

THE HUMAN RIGHTS SITUATION OF RETURNEES, REFUGEEES AND LOCAL POPULATION IN THE REGION

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THE CONCEPT OF HUMAN RIGHTS

Human rights represent a collection of minimum moral and political requirements of natural-legal character that every individual has or should have in relation to the state authority and society he/she lives in. Human rights, therefore, do not depend on the state and on the objective legislation it creates. A human being acquires these rights by birth (Radonjić, 2003). The concept of human rights encompasses an array of universal values indispensable for human identity and integrity. The exercise of these rights is a precondition not only for the political and cultural existence of man, but also for his spiritual identity and physical survival. It concerns values that are inherent to every human being and that ensure his/her autonomy and dignity.

Although human rights are recognised as universal and inalienable, periods of wars and subsequent forced migrations present a huge challenge to the principles of respect of human rights and to the mechanisms for their protection. Unfortunately, the higher the socio-economic vulnerability of people and the higher the need to protect human rights, the lower the rate of their implementation.

Partly under the influence of enormous human suffering in the WWII, the United Nations in their Charter containing general obligation to promote human rights proclaim the faith in basic rights of man, dignity and value of human individual.

The Universal Declaration of Human Rights was adopted in 1948 and became the generally accepted standard for human rights protection. It proclaims two large

categories of rights: civil and political rights on one hand and economic, social and cultural rights on the other (Burgental, 1997).

Civil rights encompass: right to life, freedom and security of person; prohibition of slavery, torture and other cruel, inhuman and degrading treatment; right to freedom from arbitrary arrest, detention and persecution; right to a fair trial in civil and criminal proceedings; presumption of innocence and prohibition of *ex post facto* laws and punishments; right to privacy; right to own property; right to freedom of speech, religion and association; right to freedom of movement and the right of everyone to “leave any country, including his own, and to return to this country”, right to seek and enjoy asylum from persecution; right to nationality.

Political rights encompass: right of individual to take part in the government of the country, right to participate in elections or be elected to office.

Economic and social rights include social security; right to work and protection from unemployment; right to fair remuneration; to equal pay for equal work; right to rest and leisure; right to a standard of living adequate for health and well-being of individual and his family; right to security in the event of unemployment or other lack of livelihood in circumstances beyond his control; right to education, including free education in elementary and fundamental schools.

Cultural rights involve the freedom to freely participate in the cultural life of the community, enjoy arts and share in scientific advancement.

The Universal Declaration itself was adopted as a declarative document on common understanding and general standards in the protection of human rights. Subsequently emerged the need to have those rights regulated by international legal protection instruments. The Universal Declaration has over time become the basic component of international custom law. Its key items are further specified through the following UN documents in 1966.

International Covenant on Civil and Political Rights was created with more legal precision and stipulates more rights than the Universal Declaration, including the rights of ethnic, religious or language minorities to have their own cultural life, religion and language, as well as the right of all persons deprived of liberty to be treated humanely. Nevertheless, for various ideological and political reasons, this document does not mention the right to own property, seek and enjoy asylum and the right to nationality/citizenship. The Covenant leaves to states the possibility to limit and reduce the implementation of rights stipulated therein, as well as contains the “provision on derogation” allowing the state party to suspend all except the basic rights in national emergency situations.

International Covenant on Economic, Social and Cultural Rights elaborates in detail the list of economic, social and cultural rights and expands it in comparison to the Universal Declaration: right to work; right to just and favourable working

conditions; right to establish and join trade unions; right to enjoy the highest level of physical and mental health; right of every individual to education; right to participate in cultural life.

Other UN documents relate to particular forms of human rights abuses⁴⁶.

The European system for the protection of human rights and the Council of Europe instruments play an important role in the promotion and regulation of human rights. Their legal source is the **European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR, 1950)** with 13 additional protocols and the **European Social Charter (1961)** (Petrović, 2000). The general perception is that the human rights system established by ECHR is still the most advanced and most effective of all existing documents (Burgental, 1997). Ratification of ECHR is a precondition to membership in the Council of Europe⁴⁷.

These and additional documents regulate the rights of individuals in general, as well as particular rights of individuals in specific situations: rights of refugees, victims of war, stateless persons, members of minority groups, etc. Defining human rights in legal regulations is ongoing, while initiatives are enhanced to promote and raise awareness about human rights, especially in the light of fiftieth anniversary of the Universal Declaration of Human Rights. And while the World Conference on Human Rights held in Vienna in 1993, under the slogan “All human rights for all”, was stressing that cultural and religious differences must not be a pretext for deficient implementation of international obligations in the field of human rights, as well as proclaiming the decade of human rights education (1995-2004), in the immediate vicinity, in former SFRY republics, the human rights principles were being suspended for over two million refugees and internally displaced people.

⁴⁶ Convention on the Prevention and Punishment of the Crime of Genocide (1948)
International Convention on the Elimination of all Forms of Racial Discrimination (1965)
International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)
Convention on the Elimination of all Forms of Discrimination against Women (1979)
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
Convention on the Rights of the Child (1989)

⁴⁷ Other most important documents of the Council of Europe:
European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987)
Final Helsinki Act (1975) and Paris Charter for the New Europe (1990)
European Charter on Regional or Minority Languages (1992)
Framework Convention for the Protection of National Minorities (1994)
European Union Charter on Fundamental Rights (2001)

NORMATIVE AND FACTUAL IN HUMAN RIGHTS

Implementation and regulation of the principles for human rights protection advance much slower than their definition. States parties to these legal acts have an obligation to respect, protect and fulfil human rights, to prevent violence, discrimination and other forms of human rights violations on their territory. They are obliged to incorporate in their national legislation the norms corresponding to regulations of the adopted international conventions, as well as ensure that the proclaimed rights are not restricted or denied. Domestic legal system of a country possess necessary mechanisms for exercising compromised rights before administrative and judicial bodies. Human rights are therefore best protected by legislative provisions of the state and its effective implementation (Petrović, 2003).

