIA AND HERZEGOVINA

4.1. Constitutional Protection of the Family

The position of the family in the Constitution of Bosnia and Herzegovina, particularly within Article II concerning human rights and fundamental freedoms, is emphasized through the right to marriage and founding a family. This right is one of the key human rights and freedoms guaranteed to all individuals within the territory of Bosnia and Herzegovina. Furthermore, the right to private and family life, home, and correspondence further solidifies the fundamental role of the family in society, emphasizing its

²⁵ International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification, and accession by Resolution of the General Assembly 2200A (XXI) of December 16, 1966, entry into force: January 3, 1976, in accordance with Article 27.

²⁶ Convention on the Rights of the Child, adopted by the United Nations General Assembly on November 20, 1989.

²⁷ European Convention on Human Rights, Article 8.

significance and the need for protection.²⁸ Under international standards and conventions that are directly applicable in Bosnia and Herzegovina and have precedence over domestic legislation, these provisions ensure a high level of protection for family rights. However, despite this constitutional protection, the practical implementation of these rights varies significantly across the country, with disparities in the quality and accessibility of family protection services between urban and rural areas, as well as between different entities. Additionally, the presence of various international conventions that Bosnia and Herzegovina applies, including those related to children's rights and protection from discrimination against women, further confirms the state's obligation to protect and promote family rights as the basic unit of society.²⁹

4.2. Position of the family in the Family Law of the Federation of Bosnia and Herzegovina

Based on the Family Law of the Federation of Bosnia and Herzegovina, the family is recognized as the fundamental unit of society, and the law prescribes a wide range of rules regulating family relations, marriage, parenthood, adoption, guardianship, as well as the rights and duties of family members. In the first part of the law, which pertains to basic provisions, the significance of the family and its members in the Federation of Bosnia and Herzegovina is emphasized, with a special focus on protecting the interests and welfare of children. However, despite these comprehensive provisions, challenges remain in terms of effective enforcement, particularly in areas related to domestic violence and child protection. Weak institutional capacities, lack of coordination between social services, and insufficient resources hinder the full implementation of family protection measures. According to this Law, a family is defined as a living community of parents and children and other relatives, adopters and adoptees, and persons from a non-marital union if they live in a common household (Article 2). The basic values underlying family life include protection of the privacy of family life, equality, mutual assistance and respect among family members, and especially the obligation of parents to ensure the protection of the interests and welfare of the child (Article 2). In practice, however, many families face difficulties in accessing the necessary legal and social support, especially in remote and economically disadvantaged areas. Marriage is defined as a legally regulated union of life between a woman and a man (Article 6), and the rights and duties of spouses include equality in marriage, fidelity, mutual respect and assistance, and mutual decision-making on essential issues such as childbirth and raising children (Article 30). Parent-child relationships encompass the rights and duties arising from motherhood and fatherhood, including provisions on recognition of paternity and maternity, and procedures for establishing and challenging paternity and maternity (Articles 53-86). Adoption is specifically regulated as a form of legal protection of children without parental care, with detailed conditions and procedures for establishing adoption, whether full or incomplete (Articles 91-107).³⁰

4.3. Position of the Family in the Family Law of Republika Srpska

The Family Law of Republika Srpska, through its detailed provisions, establishes solid foundations

²⁸ Constitution of Bosnia and Herzegovina, Article 2.

²⁹ Constitution of Bosnia and Herzegovina, Annex I.

³⁰ Family Law of the FBiH, Consolidated Text (Official Gazette of the FBiH, 35/05 of June 20, 2005) and the Law on Amendments to the Family Law of the FBiH (Official Gazette of the FBiH, 31/14 of April 23, 2014).

for protecting and promoting the family, emphasizing its importance as the fundamental unit of society. Like the Federation of Bosnia and Herzegovina, Republika Srpska has created a strong legal framework, but gaps in enforcement remain a major issue. In Article 2, the law defines the family as a community of life involving parents, children, and other relatives, highlighting the broad scope of family relationships covered, including marriage, parenthood, guardianship, and support. Article 38 emphasizes the equality of spouses in marriage, laying the groundwork for joint decision-making on raising and educating children, thus fostering unity and mutual support within the family. This article explains how spouses should agree in regulating their relationships and collaborate on family matters, fostering harmony and stability. Although the law promotes equality and joint decision-making, in practice, traditional gender roles and socio-cultural norms often restrict women's ability to fully exercise their rights within the family. The law also emphasizes the rights and responsibilities of parents toward their children. Article 80 details parents' obligations to care for the life, health, upbringing, education, support or maintenance, representation, and management of their minor children's property.

