



Gender-Based Violence in Migration

Interdisciplinary, Feminist and
Intersectional Approaches

Edited by
Jane Freedman
Nina Sahraoui
Evangelia Tastsoglou



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“Timely and thought provoking! Critiquing narrow compartmentalized classifications, and false universalization, the authors carefully consider key theoretical frameworks and use important collaborative research to show the salience of contextualization in addressing migration and gender-based violence. This volume—with its feminist, interdisciplinary, intersectional approaches—sheds light on the problematics and possibilities of policies and practices in tackling the causes and consequences of migration and gender-based violence at the micro and macro levels. Important concepts of intersectionality, precarity, precariousness, vulnerability are well discussed. This is a must-read book, especially for those interested in research and action in addressing gender-based violence and migration.”

—Margaret Abraham, *Professor of Sociology & Harry H. Wachtel Distinguished Professor for the Study of Nonviolent Social Change, Hofstra University, USA*

“This anthology looks at the impact of GBV on migrant women in Europe and Canada from new feminist perspectives: the authors not only use situated intersectionality to analyze the multiple facets of GBV, but they convincingly show that the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence, which was adopted by the Council of Europe in 2014, has by no means led to the expected successes. Many migrant/refugee women who have managed to flee their country from violence and rape face new harassments not only during their journey; they also endure the administrative exclusions of nation-state asylum laws and many new forms of discrimination in the host countries. The authors convincingly show the continuation of violence in which asylum seekers are - in the words of Achille Mbembé - ‘kept alive but in state of injury’. This book is a ‘must read’ for migration scholars, students and activists and belongs in the curriculum of human rights and international law education.”

—Helma Lutz, *Goethe Universität Frankfurt, Germany*

“This unique and timely volume demonstrates the significance of intersectionality, vulnerability, and precarity in research and policy on gender-based violence. Case studies of migrant, trafficking victims, and asylum seekers point to the policy frameworks and media discourses and their consequences on addressing gender-based violence. A must read for scholars and students concerned with violence against women migrants and refugees.”

—Mary Romero, *author of Introducing Intersectionality*

“This excellent book presents the links between violence inherent in different types of migration, precarity, and racialized violence against women. It is a unique presentation of neoliberal regimes of violence, relative prospects of resistance, and analyses of policies that foster and/or interrupt the tapestry of violence. A must read for all those who are interested in migration and violence studies.”

—Bandana Purkayastha, *Professor, Sociology, University of Connecticut, USA*

“A comprehensive analysis of gender-based violence (GBV) in migration contexts across Europe, Canada and Israel, this volume challenges essentialized notions of both gender and migration. The contributors propose a feminist intersectional approach to theorizing precarity and vulnerability, providing a robust and nuanced framework to analyze empirically rich case studies and offer important policy and practical insights. This book is an important contribution to migration studies—a must read for researchers, students, and policy makers.”

—Christina Clark-Kazak, *Associate Professor, Graduate School of Public and International Affairs, University of Ottawa, Canada*

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Jane Freedman
Université Paris 8 and Paris Centre for
Sociological and Political Research
(CRESPPA)
Paris, France

Nina Sahraoui
Paris Centre for Sociological and
Political Research, CNRS
Paris, France

Evangelia Tastsoglou
Department of Sociology
Saint Mary's University
Halifax, NS, Canada

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The editors would like to acknowledge the assistance of Larissa Sweeney, graduate student in Geography at Saint Mary’s University.

The three editors have contributed equally to this volume. Their names are listed in alphabetical order.

ABOUT THE BOOK

With contributions from a diverse array of international scholars, this edited volume offers a renewed understanding of gender-based violence (GBV) by examining its social and political dimensions in migration contexts. This book engages micro, meso, and macro levels of analysis by foregrounding a conceptualization of GBV that addresses both its interpersonal and structural causes. The chapters explore how GBV frameworks and migration management intersect and bring to the forefront the specific inequalities these intersections produce for migrant women. This volume will be of interest to scholars/researchers and policymakers in Gender Studies, Migration and Refugee Studies, Sociology, Political Science, Trauma Studies, Human Rights and Socio-Legal Studies.

CONTENTS

Part I	Against Essentialism and Beyond Abstract Universalism: Theorising Gender-Based Violence in Migration Contexts	1
1	Thinking about Gender and Violence in Migration: An Introduction	3
	Jane Freedman, Nina Sahraoui, and Evangelia Tastsoglou	
2	Vulnerability, Precarity and Intersectionality: A Critical Review of Three Key Concepts for Understanding Gender-Based Violence in Migration Contexts	29
	Niamh Reilly, Margunn Bjørnholt, and Evangelia Tastsoglou	
Part II	Policy Intersections: Combating Gender-Based Violence and Managing Migration	57
3	Countering ‘Their’ Violence: Framing Gendered Violence Against Women Migrants in Austria	59
	Madita Standke-Erdmann, Milena Pieper, and Sieglinde Rosenberger	