In order to ensure the implementation of obligations by states parties, for most international conventions and covenants an international monitoring mechanism was introduced, through the system of periodic reporting by the states, complaints procedures for individuals before international courts in case of violation of their rights by a state, as well as possibility of legal action of one state party against another. Besides the regulation procedures contained in the respective human rights instruments, there are mechanisms based on the UN Charter, establishing the work of the Human Rights Commission and its rapporteurs. The scope of activities and the mechanisms for human rights monitoring are well illustrated by the fact that there are close to 40 specific institutions collecting information within their respective domains (Benedek, 2003). Monitoring through specific procedures is envisaged for cases of mass and systematic violations of human rights. Special missions of the UN High Commissioner for Human Rights (UNHCHR) are established in countries at high risk. Such missions in then territory of former Yugoslavia had been opened in Bosnia and Herzegovina, Croatia (until end 2002) Serbia and Montenegro, Kosovo, Macedonia, etc. Missions of the Organisation for Security and Cooperation in Europe (OSCE), also active in all countries of the region, supervise and develop the domains of human and minority rights and freedoms, rule of law, democratic institutions and values, free elections, etc.

Non-governmental organisations also work in the protection and promotion of human rights. Prominent NGOs in this field are Human Rights Watch, Amnesty International, Lawyers Committee for Human Rights, International Crises Group, International Helsinki Federation, Minority Rights Group International and others. They analyse the level of harmonisation of national legislation with international standards, monitor the situation of human rights and actions by state authorities, collect data and documentation on cases of abuse, prepare reports with the view of advocacy and influencing the public, governments and international community.

HUMAN RIGHTS OF REFUGEES AND DISPLACED IN THE REGION

Tens of relevant local NGOs in the region also engage in monitoring and protection of human rights and implement their cross-border activities through regional networks⁴⁸. Their annual and periodical reports and analyses also indicate human rights violations against refugees, both in national legislation of respective states and in practice. Issues mentioned in the reports reveal the violation of an array of civil and socio-economic rights, which is a common fate of refugees in the region regardless of their ethnicity (return of private property allocated to temporary users, lost tenancy rights, right to reconstruction of destroyed or damaged property, compensation for damages, pension, health care and social welfare rights, personal documents, right to citizenship, security, etc.) (Ećimović et al. 2004).

Possibility to exercise basic rights of refugees, both in the country of origin and that of asylum will influence their decision on integration or return. In its latest reports, Human Rights Watch states that return of Serb refugees to Croatia has been largely slowed and impeded primarily because they cannot exercise their basic rights in the country of origin. Failure of state systems to actively engage in resolving manifold problems, primarily return and/or reconstruction of property, prevention of further devastation and the provision of compensation for damages, problem of denied tenancy rights and ensuring proper alternative accommodation, discrimination in employment, compensation for unpaid pensions and social benefits, problems of physical security, intimidation, arrests and indictments for war crimes on ethnic grounds. This not only creates impunity for human rights violations that occurred during and after the war, but also protract the violation of basic minority rights (HRW 2003, HRW 2004).

Administrative and legal bodies on both state and local level are seen as mechanisms of prolonging or obstruction rather than as ways of exercising violated rights before administrative and judicial bodies (MRGI, 2003).

Promotion of return of refugees and the displaced, as well as the property restitution process, implemented in Bosnia and Herzegovina and supervised by the Office of the High Representative (OHR) are evaluated as successful, but real return is burdened with many other unresolved issues: right to work and employment, right to reconstruction of and compensation for devastated property, discrimination in social, economic and cultural rights, participation in public sector, issues of security, etc. (Ivanišević, 2003). State entities, federation BiH and Republika Srpska differ in their relation toward returnees, available assistance programmes and consistency in implementing the return of property; many OHR reports indicate that Republika Srpska is lagging behind.

⁴⁸ For instance, BHRN - Balkan Human Rights Network, Legal Issues Group (LIG) of the SEE RAN network for assistance to refugees in Southeast Europe, SEE HRC network and others.

In Serbia as the country of asylum, refugees have also faced discrimination and violation of their basic rights. In the long period of exile there was a striking lack of a system for legal protection or compensation by the state for cases of violence, threat to life and security, forced mobilisation, etc; the right to free choice of residence and freedom of movement was restricted, the process of issuing personal documents and obtaining citizenship was slowed down⁴⁹. Local NGOs estimate that refugees have very limited access to labour market, social and health care services (Papić, Dimitrijević, 2004). The problem of housing for refugees has become acute with the national strategy envisaging closure of collective centres.

QUANTITATIVE RESEARCH OF HUMAN RIGHTS

The only quantitative research⁵⁰ to date on the issue of human rights has been conducted since 1998 by the Belgrade Centre for Human Rights and published within its annual report on human rights in Serbia and Montenegro.⁵¹ The situation of “human rights in the legal consciousness of citizens” is evaluated through the knowledge of citizens about human rights, their awareness about specific rights and assessment of possibility of exercising human rights by SaM citizens.

According to data from the latest research in July 2004, up to 71% of the 1683 respondents believe that exercising of human rights in SaM is more difficult than in previous years. There is also an increased concern of citizens about poor economic situation, where the right to work and choice of employment is stated as the most problematic: 55% of respondents think this right is not respected in SaM, 46% that the right to equality before law is not respected, 35% believe that right to social welfare and other socio-economic rights are compromised. In addition, 25% of respondents think that right to life is not respected in SaM.