4.4. Position of the Family in the Family Law of the Brčko District of Bosnia and Herzegovina

The Family Law of the Brčko District of Bosnia and Herzegovina places the family at the center of its norms, emphasizing it as the fundamental unit of society enjoying special protection. The law defines the family as the life community of parents and children and other relatives, highlighting the importance of protecting the privacy of family life, equality, mutual assistance, and respect among family members, as well as the obligation of parents to ensure the protection of the interests and well-being of the child (Article 2). One of the key aspects of this law is its focus on domestic violence, which is strictly prohibited, emphasizing zero tolerance for any form of violence (Article 3). Although this legal framework is strong, enforcement remains a challenge, with many victims of domestic violence reluctant to report incidents due to social stigma and a lack of trust in the legal system. This reflects the District's commitment to creating a safe and supportive environment for all family members. The law also regulates family relationships in detail through marriage and non-marital cohabitation, setting clear definitions and conditions for their formation (Articles 4 and 5), as well as conditions for marriage (Article 6), emphasizing the importance of the free decision of men and women to enter into marital union based on equality, mutual respect, and assistance. In practice, there are still significant barriers to achieving gender equality within family relationships, with cultural norms often hindering the enforcement of legal rights. Additionally, the law provides for special procedures and conditions for adoption, including rules ensuring that adoption is solely in the interest of the child, and sets different conditions for full and incomplete adoption, including age limits and the citizenship of adoptive parents (Articles 76-87). Through this law, the Brčko District of Bosnia and Herzegovina promotes the family as the foundation of society, while protecting the rights and interests of all its members, especially children, through detailed regulation of family relationships, adoption, and protection from domestic violence.³¹

31 Family Law of the Brčko District of BiH (Official Gazette of the BDBiH, 23/2007).

5. IMPLEMENTATION OF INTERNATIONAL OBLIGATIONS IN BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina, as a member state of the international community, has shown a commitment to respecting and implementing international conventions that protect the rights of the family. Through the ratification of key international treaties on September 1, 1993, Bosnia and Herzegovina committed to safeguarding and promoting the rights defined in those documents. However, the practical implementation of these obligations has been met with numerous challenges, including weak institutional capacities, political fragmentation, and insufficient resources. These challenges significantly limit the state's ability to fully comply with its international commitments, particularly in the areas of protecting family and children's rights.

5.1. Universal Declaration of Human Rights (UDHR)

Although the UDHR is not a legally binding document, its principles serve as the foundation for international human rights law. Bosnia and Herzegovina, as a member of the United Nations, recognizes and strives to respect the rights enshrined in the UDHR, including the rights of the family. However, the lack of comprehensive enforcement mechanisms at the national level means that many families, particularly those in vulnerable communities, do not fully benefit from the protections envisioned in the UDHR.

5.2. International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR)

Bosnia and Herzegovina has ratified both of these covenants, thereby committing to respecting and protecting the rights of the family as defined in these documents. This includes marriage rights, founding a family, housing, health care, and education. Despite this formal commitment, the country's fragmented legal and political structure hampers the consistent implementation of these rights. Unequal access to healthcare and education, particularly in rural and marginalized communities, reveals significant gaps between the legal obligations and practical realities. Implementing these rights requires Bosnia and Herzegovina to adopt national laws and policies that are in line with the standards outlined in the covenants. However, political instability and limited coordination between different levels of government further complicate the process of aligning national policies with international standards.

5.3. Convention on the Rights of the Child (CRC)

The Convention on the Rights of the Child is especially important for Bosnia and Herzegovina, which has ratified it, committing to protect and promote children's rights. The country aims to implement the CRC's provisions through its legal and institutional systems, including safeguarding children's rights within families and encouraging the family's role in protecting them. However, there are still major challenges in effectively enforcing these rights, especially in cases of domestic violence, child labor, and access to education. Many children in Bosnia and Herzegovina, particularly those from disadvantaged backgrounds, continue to face obstacles in fully exercising their rights.