4	The Gender of Canadian Legal and Policy Gender-Based Violence and Immigration Frameworks	85
	Evangelia Tastsoglou, Chantelle Falconer, Mia Sisic, Myrna Dawson, and Lori Wilkinson	
5	Gender-based Violence as a ‘Consequence of Migration’: How Culturalist Framings of GBV Ignore Structural Violence Against Migrant Women in France	113
	Jane Freedman, Nina Sahraoui, and Elsa Tyszler	
6	Crimmigration and Gender-Based Violence Against Women Asylum Seekers in Israel	135
	Nomi Levenkron, Hadar Dancig-Rosenberg, and Ruth Halperin-Kaddari	
Part III	Understanding Policy Implications, Foregrounding Women’s Voices	161
7	Vulnerability and Resiliency: Immigrant Women, Social Networks and Family Violence	163
	Catherine Holtmann	
8	Between the Law and a Hard Place—A Victim of Trafficking Meets the Norwegian Migration Regime	187
	Yngvil Grøvdal and Margunn Bjørnholt	
9	Gender-Based Violence as a Continuum in the Lives of Women Seeking Asylum: From Resistance to Patriarchy to Patterns of Institutional Violence in France	211
	Nina Sahraoui and Jane Freedman	
10	Conclusion	235
	Evangelia Tastsoglou, Nina Sahraoui, and Jane Freedman	
	Index	245

NOTES ON CONTRIBUTORS

Margunn Bjørnholt is Research Professor at the Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS) and Professor of Sociology at the University of Bergen. Her current research focuses on gender and violence, and violence in intimate relations in majority and minority populations. She has written widely on intimate partner violence, sexual violence, migration, work, family and gender equality, and men and masculinities. She is the co-editor of *Men, Masculinities and Intimate Partner Violence* (2021).

Hadar Dancig-Rosenberg is a Professor of Law and a former Associate Dean for Research at the Bar-Ilan University Faculty of Law. She is 2021-2022 Helen Diller Institute Visiting Professor and an Affiliate at the Center for the Study of Law and Society at UC Berkeley School of Law. Dancig-Rosenberg specialises in criminal law and procedure, and her areas of expertise include the philosophy of criminal law, non-adversarial criminal justice reform and alternatives, therapeutic jurisprudence, and the interface between criminal law and gender. She co-founded and serves as a co-chair of the Israeli Criminal Law Association. Before joining Bar-Ilan she served as the Academic Director of the Hebrew University of Jerusalem Legal Clinic for Violence Against Women. She also serves as a member of the Advisory Committee for the Israeli Minister of Justice on Criminal Procedure and Evidence Law and as a member of the Advisory Committee for the Israeli Minister of Justice on Formulating Measures to Protect the Public Against Cyberbullying. Dancig-Rosenberg has published in lead-

ing American, European and Israeli law journals and received numerous grants and awards for academic excellence and community involvement.

Myrna Dawson is a Professor of Sociology and Director of the Centre for the Study of Social and Legal Responses to Violence (www.violencere-search.ca), University of Guelph. She is Director of the Canadian Femicide Observatory for Justice and Accountability (www.femicideincanada.ca) and Co-Director of the Canadian Domestic Homicide Prevention Initiative with Vulnerable Populations (www.cdhipi.ca). She has spent more than two decades researching social and legal responses to violence with emphasis on violence against women and femicide.

Chantelle Falconer was a postdoctoral fellow in Sociology and International Development Studies at Saint Mary's University in Halifax, Canada and a member of the Canadian research team for the project *Violence Against Women Migrants and Refugees: Analysing Causes and Effective Policy Response*. She earned her PhD in 2019 from the Department of Anthropology at the University of Toronto. Falconer has broad research interests in development and well-being.

Jane Freedman is a Professor at the Université Paris 8 and Co-Director of the Paris Centre for Sociological and Political Research (CRESPPA). Her research focuses on issues of gender and migration. Recent publications include *Gendering the International Asylum and Refugee Debate* (Palgrave Macmillan 2015) and *A Gendered Approach to the Syrian Refugee Crisis* (2017).

Yngvil Grøvdal is a Senior Researcher at the Norwegian Centre for Violence and Traumatic Stress Studies in Oslo. She has a background in criminology and her research interests include intimate partner violence, the criminal justice system, prison and control systems and victimology.

Ruth Halperin-Kaddari is a Professor of Law and is the Founding Academic Director of the Rackman Center for the Advancement of Women at Bar-Ilan University in Israel. She writes on family law in Israel, international human rights family law, legal pluralism, feminism and religious law, and international women's rights; and her book on Women in Israel was published by University of Pennsylvania Press. She served three terms on the UN Committee on Elimination of all forms of Discrimination Against Women (CEDAW), during which she was twice Vice-Chair, Chaired the Working Group on Inquiries, and headed the Inquiry against

the UK regarding the restrictive abortion regime in Northern Ireland. She is a recipient of numerous national and international research grants. In July 2007, she was awarded the International Award for Woman of Courage by the State Department of the United States, and in 2018, she was named on Apolitical's 100 most influential people in gender policy around the world.

Catherine Holtmann is Professor of Sociology and the Director of the Muriel McQueen Fergusson Centre for Family Violence Research at the University of New Brunswick in Canada. Her research interests include religion and gender, family violence and immigrants.