Assessment of human rights implementation is slightly more favourable when viewed from personal experience than in judging the overall degree of violations within the population as a whole. Nevertheless, every third respondent (31%) believes that he is able to exercise his rights. Confidence in judicial institutions and their mechanisms of protection in cases of human right abuse is lower than in 2003 (14%); respondents would rarely seek protection before

⁴⁹ Only by end of December 2004, Serbian Parliament adopted the new Law on Citizenship, making it easier for refugees to obtain citizenship.

⁵⁰ Belgrade Centre for Human Rights and Strategic Marketing and Media Research Institute have been conducting a public opinion research in SaM on the representative sample of voting citizens. Methodology used in this work is the well-known KOL research (“Knowledge and Opinion about Law”). Public opinion research is conducted based on methodology by Charles Humana. It looks at views of citizens using standardised questionnaires with limited number of choice answers. (Papić, Dimitrijević, 2004)

⁵¹ Formerly “Human Rights in Yugoslavia 2002” (Papić, Dimitrijević, 2003)

domestic courts (27%) or international courts (11%); higher number of respondents (38%) believes that in such cases it is best to seek help through informal channels and ensure protection by powerful individuals (Dimitrijević, 2005).

This research does not include refugees and other stateless persons in SaM.

A NEW MODEL OF QUANTITATIVE RESEARCH OF HUMAN RIGHTS STATUS

The way of looking at the status of human rights presented in this article differs somewhat from the standard ways of reporting on human rights violations.

The nature of this research (quantitative, with battery of tests with predominantly closed questions, large number of respondents and limited time for conducting it) influenced the approach chosen by authors. An instrument was created that registers the status of human rights based on answers to 45 questions on violations of human rights stemming from the Universal Declaration of Human Rights and other international documents defining the list of basic human rights.

Then we faced another problem regarding the nature of data obtained in this way, i.e. whether this information tells us about facts or about the subjective experience of our respondents. Therefore a specific manner of administering this instrument was introduced, requiring it to be applied only in the form of an interview conducted by researcher with the respondent. Initial answer of the respondent to each question was related to his/her **subjective feeling of rights violation** described in the respective items. Together with subjective assessment whether he/she has been subjected to violation of human rights, the respondent describes, either on own accord or prompted by further questions of the researcher, event or events and states basic facts in more detail:

- Where did this occur (Serbia, Croatia, BiH Federation, Republika Srpska)?
- When (before 1991-92 war, during the war, after the war or during past several years)?
- What exactly occurred and who is the perpetrator (army, police, judiciary, state administration, medical staff, group of citizens or individuals)?

Based on this information the interviewer evaluates if there are enough indicators of a concrete human rights violation case, which is registered as a separate variable. In this respect, the **objective indicator of specific human rights violation** is operationalised in this instrument through the assessment of interviewer whether there is enough information about the violation of human right given under each respective item.

Data obtained in this way represent estimations based on immediate experience of respondents and violation of their own human rights, which are often neither reported nor registered in official records and statistics.

In this respect the instrument resembles victimisation surveys, which attempt to bridge the gap between “real” and “official” crime and criminal-legal statistics by registering immediate experience of respondents (Zvekić, 2001).

RESULTS

Structure of the questionnaire

Given that we have applied a completely new approach and instrument in this research, we shall begin by presenting its structure and dimensions it is meant to measure. By analysing key components from the list of human rights violations we have extracted four independent factors. Table 1 gives the overview of saturation by questionnaire items through abstracted factors.

Table 1: *Factor structure of the questionnaire*

QUESTION	FACTOR			
	1	2	3	4
Would it be possible for a member of your ethnicity to be elected to important function?	,748			
Has your freedom of movement been restricted?	,564			
Do you feel that due to your origin you are not treated as other citizens when you appeal to state bodies?	,529			
Have you been prevented from settling where you wanted because of your ethnic origin?	,525			
Have you ever been insulted or humiliated by state bodies because of your ethnic origin?	,516			
Do you think that members of your ethnicity could get respected and well paid jobs?	,507			
Have you been prevented from going to your place of worship and/or publicly displaying your religion?	,503			
Have you been denied a job due to your ethnic origin?	,480			
If you have the right to health care, do you exercise it?	,407			
Are you afraid to leave your place of residence because many others who have done so have been subjected to ill treatment and harassment?	,401			
Was your property ever or is it still illicitly occupied by other people?	,351			

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QUESTION	FACTOR			
	1	2	3	4
Have you been denied the right to compensation of damages inflicted by the state?	,320			
If you have underage children, do they have a possibility to choose their own religious education?	,316			
Are you able to obtain personal documents, passport?				
If you have underage children, can they be educated in their native language?				
Have you been denied the use of your native language for official purposes (before state bodies, in courts, etc.)?				
Have you or your family members been denied the right to citizenship?				
Have you been unable to repossess your property despite rulings by the court?				
Have you been coerced into joining an organisation / association / party, against your will?				
If you have the right to pension, do you receive it?				
Were you ever denied employment because of your sex?				
Have you been arrested, humiliated or tortured because of your ethnic background?		,699		
Have you been arrested without an official warrant?		,695		
Have you ever been detained without having been told on what grounds?		,677		
Have you been laid off, detained, arrested or tortured because of your religious affiliation?		,673		
Have you been tried before a court without being assigned an attorney and given the possibility to prepare your defence?		,491		
Have you ever been denied the right to appeal / complaint?		,433		
Have you been convicted in absentia or without right to defence?		,425		
Have you been subjected to forced labour?		,396		
Have you ever been assaulted or was your life in danger because of your ethnic origin?		,386		
Has the police ever searched your apartment without a warrant issued by court?		,344		
Have you attempts to organise yourselves in protection of your rights and interests ever been declared as hostile activity by the media, police or politicians?			,601	