Today, Bosnia and Herzegovina aims to align its legal framework with international standards in family law through legal and institutional reforms. However, these efforts are often hindered by socio-

economic challenges, a lack of political commitment, and weak enforcement mechanisms. Additional legal reforms are necessary to enhance institutional capacity and ensure that international obligations are more than mere formalities. Better coordination between national and entity-level institutions, along with increased financial and human resources, is crucial to bridging the implementation gaps.

6. CHALLENGES IN PROTECTING FAMILY RIGHTS

Protecting family rights in Bosnia and Herzegovina faces numerous challenges stemming from social, economic, and legal issues characteristic of post-conflict societies undergoing transition. The fragmented political system and complex governance structure further complicate the consistent application of family protection laws across different regions and entities. Additionally, the lack of coordination between relevant institutions, such as social services and law enforcement, creates gaps in providing comprehensive protection for vulnerable families.

Social Challenges: One of the social challenges is societal fragmentation. The consequences of war persist in Bosnian society, including ethnic tensions and division, which affect social cohesion and support mechanisms for family protection.³² Additionally, there are demographic changes and ongoing migrations. Migration, particularly the departure of young and educated individuals in search of better living standards, leads to population aging and a reduction in the working-age population, adding pressure to social services. Approximately 170,000 individuals left Bosnia and Herzegovina in 2022, and nearly half a million citizens have emigrated from BiH since 2013. These statistics are from research conducted by the Union for Sustainable Return and Integration of BiH.³³ The continuous emigration and demographic decline severely weaken family structures, particularly in rural areas, where entire communities are left without young people to sustain them.

Economic Challenges: High unemployment rates are one of the main problems directly affecting the economic stability of families and their ability to meet basic needs. According to the report from the Bosnia and Herzegovina Agency for Statistics, the unemployment rate stands at 36.6% based on the labor force.³⁴ This economic instability disproportionately affects vulnerable families, particularly single-parent households and families in rural areas, where access to employment and social services is limited. Without significant economic reforms, the cycle of poverty will continue to negatively impact family structures, limiting access to education, healthcare, and social protection.

Legal and Security Challenges: Although laws are often comprehensive on paper, their

32 According to data from the Demographics Unit of the International Criminal Tribunal for the former Yugoslavia in The Hague, the number of victims during the war from 1992 to 1995 in Bosnia and Herzegovina amounts to 104,732 killed and missing persons, which constitutes 2.4% of the total population (4,377,032) according to the 1991 census. Among the victims, 42,106 were civilians (40.2%), and 62,626 were members of military formations (59.8%). In terms of ethnic affiliation, 68,101 or 65% of the victims were Bosniaks, 22,779 or 22% were Serbs, 8,858 or 8% were Croats, and 4,995 or 5% were others. See: International Criminal Tribunal for the former Yugoslavia in The Hague - Bosnia and Herzegovina: number of dead, <http://www.icty.org/sid/10591>

33 Slobodna evropa, BiH u 2021. godini napustio grad veličine Banjaluke, available at: <https://www.slobodnaevropa.org/a/bih-odlazak-porodice/31629794.html> [accessed: 2/9/2024].

34 Agency for Statistics of Bosnia and Herzegovina, Demography and Social Statistics, available at the link: <https://bhas.gov.ba/Calendar/Category?id=13&page=5&statGroup=13&tabId=0> [accessed:2/9/2024].

implementation in practice is often lacking due to limited resources, lack of coordination among entities and districts, and generally weak institutional capacities. The lack of adequate monitoring mechanisms and inter-agency cooperation further complicates the enforcement of laws, particularly in cases of domestic violence. Many victims of violence do not receive the necessary legal protection due to procedural delays, lack of shelters, and insufficient legal assistance.