Nomi Levenkron is a postdoctoral student in the Faculty of Law at Bar Ilan University. She has been conducting research and lecturing at the Faculty of Law at Tel Aviv University, the Institute of Criminology at the Hebrew University of Jerusalem, and the Kinneret Academic College. Her areas of research and teaching are Migration and human trafficking, police and policing, and the social and legal history of the 1950s.

Milena Pieper is a journalist and political scientist. Until February 2020, she was a research assistant with "GBV-MIG" at the Department of Political Science of the University of Vienna. Her research interests are migration, right wing populism and social movements. She holds an MA in Political Sciences.

Niamh Reilly is Established Professor of Political Science and Sociology at the National University of Ireland, Galway. Her research interests focus on the relationship between theory and practice and the role of ideas in emancipatory projects. She has published widely on issues of human rights and gender; feminist political and social theory; religion in the public sphere; transnational movements and the United Nations; and women, peace and security. Most recently, she edited *International Human Rights of Women* (Springer 2019)

Sieglinde Rosenberger Professor of Political Science at the University of Vienna, was a fellow at the Department of Women's Studies at San Diego State University (1991/1992), at Harvard University (2003/04), and the European University Institute/Firenze (2007). He research projects and publications focus on migration and politics, asylum and social rights, gender relations, and protest movements. Recent publications include *Contesting the deportation state? Political change aspirations in protests*

against forced returns. Ethnic and Racial Studies, 42:16; with Leila Hadj-Abdou.

Nina Sahraoui is Marie Skłodowska-Curie Postdoctoral Fellow at the Paris Centre for Sociological and Political Research, CNRS, conducting the project CYBERGEN. Previously, Nina was Postdoctoral Research Associate at the European University Institute within the EU Border Care project. Nina's recent publications include the monograph *Racialised Workers and European Older-Age Care: From Care Labour to Care Ethics* (Palgrave 2019) and the edited volume *Border Across Healthcare. Moral Economies of Healthcare and Migration in Europe* (2020).

Mia Sisic was a postdoctoral fellow in Sociology and International Development Studies at Saint Mary's University in Halifax, Nova Scotia. Her research focuses on men's violence against women. She is a graduate of the Applied Social Psychology Doctoral Program at the University of Windsor where she completed her doctoral dissertation, *A Focus on Strength-based Outcomes of Wartime Sexual Violence in a Sample of Ethnically Diverse Women from Bosnia and Herzegovina*.

Madita Standke-Erdmann is a researcher with 'GBV-MIG' at the Department of Political Science of the University of Vienna. Her research engages with security, migration and humanitarianism at borders. She holds an MSc International Relations Theory from the London School of Economics and Political Science (LSE).

Evangelia Tastsoglou is Professor of Sociology and International Development Studies at Saint Mary's University in Halifax, Canada. She has written widely on issues of immigrant women; gender and citizenship; diasporas; and gender, violence and migration. Recent publications include *Interrogating Gender, Violence, and the State in National and Transnational Contexts*, in *Current Sociology Monograph Series* (2016); and *Gender, Violence and Forced Migration*, in *Frontiers in Human Dynamics – Refugees and Conflict* (2021).

Elsa Tyszler is a postdoctoral researcher at the Centre for Sociological and Political Research in Paris (CRESPPA). She completed her PhD thesis in Sociology on gender, race relations and coloniality of migration control at the Moroccan-Spanish border, around the case of the repression of migrants from Central and West Africa. She is currently working on the intersections between gender-based violence, race and migration policies at French borders.

Lori Wilkinson is a professor in the Department of Sociology and Criminology at the University of Manitoba in Winnipeg, Canada. Her program of research centres on the integration experiences of immigrants and refugees. She is currently the director of Immigration Research West, a multidisciplinary and multisector group of over 150 members interested in working with immigrants and refugees in Canada.

PART I

Against Essentialism and Beyond
Abstract Universalism: Theorising
Gender-Based Violence in Migration
Contexts



Thinking about Gender and Violence in Migration: An Introduction

Jane Freedman, Nina Sabraoui, and Evangelia Tastsoglou

Migration is increasingly politicised and contested at a national, regional and global level. We see regular images in the media of migrants being beaten and pushed back at borders, attempting to cross the sea in small boats, and in various other situations of risk and violence. Yet at the same time, migrants are portrayed as a threat to host societies, whether as a drain on the economy, a potential terrorist threat, a threat to national

The authorship order is alphabetical. Authors' contributions are equal.

J. Freedman
Université Paris 8 and Paris Centre for Sociological and Political Research
(CRESPPA), Paris, France
e-mail: Jane.FREEDMAN@cnrs.fr

N. Sahraoui (✉)
Paris Centre for Sociological and Political Research, CNRS, Paris, France
e-mail: nina.sahraoui@cnrs.fr

E. Tastsoglou
Department of Sociology, Saint Mary's University, Halifax, NS, Canada
e-mail: evie.tastsoglou@smu.ca

cultures, gender equality and women's rights, or more recently a threat to health through their alleged potential to spread Covid-19 (for a contextualisation of the role of privileged mobilities in disease transmission against the background of these discourses, see Mayblin 2022). There are clear gendered and racialised tropes and stereotypes underlying these images and representations, and yet despite an acknowledgment both in research and in policy-making of the increased presence of women amongst international migrants, there is still little research exploring the structures and systems which create specific gender-related insecurities for these women.