LIVING IN POST-WAR COMMUNITIES

QUESTION	FACTOR			
	1	2	3	4
Have you ever been laid off, detained, arrested or tortured because of your political opinion?			,599	
Have you ever been detained because of partaking in rallies and demonstrations?			,539	
Have you ever been laid off, detained, arrested or tortured because of something you've said or written?			,505	
Do you think you have been followed, had your phone tapped or mail reviewed by the police?			,412	
Was there a secret indictment against you?			,393	
Has ever a court made a less favourable decision in your case than in other similar cases only due to your ethnic origin?			,336	
Were you paid less for same work than your fellow citizens?				
Has your right to vote been restricted?				
If you have underage children, do they have necessary conditions for education?				,680
If you have the right to social welfare, do you receive it?				,545
If you have underage children, do they have to work in order for the family to make a living?				,523
If you have the right to child welfare compensation, do you receive it?				,512
Have you ever been denied adequate medical service due to your ethnic origin?				

As the table shows, the first factor relates to **discrimination on ethnic grounds** and contains questions regarding discrimination in employment or promotion, restriction of freedom of movement and choice of residence, humiliation on ethnic grounds by state bodies, impossibility to restore property and obtain compensation for damages.

The second factor describes **intimidation by police on ethnic grounds**: detention, arrest, denying the right to fair trial and other rights in criminal proceedings, apartment search, abuse, threat to life, police-inflicted torture and forced labour.

Accusations and detention for political offence, political opinions, self-organising, freedom of opinion and speech, describe the third factor of human rights violations. It also contains questions related to surveillance by police and existence of secret indictments.

Fourth factor relates to **cultural, economic and social rights**: lack of possibility of education for children, denied right to social welfare or child compensation, denied health care.

In relation to the content of Universal Declaration of Human Rights and categories of human rights defined therein we can conclude that the second and third factor in our instrument largely correspond to civil and political rights, fourth factor covers the category of economic, social and cultural rights, while discrimination on ethnic grounds stands out as a separate factor in our research.

Status of human rights

Results of our research show that a significant percentage of respondents from all categories report on violations of their human rights. The degree of violations are expressed through frequency or percentage of respondents who state their perception of having at least one of their human rights violated, i.e. give an affirmative answer to at least one of the 45 items of the questionnaire. These degrees are then discussed from the perspective of civil status of respondents and country/entity where the violation has occurred.

Table 2: Percentage of respondents reporting on human rights violations against them, i.e. giving affirmative answers to issues in questionnaire

	Frequency	Percentage	Cumulative percentage
No violation	557	37,1%	37,1%
1	238	15,8%	52,9%
2	211	14,0%	67,0%
3	110	7,3%	74,3%
4	87	5,8%	80,1%
5	78	5,2%	85,3%
6-10	169	11,2%	96,5%
11-15	34	2,3%	98,8%
16-20	11	0,7%	99,5%
21-31	7	0,5%	100%

Slightly over one third of respondents (37,1%) report their human rights have not been violated. Most of respondents report on limited violation of their rights, while 20% of them have experienced mass violation of four or more human rights.

Table 3: *Frequency and percentage⁵² of statements on human rights violations in relation to civil status of respondents and country/entity where violation occurs*

	Returnee	Refugee	Local population	Total
Federation BiH	490 53,67%	306 33,52%	117 12,81%	913 100%
Republika Srpska	671 46,37%	730 50,45%	46 3,18%	1447 100%
Croatia	295 32,07%	474 51,52%	151 16,41%	920 100%
Serbia	34 18,78%	86 47,51%	61 33,70%	181 100%
Total	1490 43.05%	1596 46,11%	375 10,85%	3461 100%

Most respondents report on their experience of human rights violation in Republika Srpska, where 1447 reported cases makes up to 41,8% of all registered human rights violations. Almost the same number of violations is found in Croatia (920 or 26,58%) and Federation BiH (913 or 26,38%). Smaller number of human rights violations against the sample of our respondents occurred in Serbia (181 or 5,23%).

Relative frequency of human rights violations in Federation BiH is highest among returnees, followed by refugees and local population.

Republika Srpska is characterized by very low presence of local population (3,18%) in the overall number of human rights violations, while refugee and returnee population are almost equally represented (46,37% and 51,2%) in the overall number of human rights violations in Republika Srpska.

Violations of human rights in Croatia are reported mainly by refugees, in 51,52% of cases with respect to all human rights violations in Croatia.

In Serbia, probably due to the fact that there have been no inter-ethnic conflicts on its territory, human rights violations are less prominent; nevertheless, it is mostly refugees who report on human rights violations, followed by local population, while the smallest number is among respondents who are now returnees to their pre-war residence, but have spent their exile in Serbia.

It is interesting to view this information in relation to the current civil status of respondents. *Proportions of human rights violations are significantly higher among migrants, i.e. respondents with refugee experience regardless of whether they are still in this status or have returned to their pre-war residence, than among local population that has not migrated.* Table 4 shows mean numbers

⁵² Percentage was calculated in relation to the overall number of reported human rights violations in each country/entity

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of subjective impressions of human rights violations and deviation from mean by sub-groups within the sample: returnees, refugees and local population. While the mean number of human rights violation within overall sample is 2,5 these levels are much higher among returnees and refugees, going above 3,2 violations, with a higher variability within respective sub-groups, indicating more multiple human rights violation cases among refugees and returnees.