Protection from Domestic Violence: Although laws against domestic violence have been adopted, the challenge remains in their effective implementation, protecting victims, and sanctioning perpetrators. According to data for the year 2022, the number of reported cases of violence against women is 2,063, while the number for men is 15,559. The number of accused women is 728, compared to 8,116 men. Moreover, the number of convictions for violence against women is 680, while for men it is 7,649.³⁵ Despite these statistics, many cases of domestic violence remain unreported due to societal stigma, fear of retribution, and distrust in the legal system. Victims, particularly women, often lack access to safe houses or psychological support, further exacerbating the problem.

In the following table, we will present the number of murders in BiH, events that contribute to the breakdown of families.

Table 1: *Homicide statistics in BiH*³⁶

2019	2020	2021	2022				
Men	Women	Men	Women	Men	Women	Men	Women
32	10	38	5	25	7	22	12

Homicide statistics in BiH reflect the serious impact of violence on families and the need for more effective measures to prevent such tragedies. Domestic violence is legally defined as any behavior by one family member that endangers the physical integrity, mental health, or tranquility of another family member.³⁷ Such violence is punishable both in domestic and international courts. It is possible to seek protection for rights violated due to domestic violence in international courts as well. As an example, we mention the case of *Opuz v. Turkey*.³⁸ However, relying on international courts highlights the weaknesses of the domestic legal system in addressing cases of domestic violence in a timely and effective manner.

6.1. Recommendations for Improving Family Rights Protection in Bosnia and Herzegovina

Protecting family rights in Bosnia and Herzegovina requires a comprehensive approach to address the aforementioned challenges effectively. In the following text, we provide several recommendations

³⁵ Agency for Statistics of BiH, publication titled *Žene i Muškarci (Women and Men)*, available at: https://bhas.gov.ba/data/Publikacije/Bilteni/2024/FAM_00_2023_TB_1_BS.pdf [accessed:2/9/2024].

³⁶ Ibid.

³⁷ Family Law, Volumes I and II, Privredna štampa, Belgrade, 1981, (Mladenović, 1981, I and II).

³⁸ See case of *Opuz v. Turkey*, No. 33401/02 of June 9, 2009.

Nahide Opuz was subjected to violence by her husband H.O., including threats and physical assaults. Despite filing complaints and temporary convictions of H.O., the violence continued to escalate, culminating in H.O.'s murder of Opuz's mother. The European Court of Human Rights concluded that the Turkish authorities did not adequately protect Opuz and her mother, thereby violating their right to life and protection against discrimination. The court awarded Opuz compensation for non-pecuniary damage and court costs.

that could help address the aforementioned challenges:

Strengthening Social Cohesion: Promote programs and initiatives aimed at enhancing interethnic dialogue and cooperation, as well as the development of joint projects that could help overcome existing divisions. Involving civil society organizations, religious communities, and local media can be crucial in this process. Institutions such as the Interreligious Council exist; however, due to the politics of the Orthodox Church, its functioning is hindered. Interethnic cooperation should also be supported through government initiatives aimed at reducing societal divisions and building trust in state institutions.

Support for Young and Educated Individuals: Developing programs to retain and attract young and educated individuals to Bosnia and Herzegovina is crucial. It is necessary to improve employment opportunities, support entrepreneurship, and ensure quality education and professional development. Without targeted policies that offer financial incentives and career opportunities, the emigration trend will likely continue, further weakening family structures. The currently available support is not sufficient for significant changes. The majority of young people live with their parents (over 80%) and siblings (34.8%), while a smaller portion (17.3%) live with partners, usually after completing their education and finding employment. Approximately 11.9% of young people live with their grandparents. Societal changes have reduced the number of three-generation families, with a predominance of two-generation structures now. Most young people (47.5%) live in households with three members, and 38.5% live in households with four members, indicating that family structure in Bosnia and Herzegovina still relies on traditional values.³⁹

Active Employment Measures: It is necessary to increase access to employment and vocational training programs, with a particular focus on sectors crucial for the country's economic development. Additionally, efforts should be made to reduce the unemployment rate by encouraging the private sector and investing in new technologies. In February 2024, the Employment Institute of FBiH announced calls for supporting young entrepreneurs; however, these activities are insufficient according to the needs on the ground. More comprehensive, long-term policies should focus on providing sustainable employment opportunities for both young individuals and vulnerable families, with special attention given to marginalized communities.