This volume, which stems from ongoing conversations and reflections from a group of researchers involved in an international research project¹, aims to contribute to knowledge and debates to fill this gap. We present here research and analysis from our project on gender-based violence in the context of migration, research which is drawn from seven participant countries, and which aims to examine the complex, interacting causal factors behind GBV in migration. We ask how legal and policy frameworks, actions (and omissions) of international organisations, states and state agents at various levels, as well as media and political discourses, contribute to risks of GBV. What actions might be taken to reduce or prevent these risks? What services are available for migrant survivors of GBV? And what is the role of human agency, that is the agency of individuals and communities in addressing and possibly preventing this major violation of human rights? How can we theorise the vulnerability to and experiences of GBV by migrant and refugee women in a way that takes into account their multiple identities and the many social divisions impacting them without resulting in essentialism and political fragmentation?

To put our various studies in context and to explain the theoretical and conceptual framework we have adopted, we present in the following sections of this chapter some of the key concepts used throughout the volume, and the ways in which these have been discussed and contested in research and policy. We conclude with a discussion of the structure of the book.

¹For more details of the project, see <https://gbvmigration.cnrs.fr/>. We would like to acknowledge the support of the EU GenderNet Plus Programme and of all our national funding agencies for the research presented here.

GENDER-BASED VIOLENCE

In this volume, we understand gender-based violence (GBV) as all forms of violence—physical, sexual, psychological, economic—directed against a person because of that person's sex, gender, sexual orientation or gender identity. This understanding is in line with that of international organisations such as UNHCR (2021) which defines sexual and gender-based violence as:

any act that is perpetrated against a person's will and is based on gender norms and unequal power relationships. It encompasses threats of violence and coercion. It can be physical, emotional, psychological, or sexual in nature, and can take the form of a denial of resources or access to services. It inflicts harm on women, girls, men and boys. GBV is a violation of human rights. It denies the human dignity of the individual and hurts human development.

Whilst as this definition shows, both women/girls and men/boys can be victims of gender-based violence, we are focusing in our analysis on gender-based violence against women and girls, not to dismiss the experiences of men/boys, but because statistics show that globally women/girls are by a large proportion the principal victims of such forms of violence (e.g., UNHCR 2003).

Our analysis will concentrate on forms of violence against women/girls, however, we refer to gender-based violence (rather than violence against women) to denote the ways in which the forms of violence which we are researching are rooted in gendered social norms and structures and unequal relations of power. This understanding of GBV helps to link individual acts of violence to wider social constructions and structures. This usage is thus important in reminding us of the origins and causes of GBV and in moving away from individualistic explanations of such violence. By linking individual acts of violence to social norms, values and structures, the issue of GBV becomes politicised, suggesting that the means of prevention do not just lie in treatment of individual cases and that wider social, political, and economic reforms and transformations are needed in order to prevent such violence. Jakobsen (2014) suggests the importance of seeing gender both as a practice and as the result of a practice (Martin 2003) whereby practices of gendering create and reinforce the gender norms and values upon which they are based. If we understand gender in

this way, then it can be linked to violence both in the way that unequal gender structures underlie and cause violence, and in so far as violence against women/girls creates and reinforces gender inequalities. Thus, talking about the links between gender and violence requires ‘attention to multiple aspects of gender and how these levels interact’ (Anderson 2009, 1452).

GBV AND MIGRATION

There is a complex, intersectional and multi-level causality between GBV and migration. Our volume examines specifically the various forms and occurrences of GBV as well as gendered aspects of violence in the context of migration, and the ways that migration is both a result and an aggravating or precipitating factor of GBV (Tastsoglou and Nourpanah 2019), rendering individuals, in the absence or limited enforcement of protection mechanisms for migrants with reduced or no status, more likely to experience GBV or other violence with gendered consequences and less able to gain protection from this violence or support. There is a tendency to compartmentalise in research on GBV and migration, for example, to focus specifically on GBV as cause of forced migration, linked to refugees or to consider other specific forms of violence such as domestic violence, or female genital mutilation (FGM). This leads to overlooking some of the many other forms of GBV against migrants or linked to migration and also failing to make the links between different forms of GBV against migrants in different stages of the migration journey, as well as the structural and systemic inequalities which may underlie them. This volume will attempt to break down these compartmentalised understandings to analyse GBV across the spectrum of different forms and experiences of migration. We will emphasise the fact that GBV occurs at all stages of migration in countries of origin, transit and destination. We will also attempt to break down rigid classifications of different forms of migration which exist in both policy and research—economic migrants, refugees, family reunification and so forth—in order to understand the fluidity of migration experiences and the ways that processes of exclusion, marginalisation and violence cut across all of these.