Table 4: *Subjective impression of human rights violation – arithmetic means and standard deviations for sub-groups: returnees, refugees and local population*

	Returnee		Refugee		Local population		Total		F(2,1449)
	M	SD	M	SD	M	SD	M	SD	
Subjective impression of human rights violation	3,19	4,15	3,26	3,40	,87	1,64	2,50	3,47	821,63

Most of human rights violations, according to perception of our respondents, had occurred during and immediately after the war. Within past year far less perceived violations are recorded, although this level is still higher than before the war. A total of 43,3% of all statements on human rights violations in the past year relate to Republika Srpska, where this level is still much higher than before the war. Impression of human rights violations during past year among our respondents in Federation BiH as well as in Serbia is only slightly higher than before the war. In Croatia this percentage is even lower than before the war.

Table 5: *Frequency and percentage of statements on experience of human rights violation with regard to period and country/entity of occurrence*

	Before the war	During the war	After the war	In the past year	Total
Federation BiH	69 7,61%	345 38,04%	414 45,64%	79 8,71%	907 100%
Republika Srpska	14 0,98%	847 59,48%	407 28,58%	156 10,96%	1424 100%
Croatia	115 12,67%	359 39,54%	342 37,67%	92 10,13%	908 100%
Serbia	20 10,26%	48 24,62%	94 48,21%	33 16,92%	195 100%
Total	218 6,35%	1599 46,56%	1257 36,60%	360 10,46%	3434 100%

Missing data 27

Table 6: *Frequency and percentage of statements on experience of human rights violation with regard to perceived perpetrator and country/entity of occurrence*

	Federation BiH	Republika Srpska	Croatia	Serbia
Army	176 19,41%	345 24,29%	116 12,82%	26 13,51%
Police	126 13,97%	215 15,17%	196 21,59%	57 29,35%
Court	41 4,61%	46 3,28%	72 7,97%	10 5,45%
Administration	337 37,24%	497 34,93%	275 30,37%	53 27,53%
Medical staff	8 0,98%	9 0,66%	3 0,40%	1 0,78%
Group of citizens	36 4,00%	62 4,40%	52 5,75%	9 4,68%
Individuals	179 19,79%	245 17,27%	191 21,09%	36 18,70%
TOTAL	903 100,00%	1419 100,00%	905 100,00%	192 100,00%

Missing data 42

The most frequent perpetrators of these incidents in all countries and for all categories of respondents, are said to be the administration, army, police and individuals. According to the perception of our respondents violations are also perpetrated by courts, groups of citizens and to a lesser extent medical staff.

The role of state and its bodies in violation of human rights is evident for all categories of respondents. The sense of vulnerability is higher when violations are perpetrated by state representatives who are supposed to protect these rights. We shall illustrate this by a full analysis of one question, indicating the lack of citizens' confidence in state services and the ineffectiveness of human rights protection through mechanisms of criminal law in respective states.

Up to 20% of respondents stated they have *been attacked or their lives were threatened on ethnic grounds*. The highest percentage of these reports relate to Republika Srpska (9,3%), followed by Croatia (6,7%) and Federation BiH (3,8%).

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Table 7a: Number and percentage of respondents reporting on incidents of assault or life threat due to ethnic background, by respective state/entity of occurrence

Have you ever been assaulted or was your life in danger because of your ethnic origin?	yes	Federation BiH	57	3,8%
		Republika Srpska	139	9,3%
		Croatia	100	6,7%
		Serbia	5	0,3%
		TOTAL	301	20,0%
	no	1098	73,1%	
	missing data	103	6,9%	

Most assaults on ethnic grounds or direct threat to life occurred during the war; this is reported by 4,5% of respondents. In the post-war period, percentage of such incidents (3,4%) is higher than before the war (1,6%), while 0,5% of respondents have been subjected to assault or felt a threat to life during past year.

Table 7b: Number and percentage of respondents reporting on incidents of assault or life threat due to ethnic background, by period of occurrence

Have you ever been assaulted or was your life in danger because of your ethnic origin?	yes	Before the war	25	1,6%
		During the war	218	14,5%
		After the war	51	3,4%
		In the past year	7	0,5%
		TOTAL	301	20,0%
	no	1098	73,1%	
	missing data	103	6,9%	

Most frequently stated perpetrator of these incidents is the army (8,7%), followed by individuals (6,2%) or groups of citizens (3,0%), while police (1,7%) and other state services appear more rarely in this context.

Table 7c: *Number and percentage of respondents reporting on incidents of assault or life threat due to ethnic background, by respective perpetrator*

Have you ever been assaulted or was your life in danger because of your ethnic origin?	yes	Army	131	8,7%
		Police	26	1,7%
		Individuals	92	6,1%
		Group of citizens	44	2,9%
		Other	9	0,6%
		TOTAL	301	20,0%
	no	1098	73,1%	
missing data	103	6,9%		

In over 90% of cases when the respondents state their subjective impression of life threat due to ethnic origin, interviewers have assessed, based on provided descriptions and details, that there are enough objective indicators of basic rights violation. Nevertheless, out of 301 respondents who have been subjected to this, only every fifth had reported it to the police, while the police has undertaken an investigation in 50% of reported cases. In 26 cases the perpetrator was found, in eight he was legally prosecuted and only in 6 cases perpetrators were convicted.