Improvement of Legal Infrastructure and Enforcement: Establish clear mechanisms for monitoring and evaluating the effectiveness of existing laws, with a special emphasis on those related to family protection and combating domestic violence. This includes ensuring adequate resources for institutions dealing with these issues and providing training for professionals working in the field. Improving legal infrastructure must also involve better coordination between law enforcement, social services, and the judiciary to ensure that victims of violence receive timely protection and support.

Support for Victims of Domestic Violence: In Bosnia and Herzegovina, support for victims encompasses comprehensive programs, including safe houses, psychological and legal assistance, and mechanisms for reporting violence. There are nine safe houses in the country with 173 accommodation places, managed by various non-governmental organizations. Most beneficiaries of these houses, who are often economically dependent, are between the ages of 25 and 35. It is significant to note that

39 Žiga, et al. (2015), Study on Youth in Bosnia and Herzegovina, Friedrich-Ebert-Stiftung (FES), Sarajevo, BiH.

violence is not limited to partners but also includes other family members.⁴⁰ However, the number of shelters and services for victims remains insufficient, particularly in rural areas, where access to legal and psychological support is limited.

Conclusion

Family represents the foundation of social structure, playing a crucial role in preserving and promoting human rights, economic stability, emotional support, and intergenerational socialization. In Bosnia and Herzegovina, a country recovering from the consequences of war conflicts and transitional challenges, the status of the family and the protection of its rights stand at the crossroads of international norms, national laws, and socioeconomic difficulties. Although Bosnia and Herzegovina has a solid legal framework that recognizes family rights at both national and international levels, significant gaps in implementation hinder the full realization of these rights. On the one hand, there exists a legal framework that recognizes and protects the family at both the international and national levels. On the other hand, the implementation of these rights faces obstacles such as high unemployment rates, social fragmentation, and the inefficiency of the judicial system.

Despite the existence of legal mechanisms for protecting families, there is a clear need for further action to ensure their full implementation. These actions should include more efficient coordination between governmental entities and non-governmental organizations, as well as increased financial and human resources to support institutions tasked with protecting family rights. Recommendations include strengthening social cohesion, supporting young and educated individuals, implementing active employment measures, improving legal infrastructure, and providing support to victims of domestic violence. Furthermore, international cooperation and the exchange of best practices are crucial for improving the current situation. In particular, Bosnia and Herzegovina must prioritize addressing the challenges related to domestic violence and the protection of vulnerable groups, ensuring that all citizens have equal access to legal and social services. Bosnia and Herzegovina faces the challenge of aligning its policies with international standards and obligations. The existing challenges affecting the protection of family rights require an integrated approach involving collaboration between governmental and non-governmental sectors, as well as active citizen engagement in creating a stable and inclusive society.

The role of international organizations, such as the United Nations and the Council of Europe, is essential in supporting Bosnia and Herzegovina's efforts to meet its international obligations. Further emphasis should be placed on aligning national policies with international conventions and ensuring that local institutions can enforce these laws effectively. The potential for future research lies in a deeper analysis of the impact of social, economic, and cultural factors on family life in Bosnia and Herzegovina, as well as in the development of more effective strategies for addressing challenges.

We emphasize the importance of strengthening the legal and institutional framework, investing in social programs that promote economic stability, education, and healthcare, and particularly emphasize prevention and protection from domestic violence. Continuous collaboration with international

⁴⁰ Sarajevo Open Centre, Safe Houses in Bosnia and Herzegovina, available at: <https://soc.ba/sigurne-kuce-u-bosni-i-hercegovini>

organizations, the exchange of best practices, and encouraging active community participation in family support programs are needed. In addition, the legal system must be strengthened to provide better enforcement mechanisms and to offer victims of domestic violence and other family-related issues faster and more reliable access to justice.

Through collective efforts, progress can be made in improving the protection and promotion of family rights in Bosnia and Herzegovina, thereby creating a more cohesive society that values and supports its fundamental units.

Protecting family rights in Bosnia and Herzegovina requires synergy between governmental and non-governmental actors, as well as active citizen involvement in decision-making processes. Addressing existing challenges will necessitate a comprehensive reform of both legal and social systems, alongside increased public awareness and advocacy efforts. Only through collective work and dedication can significant progress be achieved in overcoming existing challenges.

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