GBV is present as a cause of migration, both through violence during conflicts, which has forced women to flee or through gender-related forms of persecution such as forced marriage, FGM or domestic violence for which women migrate to claim asylum. However, GBV experiences

continue upon arriving to ‘safety’ (Tastsoglou and Nourpanah 2019). There is a body of legal research which explores the integration of gender into asylum and refugee status determination and the barriers for women who wish to claim asylum on this basis. Findings across various national asylum systems show that even when gender is formally integrated into asylum law (e.g., through the EU Asylum Directives), there are barriers to women making claims on these grounds. The reluctance to consider women’s experiences of violence or persecution as ‘political’ and sufficient grounds for Convention protection persists, particularly with regard to issues such as mundane and not culturally ‘exotic’ domestic violence (Chantler 2010). And women face serious obstacles and problems in making their claims such as the difficulties in talking about GBV during status determination processes, especially asylum interviews. Perhaps the most difficult problem is the burden of proof and the difficulty of providing evidence to support women’s claims of violence during the refugee status determination process (Singer 2014).

In terms of GBV during migration, there is a recent body of research emerging on the impacts of the securitisation of borders, showing how increased border controls and harsher visa regimes act to increase the insecurities of those trying to cross them, making journeys longer, more dangerous and more expensive. Much of this research is not gendered, although there are now some specific studies of women’s experiences of crossing borders and the violence that they face. Some research, for example, has shown how women are proportionally more likely to die crossing borders than men are, and it has started to explore the reasons for this (Pickering and Cochrane 2013). Other research focuses on experiences of women crossing or attempting to cross borders into the EU or into the US and the violence they face from various sources including border security forces, police, smugglers/traffickers, and also in some cases other migrants or humanitarian actors who are there to ‘rescue’ or ‘save’ these migrants (Freedman 2019; Sahraoui and Tyszler 2021). It is important to consider the ways in which gendered and racialised representations of migrants and refugees support this securitisation of borders and increase the violence and control which impacts the experiences of women and men in different ways (Allsopp 2017; Ibrahim 2005; Kengerlinksy 2007). Men are more likely, for example, to be linked to threats of ‘terrorism’, whilst women may be considered more ‘vulnerable’, especially if they are traveling alone or are pregnant. Selected forms of GBV are also rendered hypervisible (Boesten 2018; Chantler 2018).

These gendered and racialised representations constitute in themselves forms of symbolic violence and also create specific situations of repression and control. This links to the critique of attempts to address GBV against migrants through approaches which essentialise ‘culture’ and ‘cultural difference’, focusing for example on the ways in which ‘other’ cultures do not respect gender equality and so may be a threat to women’s rights. These representations and discourses which link GBV to these ‘other’ cultures not only discriminate against and stigmatise migrants to whom these ‘cultures’ are attributed, feeding into an anti-immigration discourse, but also serve to distract attention from fundamental causes of GBV rooted in unequal, racialised and gendered structures of domination and control in host countries (Freedman, Sahraoui and Tyszler; Standke-Erdmann, Pieper and Rosenberger, in this volume).

Transactional sexual relations are commonplace around migrant and refugee routes and camps, and on arrival in host countries, and may become part of a strategy of survival for migrant women and girls who receive little or no support from the State or other sources (Formson and Hillhorst 2016; Gerard and Pickering 2012; McGinnis 2016). The frequency of transactional sex as an income generating or survival strategy for women migrants links to debates on trafficking and migrant sex work. Trafficking has received a lot of attention in both research and policy-making. The debates on trafficking as a form of GBV against women are highly contested and often polemic, caught up as they are in the opposition between an abolitionist stand on prostitution, and a position that sex work is a legitimate form of employment for women (including migrant women) which should be legally recognised to offer better protection for these women. Research and statistical data on trafficking may be biased towards an over-representation of trafficking of women for sexual exploitation, as this is often the most ‘visible’ form of trafficking, with its victims accessible in locations where sex work is widespread. Other forms of trafficking and exploitation are under-reported such as forced or bonded labour, domestic servitude and forced marriage. It is important to recognise that migrant sex workers are not just ‘victims’ but have agency and that for many this may be a strategic choice within the bounds of choices available to women because of their sex and immigration status (Tastsoglou et al. 2021). However, it is also important to address the global inequalities which mean that sex work is in fact a strategic means of making money for these women migrants. And the repression of ‘illegal’ migration may mean that women who are victims of trafficking may feel that they are

unable to go to the police in their country of destination for fear of being deported because of their lack of legal residence status.

Research on trafficking and migrant women's sex work can be linked more broadly to issues of exploitation and violence in the labour market and employment. For many migrant women the types of jobs into which they are recruited are largely unskilled, low-paid and insecure in terms of having little social or legal protection. Incidents of violence against women in these types of employment are frequent with migration being a factor facilitating violence in the absence of adequate protection. Violence against migrant women workers can thus be seen as a consequence of state violence in that the strict application of immigration laws renders women increasingly vulnerable and at risk. The fact that many of these women are working 'illegally' because they do not have the requisite work permits makes their conditions of work even more insecure which, in turn, makes it harder for them to mobilise because they may be afraid to make themselves visible in the public space. Even when migrant women work legally in destination countries, they are often pushed to feminised, little paying and insecure occupations, driven by neoliberal restructuring (Sassen 2000). Informality and low salaries often heavily constrain migrant women's chances for regularisation. In addition, the type of work in which migrant women are involved may mean that they remain isolated and cannot access any support either from other migrant women or help from outside sources such as trade unions, for example. Women migrant workers are thus treated as workers not worthy of protection. Lewis et al. (2015) provide an interesting discussion of precarity for migrant workers although they do not provide an explicitly gendered approach to this. There is also a range of research on migrant domestic workers, some of which also focuses on migrant women's strategies of resistance through political mobilisation (Schwenken 2017).