Table 8: *Number of respondents reporting on their impression of the threat to life, by country/entity where the violation occurred and by civil status*

		Civil status			TOTAL
		Returnee	Refugee	Local population	
Have you ever been assaulted or was your life in danger because of your ethnic origin?	Federation BiH	27 (47,37%)	19 (33,33%)	11 (19,30%)	301
	Republika Srpska	43 (30,94%)	92 (66,19%)	4 (2,88%)	
	Croatia	34 (34,00%)	41 (41,00%)	25 (25,00%)	
	Serbia	2 (40,00%)	2 (40,00%)	1 (20,00%)	

THE HUMAN RIGHTS SITUATION OF RETURNEES, REGUGEES AND LOCAL
POPULATION IN THE REGION

		Civil status			TOTAL
		Returnee	Refugee	Local population	
Did you report the incident to the police?	Federation BiH	11*	7*	0*	64
	Republika Srpska	6*	0*	0*	
	Croatia	13	7	12	
	Serbia		8*	0*	
Did the police undertake an investigation?	Federation BiH	8*	2*	0*	31
	Republika Srpska	6	0		
	Croatia	7	3	4	
	Serbia		1		
Was the perpetrator found?	Federation BiH	5	2	1	26
	Republika Srpska	3	0		
	Croatia	4	1	7	
	Serbia		3	0	
Was the perpetrator legally prosecuted?	Federation BiH	1	1	1	8
	Republika Srpska	1	0	0	
	Croatia	2	0	1	
	Serbia	0	1	0	
Was the perpetrator convicted?	Federation BiH	1	1	1	6
	Republika Srpska	0	0	0	
	Croatia	2	0	0	
	Serbia	0	1	0	

*Statistical significance of difference on level 0.05, Cramer's V

Similar analyses are possible for all other items in the human rights status questionnaire.

At the end of this chapter we shall give the list of human rights questionnaire items and the overview of frequencies (table 9) and percentages of respondents (table 9a) reporting on their subjective impression of violation of their human rights, classified by civil status of respondents and countries/entities where the violation took place.

Main areas of human rights violations reported by our respondents relate to the following:

- Loss of property, impossibility to repossess usurped property and to get compensation for destroyed or damaged property;
- Discrimination, humiliation on ethnic grounds;
- Restricted freedom of movement and choice of residence;
- Impossibility of employment; impossibility to be promoted at work and get respected, well paid jobs and public office;
- Impossibility to exercise pension and health care rights;
- Threat to physical security or threat to life; detention, arrest, humiliation and torture;
- Violation of right to privacy
- Impossibility to exercise religious and cultural rights.

This summary overview shows that data obtained through the questionnaire for rapid assessment of human rights status are in accordance with areas of human rights violations identified in reports by international and local NGOs that follow legislation and practice of the states in the region.

Table 9: *Subjective impression of human rights violation – Number of respondents reporting on their impression of violation of their human rights, by civil status and country/entity*

QUESTION	Federation BIH				Republika Srpska				Croatia				Serbia			
	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total
Was your property ever or is it still illicitly occupied by other people?	115	76	6	197	84	109	8	201	55	72	7	134			6	6
Have you been unable to repossess your property despite rulings by the court?	28	13	1	42	17	18	1	36	10	10		20			2	2
Have you been denied the right to compensation of damages inflicted by the state?	37	39	11	87	35	61	4	100	26	41	10	77		1	6	7
Have you been denied the use of your native language for official purposes (before state bodies, in court, etc.)?	1	2	1	4	6	6		12	5	10	3	18		1		1
Have you been prevented from going to your place of worship and/or publicly displaying your religion?	1	4	2	7	24	24		48	2	7		9			2	2
Has your right to vote been restricted?	1	3		4	8	7		15	7	5		12		10	1	11
Have you been insulted and humiliated by state bodies due to your ethnic background?	16	7	3	26	28	31	2	61	14	27	12	53	1	3		4

QUESTION	Federation BIH				Republika Srpska				Croatia				Serbia			
	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total
Do you feel that due to your origin you are not treated as other citizens when you appeal to state bodies?	38	16	1	55	32	28	3	63	28	21	9	58		14	1	15
Have you ever been detained because of partaking in rallies and demonstrations?	1			1	1	1		2		1		1	1		1	2
Have you been coerced into joining an organisation / association / party, against your will?			1	1	1			1	1	5		6		1	3	4
Have your attempts to organise yourselves in protection of your rights and interests ever been declared as hostile activity by the media, police or politicians?	6	1	1	8	14			14		6	3	9	3	1	5	9
If you have underage children, do they have necessary conditions for education?	2	8	1	11	8	1		9	2		1	3			2	2
If you have underage children, do they have to work in order for the family to make a living?	1	7		8	2	2		4			1	1		2		2
If you have underage children, can they be educated in their native language?	4			4	7	1		8	7		4	11		1		1

QUESTION	Federation BIH				Republika Srpska				Croatia				Serbia			
	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total
If you have underage children, do they have a possibility to choose their own religious education?	3			3	6			6			2	2		1		1
Have you or your family members been denied the right to citizenship?	1		1	2	4			4	6	6	2	14		2	1	3
Are you able to get personal documents, passport?			1	1	5			5	2	4		6				0
Has your freedom of movement ever been restricted?	9	11	11	31	32	29	3	64		12	1	13	1	1	1	3
Are you afraid to leave your place of residence because many others who have done so have been subjected to ill treatment and harassment?	10	9	4	23	22	36	5	63	3	24		27	1	3	2	6
Have you been prevented from settling where you wanted because of your ethnic origin?	4	16	1	21	32	48		80	3	32	2	37	1	4	3	8
Have you been denied a job due to your ethnic origin?	24	9	3	36	29	12		41	14	20	10	44	1	8	3	12
Were you paid less for same work than your fellow citizens?	1	3	3	7	6	1		7	1	4	2	7	1	4		5
Were you ever denied employment because of your sex?	1	6		7	1	1		2		2	1	3			1	1