Another body of research has focused on migrant and refugee reception conditions and the ways in which this might contribute to women's vulnerability to GBV. Inadequate reception conditions for migrants have been shown to pose problems of insecurity for women, with a lack of safe and sanitary accommodation, access to health services or psychological support. One survey of EU reception centres for asylum seekers, for example, showed that as well as sexual and physical violence, women are victims of emotional, psychological and socio-economic forms of violence concluding that these migrants and refugees face combined forms of victimisation resulting from the conditions of reception/detention (Keynaert

et al. 2014). There is also some research on migrant women's access/lack of access to services which can render them vulnerable to violence or mean that they cannot get services necessary to violence survivors (Tastsoglou et al. 2021; Abraham and Tastsoglou 2016). Some research has been done, for example, on the links between migrant women's homelessness and domestic violence (Mayock et al. 2016; McGinnis 2016). Finally, there is research on lack of mental health and psychological supports for migrant women survivors of violence (Canning 2015). Lack of access can also be considered in itself a form of violence in some circumstances and a form of violence on the part of the state, that is, structural violence (Tastsoglou et al. in this volume) which is not just neglect, but in fact intentional 'slow' violence and necropolitical control aimed at racialised and gendered people on the move (Sahraoui and Freedman in this volume).

Various pieces of research have pointed to increased levels of domestic/IPV (Interpersonal Violence) against migrant and refugee women (Menjívar and Salcido 2002). There are varying explanations for this, and it is important to avoid the trap of essentialising this violence construed as a result of 'cultural differences', and of the ways in which the 'new' cultures of receiving countries interact with the more 'traditional' cultures of countries of origin (Razack 2003). Other research points to the ways in which the poor reception conditions and ineffective integration policies, resulting in downward mobility and consequent loss of status with migration in countries of destination, may put strain on family relations and lead to increasing incidences of domestic violence amongst migrant and refugee families (Cottrell et al. 2009). But it has been shown that women who are victims of domestic violence in these circumstances have little chance of any legal or social support, in part because of the ways in which they are culturally 'othered'. The prevailing models and representations of family migration still often recognise a man as a head of family who will protect his wife, so that it is assumed that women migrating with their husbands or another male companion will be protected by this male partner (Tastsoglou et al. 2021). Incidence of violence and domination within family groups are thus often overlooked. Further, immigration laws and policies are often still predicated on these family models and women may thus continue to be dependent on husbands/partners for legal status—or, in the absence of information, think and act as if they were (Tastsoglou et al. in this volume)—which exposes them to risks of GBV and makes it more difficult for them to leave a violent partner.

Problems of cultural understandings of GBV against migrant women are evident in the focus by some research on specific forms of violence such as FGM and forced marriage, and these culturalist understandings are also very present in policies and political discourse on gender and migration as shown by several chapters in this volume. Whilst these are forms of violence which are present against migrant women, it is important not to see them as somehow a product of ‘other’ cultures, and to place them in a wider continuum of GBV. Anthias (2014) has a strong critique of the ‘culturalist’ turn in sociology in discussing these issues/forms of violence and argues for a renewed focus on political economy as a way of responding to this and avoiding the trap of ‘othering’ migrant women in these debates. Generally, one of the issues across research seems to be a need to look at deeper structural causes of marginalisation of women migrants and of vulnerabilities to GBV (Abraham and Tastsoglou 2016) which will draw all of these different cases together and illustrate the ways in which women (and men) can become vulnerable to violence through intersecting identities and the ways in which they are socially, institutionally and legally located. All the case studies in our volume interrogate the ways in which GBV is understood in the context of migration, and the ways in which intersecting and situated (Yuval-Davis 2015) social inequalities and power hierarchies, including those of gender, but also of race, class, nationality, age, ability, for example, interact with migration status to produce situations of vulnerability to various forms of GBV.

We will turn next to a theoretical and historical genealogy of the concept and theory of intersectionality with a special focus on its implications when applied to GBV in a migration context.

A FEMINIST INTERSECTIONAL APPROACH TO GENDER-BASED VIOLENCE AND MIGRATION

In this volume, we consider GBV and migration through a feminist intersectional perspective. The latter assumes, broadly speaking, that women and men do not form essentialised, hermetically sealed, homogenous categories, groups with ‘natural’ shared identities, similar experiences and in polarised opposition from each other. Instead, in particular historical societies, they are differentiated by diverse power relations, unequal social positions, and identifications built thereupon. This diversity includes interweaving gender power relations with other social divisions that define

social positions which confer greater advantage or disadvantage to the groups occupying them and often identifying themselves accordingly. An intersectional *feminist* perspective entails a recognition that different women experience gender-based disadvantage, inequality or oppression differently. These interweaving axes of social inequalities are structural, context specific and variable, over time and in different places, within an overarching, global capitalist context. Hill Collins conceptualises this as a dynamic and shifting ‘matrix of domination’ (1990). It is important to understand the ever-shifting character of the intersecting axes of inequalities and oppressions and the consequent variable disadvantage they confer to group positions, if we want to avoid abstract, static, a-historical, one-dimensional and reductionist understandings of the experiences of social groups. Finally, the disadvantage is a multiplicative one and not simply cumulative (Crenshaw 1991; Nagel 2003; Hancock 2007).