QUESTION	Federation BIH				Republika Srpska				Croatia				Serbia			
	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total
Would it be possible for a member of your ethnicity to be elected to important function?	15	2	3	20	31	4	1	36	3	9	1	13		5		5
Do you think that members of your ethnicity could get respected and well paid jobs?	21	1	7	29	33	15	1	49	10	11	2	23		1		1
If you have right to pension, are you receiving it?	32	2	1	35	2		1	3		3		3				0
If you have right to social welfare, are you receiving it?	3	7	3	13	8			8				0	1	1		2
If you have right to child welfare compensation, are you receiving it?		6	5	11	2			2						1		1
If you have right to health care, do you exercise it?	18	2	3	23	19	1	5	25	4			4			2	2
Have you ever been denied adequate medical service due to your ethnic origin?	2	2		4	4	3	1	8				0		3		3
Have you ever been assaulted or was your life in danger because of your ethnic origin?	27	19	11	57	43	92	4	139	34	41	25	100	2	2	1	5
Have you ever been detained without having been told on what grounds?	4	2	1	7	13	27	1	41	6	8	8	22	1	2	7	10

QUESTION	Federation BIH				Republika Srpska				Croatia				Serbia			
	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total
Have you been arrested without an official warrant?	3	1		4	15	16	1	32	11	10	4	25	5	4	3	12
Have you been arrested, humiliated or tortured because of your ethnic background?	9	6	2	17	16	36		52	13	14	14	41	6	2		8
Have you been tried before a court without being assigned an attorney and given the possibility to prepare your defence?				0	3	2		5		5		5			1	1
Have you been convicted in absentia or without right to defence?				0	2	2		4	1	3		4				0
Have you ever been denied the right to appeal / complaint?	3	5		8	8	7	2	17	2	3	1	6		2	1	3
Has ever a court made a less favourable decision in your case than in other similar cases only due to your ethnic origin?	3	1		4	4	1		5	6	3	3	12	1	2		3
Do you think you have been followed, had your phone tapped or mail reviewed by the police?	13	6	4	23	13	23		36	11	19	15	45	2		5	7
Has the police ever searched your apartment without a warrant issued by court?	28	3	19	50	10	28	1	39	4	11	4	19	1	4		5

QUESTION	Federation BIH				Republika Srpska				Croatia				Serbia			
	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total	Returnees	Refugees	Local population	Total
Was there a secret indictment against you?			2	2	2			2	1	7	1	9	1			1
Have you been laid off, detained, arrested or tortured because of your religious affiliation?	4	5	1	10	24	34		58	2	12	2	16				0
Have you been laid off, detained, arrested or tortured because of your political opinion?	1	1		2	2	3	1	6		2	1	3	2		1	3
Have you been laid off, detained, arrested or tortured because of something you said or wrote?		4	1	5	3	1		4		3		3	1			1
Have you been subjected to forced labour?		1	2	3	10	19	1	30	1	1		2	1			1
Total	490	306	117	913	671	730	46	1447	295	474	151	920	34	86	61	181

Table 9a: *Subjective impression of human rights violation – percentage of respondents reporting on their impression of violation of their human rights, by civil status and country/entity*

	*Returnee %	Refugee %	Local %	**FBiH%	RS %	Cro %	Ser %
Was your property ever or is it still illicitly occupied by other people?	36	46	5	16	17	11	1
Have you been unable to repossess your property despite rulings by the court?	6	6	1	3	3	2	0
Have you been denied the right to compensation of damages inflicted by the state?	14	25	5	7	8	6	1
Have you been denied the use of your native language for official purposes (before state bodies, in court, etc.)?	2	4	1	0	1	1	0
Have you been prevented from going to your place of worship and/or publicly displaying your religion?	5	7	0	1	3	1	0
Has your right to vote been restricted?	3	5	0	0	1	1	1
Have you been insulted and humiliated by state bodies due to your ethnic background?	9	13	3	2	4	4	0
Do you feel that due to your origin you are not treated as other citizens when you appeal to state bodies?	13	14	3	4	5	4	1
Have you ever been detained because of partaking in rallies and demonstrations?	0	0	0	0	0	0	0
Have you been coerced into joining an organisation / association / party, against your will?	0	1	1	0	0	0	0
Have you attempts to organise yourselves in protection of your rights and interests ever been declared as hostile activity by the media, police or politicians?	3	2	2	1	1	1	1
If you have underage children, do they have necessary conditions for education?	3	0	2	2	1	0	0
If you have underage children, do they have to work in order for the family to make a living?	1	2	1	1	1	0	0
If you have underage children, can they be educated in their native language?	4	1	3	1	1	2	0
If you have underage children, do they have a possibility to choose their own religious education?	2	0	2	0	1	0	0
Have you or your family members been denied the right to citizenship?	2	2	1	0	0	1	0

	<i>*Returnee %</i>	<i>Refugee %</i>	<i>Local %</i>	<i>**FBiH%</i>	<i>RS %</i>	<i>Cro %</i>	<i>Ser %</i>
Are you able to get personal documents, passport?	1	1	0	0	0	0	0
Has your freedom of movement ever been restricted?	7	9	1	2	5	1	0
Are you afraid to leave your place of residence because many others who have done so have been subjected to ill treatment and harassment?	5	14	2	2	5	2	0
Have you been prevented from settling where you wanted because of your ethnic origin?	7	18	1	2	6	3	1
Have you been denied a job due to your ethnic origin?	10	9	3	3	3	3	1
Were you paid less for same work than your fellow citizens?	2	2	0	1	1	1	0
Were you ever denied employment because of your sex?	0	1	0	1	0	0	0
Would it be possible for a member of your ethnicity to be elected to important function?	7	4	1	2	3	1	0
Do you think that members of your ethnicity could get respected and well paid jobs?							
If you have right to pension, are you receiving it?	9	6	1	2	4	2	0
If you have right to social welfare, are you receiving it?	1	2	1	5	0	0	0
If you have right to child welfare compensation, are you receiving it?	2	1	0	2	1	0	0
If you have right to health care, do you exercise it?	1	1	0	2	0	0	0
Have you ever been denied adequate medical service due to your ethnic origin?	5	0	2	2	2	0	0
Have you ever been assaulted or was your life in danger because of your ethnic origin?	1	1	0	0	1	0	0
Have you ever been detained without having been told on what grounds?	17	30	7	4	10	7	0
Have you been arrested without an official warrant?	4	8	4	1	3	2	1
Have you been arrested, humiliated or tortured because of your ethnic background?	6	6	2	0	2	2	1
Have you been tried before a court without being assigned an attorney and given the possibility to prepare your defence?	7	11	3	1	4	3	1

	<i>*Returnee %</i>	<i>Refugee %</i>	<i>Local %</i>	<i>**FBiH%</i>	<i>RS %</i>	<i>Cro %</i>	<i>Ser %</i>
Have you been convicted in absentia or without right to defence?	1	2	0	0	0	0	0
Have you ever been denied the right to appeal / complaint?	1	1	0	0	0	0	0
Has ever a court made a less favourable decision in your case then in other similar cases only due to your ethnic origin?	2	3	1	1	1	0	0
Do you think you have been followed, had your phone tapped or mail reviewed by the police?	2	1	1	0	0	1	0
Has the police ever searched your apartment without a warrant issued by court?	5	9	5	2	3	3	1
Was there a secret indictment against you?	3	9	1	4	3	1	0
Have you been laid off, detained, arrested or tortured because of your religious affiliation?	1	2	0	0	0	1	0
Have you been laid off, detained, arrested or tortured because of your political opinion?	5	10	0	1	4	1	0
Have you been laid off, detained, arrested or tortured because of something you said or wrote?	1	1	1	0	0	0	0
Have you been subjected to forced labour?	1	1	0	0	0	0	0
Was your property ever or is it still illicitly occupied by other people?	2	4	0	0	2	0	0

- * percentage calculated in relation to sub-sample of returnees
- ** percentage calculated in relation to the overall number of valid data. Given that the sample contained a high proportion of refugees from BiH and Croatia and RS, the percentage is very high

Objective and subjective in human rights

In this preliminary overview we have presented and discussed data based on subjective impressions of respondents about violation of their rights. Objective indicators of rights violations, obtained through assessment of interviewers on the credibility of respondent's statement and corroboration by concrete information about the case, are smaller in terms of percentage but follow all discussed analyses.

Depending on how a person in particular stages of his/her life expresses and fulfils own economic, social, political and other needs and affirms his/her national identity, his/her views on the state, society and their services, as well as the impression of how much their rights are exercised or violated, tend to change. In times of general sense of vulnerability, conflicts, massive plight, loss of property and expulsion or eviction of a part of the population, one can expect higher objective indicators of human rights violations, as well as a higher subjective impression that individual rights are violated. According to preliminary data in this research possible factors influencing the discrepancy between subjective impression and objective indicators of human rights violations can be sought in particular aspects of current living circumstances, stressful experiences, especially those linked with war, as well as their impact on the health of respondents and on some basic characteristics of their personality.

CONCLUSIONS

1. Research of the status of human rights, both related to the legal consciousness of citizens (knowledge of respondents about existence of human rights, ways of exercising and mechanisms for protecting them) and linked with their personal experience, i.e. subjective reality (assessment of respondents on the general violation of specific rights within population, their experiences with regard to their own rights violation) provide a rapid overview of the awareness about human rights and main areas in which violations occur. The questionnaire presented here allows these data to be complemented by qualitative information about specific incidents. Such research could be general – comprehensive or focused on particular topics. They can also be focused on populations or other vulnerable target groups. Most of such research exercises would enable the collection and systematic monitoring of relevant data about human rights violations, as well as an evaluation and improvements of instruments applied.
2. Main areas of human rights violations identified by this research coincide with incidents already pointed out by international and local NGOs. Violations occur in all categories of human rights, with most reported cases

falling under the wide array of *civil rights* – right to life, freedom and security of person, property rights – right to own and enjoy property, right to fair trial, right to privacy, freedom of movement and choice of residence, etc., followed by *social and economic rights* – right to social security, pension, social and health care insurance, right to work, access to labour market and rights from employment. Restrictions in exercising *political rights* are followed by drastic violations of basic civil rights (detention, arrest, humiliation and torture), while *discrimination on ethnic grounds* is practiced in many spheres of social and public life.

3. Much higher extent of human rights violations have been registered among the population with refugee experience. Violation of rights of refugees and returnees is much higher than among local population that had not migrated. Such tendencies are seen during the war, as well as in the post-war period. These data speak in favour of the statement that refugees and returnees are a population at particular risk, needing specific assistance in protection and exercising their rights in countries of origin and asylum, for a longer period of time after the war.
4. Confidence of all categories of respondents in state structures that are supposed to ensure protection of human rights is very low and the effectiveness of criminal-legal mechanisms is even lower. State bodies are most often stated as perpetrators of human rights violations. Relationship between citizens and state institutions in countries in transition merits particular attention and a separate research.
5. A very important yet uncovered field is a research into war victimisation and possibility of restorative justice for victims of war in the region⁵³. Models of victimology surveys could be adapted for this type of research, while statements of respondents about ways of achieving justice and compensation could be an important guideline for reconciliation programmes in the region. Besides the civil sector, such programmes should also involve victims and their families, as well as state structures, in order to discontinue the long tradition of not acknowledging and denying war plight in former Yugoslavia.

⁵³ Authors would like to thank professor PhD Vesni Nikolić-Ristanović (Serbian Victimology Society, Belgrade) for her useful comments on results related to the human rights status of respondents in our research and for pointing out the possibility of a research concept of war victimisation.

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