As Chap. 2 illustrates, the idea of intersectionality has precursors in US black feminist thought (Davis 1983; Hill Collins 1986; hooks 1984) and ‘women of color’ writings (Hull et al. 1982; Smith 1983; Moraga and Anzaldúa 1983; Lorde 1984), but also black British feminism (e.g., Amos and Parmar 1984). From the ‘race, class and gender’ analyses of the 1980s, the paradigm-shifting concept of intersectionality was coined by Kimberlé Crenshaw (1989, 1991) and prevailed in the 1990s giving rise to a rich and ever-growing feminist and anti-racist intersectional scholarship, with branches in critical race theory and critical legal studies (Crenshaw et al. 1995). This scholarship has understood and theorised intersectionality in more than one way. The present book aims at deploying intersectional analyses of GBV in a diverse and shifting migration context, consisting of not only global migration and geo-political regimes but also the social, institutional and legal/policy structures and practices of countries of reception focused on by each, country-specific project. Last but not least, the complex, contextual, multi-causal, multi-level intersectional analyses featured in this volume unfold in a rapidly changing global social landscape that is being discussed as the ‘great reset’ for capitalism precipitated by the COVID-19 pandemic (Schwab and Malleret 2020).

What is exactly intersectionality? First, we conceptualise it as a theoretical perspective on social phenomena, social processes, social groups and social action. It is ‘a multi-level, historical co-determination of interactive racialization, gendering and class forming processes’ (Choo and Ferree 2010). These interacting and co-determining processes are based on the conceptual and categorical ‘axes of domination’, consisting of race, gender

and class respectively (as social divisions and identity characteristics), forming a dynamic ‘matrix of domination’ (Hill Collins 1990). The latter may expand, over time or in a particular context, as other processes of discrimination and corresponding axes of domination such as ethnicity, sexuality, age, ability, nation may emerge as relevant (Hill Collins 2010). Thus, the axes of domination and their possible intersections are time and place specific, that is, shifting over time and not necessarily the same in different locations.

Besides a theoretical perspective, intersectionality is also a political project that signifies ‘work in progress’ inviting researchers to always broaden the range of work that it can be applied to, in order to give voice to so far silent and excluded categories of subjects struggling for social justice (Carbado et al. 2013). As it strives to give voice and include those left out, it is of interest not only to social justice researchers but also to activists. Intersectionality can be considered then as a theoretical approach with an activist orientation or social movement dimension (in the same way that most feminist theory, Marxism and some other social theories are). This does not mean that everyone deploying intersectionality sees themselves as activists. However, the concept itself is ‘animated by the imperative of social change’ (Carbado et al. 2013, 10). This is also echoed in Patricia Hill Collins’ words about intersectionality as ‘critical praxis that informs social justice projects’ (2015, 15-17). On an epistemological level, intersectionality becomes then a ‘knowledge project’ whose *raison d’être* is to pay attention to power relations and social inequalities (Hill Collins 2015). As such, intersectionality is a field of study situated within the power relations that it studies.

Methodologically, intersectionality signifies a sufficiently flexible perspective as to move within and across disciplines, scholarly subfields, work with diverse research methodologies (qualitative and even quantitative) and topical inquiries, as well as move across national boundaries and be applied in diverse institutional settings and discourses (Carbado et al. 2013; Marfelt 2016). Because of this quality, intersectionality has been characterised as a ‘traveling theory’ and reduced to a methodological approach to diversity research. As such, it has been criticised for being extricated from its original ‘situated and embodied’ character (Haraway 1988) in Black and Third-World feminist theory by a contemporary neoliberal academic and government milieu. It is argued that in the traveling process, intersectionality has lost its critical potential (Salem 2018) but suggested that the latter can be regained if the theory is infused with a

solid Marxist feminist and historical materialist analysis. To avoid the reductionism, reification, essentialism and fragmentation of intersectional categories being mechanically deployed, we use Nira Yuval-Davis' theory of 'situated intersectionality' (2015) which calls 'for context-specific analysis to reveal the specific and varying effects produced by differential intersectional configurations' (Reilly et al. in this volume). Situated intersectionality needs to be ultimately applied to understanding power relations, social divisions and inequalities across social groups and classes and in specific socio-historical contexts.

Furthermore, Yuval-Davis' situated intersectionality involves a specific blueprint for research. The theory posits three interrelated and yet distinct aspects of social analysis: at the micro level, it suggests research into individuals' (i) positioning along socio-economic axes of inequality; (ii) experiences and sense of identity and belonging; and (iii) normative value systems. At the macro level, the theory posits four global inequality producing 'domains' for possible research, namely, (i) legitimacy and governance of political boundaries; (ii) differential production and distribution of goods; (iii) political projects of belonging which cut across political boundaries and structure social positionings; and (iv) familial, intergenerational and informal networks concerned with 'social biological and symbolic reproduction' (for more detail, see Reilly et al. in this volume).

How can we engage with a feminist, situated intersectionality perspective on GBV in a migration context in particular? Such a context calls for particular attention to be paid to the 'geographic, social and temporal locations' (Yuval-Davis 2015, 95) of the individual and collective actors who we seek to understand. The latter could not only be migrants and refugees (with their full range of subcategories, uniquely defined in different locations), but also others implicated in diverse power relations (not directly or apparently related to GBV) to migrants and refugees. Following Yuval-Davis' research blueprint, we suggest next some of the ways in which a feminist, intersectional approach to GBV in a migration context could be mobilised. At the *micro level*, the analysis of positionings, contributing to GBV vulnerability, could be carried out by identifying (i) the positions defined by the intersections of axes of inequalities / oppressions based on sex, gender, gender identity, race, nationality, ethnicity, sexual orientation, age, and other relevant social divisions, as well as (ii) the corresponding processes allocating individuals, migrants, refugees but also others, in particular positions. As well, a feminist, situated intersectionality approach at the micro level could engage with analysing the GBV

experiences of individuals, at the concrete historical time place, in connection with their social positionings, and with demonstrating the links between positionings and experiences. Finally, a feminist, situated intersectionality approach at the micro level could engage with how normative value systems shape individual GBV experiences and mobilise action. At the *macro level*, a feminist situated intersectionality approach might engage with research identifying, in each or any of the four domains (political, economic, ideological and transnational familial/network), the complex and intersecting political-economic and discursive processes that have historically contributed to specific forms of inequalities that impact global mobilities, and generate vulnerability to GBV.

We combine a feminist, situated intersectionality perspective on GBV in migration with our conceptualisation of migration as a complex, multi-causal, multi-stage, non-linear (and often non-conclusive) temporal-spatial continuum / process, including a spectrum of forms (from the freely decided economic or family migration to forced migration and asylum seeking) and producing a multitude of categories of migrants with differential legal / citizenship statuses and associated rights. Consequently, adopting a feminist, situated intersectionality perspective on GBV in a migration context suggests a focus on gender inequality and intersectionality in GBV, in terms of experiences and multi-scalar causal processes, at different ‘moments’ of the migration process.

For example, at the outset, GBV may be one of the causes for flight and seeking a ‘safe haven.’ Taking an intersectional approach at this stage means an inquiry into (i) the intersectional positionings, experiences and value orientations of those who migrate because of prior GBV; (ii) the multi-scalar macro processes that directly or indirectly contributed to GBV in the specific time and place; and (iii) establishing macro-micro level connections. Not only does intersectionality allow us to understand differences among individual migrants and groups, but also, from a policy / intervention point of view, to identify those needing attention most urgently upon arrival. For GBV that occurs *during migration* (e.g., as sexual violence, sexual exploitation, forced marriage, or ‘transactional sex’), as well as for GBV occurring *upon arrival to ‘safety’* (e.g., through a long wait for registration, deteriorated camp conditions, crowded city apartments, or homelessness), a situated intersectionality approach suggests lines of inquiry such as: (i) how the specific identity-related positionings contributed to GBV experiences; (ii) how normative value systems of individuals further shaped their experiences, perceptions of experiences

and consequent reactions; (iii) how positionings, experiences and normative values can, in turn, be linked to specific multi-scalar, intersectional power relations and processes at work in the economic, political, ideological or transnational familial / network domains.

We will turn next to examining the concepts of precarity and vulnerability as important theoretical links paving the way for understanding gender and intersectional violence in the context of migration.

PRECARITY, PRECARIOUSNESS, AND VULNERABILITY

In this volume, we also seek to engage with the concepts of precariousness, precarity and vulnerability with the view to contribute to these theoretical discussions from the perspective of GBV in migration contexts. While Chap. 2 is dedicated to sketching out this theoretical framework in greater detail (Reilly et al. in this volume), we offer here an overview of how these concepts have been employed and why they are relevant to this volume. For this purpose, we will first look into the political economy roots of the notion of precarity, before exploring how it was subsequently developed as an ontology around the notion of an existential precariousness, two key anchorages for this concept across disciplines (Han 2018). This will allow us to engage in scholarly debates around the uses of precariousness and vulnerability, in order to outline some similarities yet also some of the conceptual differences identified in the literature, in particular within gender studies. Finally, we will provide a brief overview of how these concepts have been used in researching GBV faced by migrant women.

Critical Political Economy and Precarity

A significant section of the literature relates the notion of precarity to the concept of precarious employment and work, foregrounding an understanding of precarity as embedded in a critical political economy of the capitalist mode of production. A caveat is necessary however, as the uses of the terms precarious/precarity vary in French, English, German and Spanish, and their distinguished genealogies have implications to date as to how precarity is understood and conceptualised. For instance, while the term has been widely used in France in economic and political discourses for decades, its uses in English speaking countries are not only more recent but also more contained to academic debates (Barbier 2011, 15). Arguably, the notion gained visibility following the debates sparked by Guy

Standing's theorisation of the 'precariat' as a class composed of precarious workers who lack seven forms of labour related security (Standing 2011). This socio-economic approach to precarity highlights that women are particularly affected by precarious employment and work, as a result of societies' sex and gendered hierarchies. Feminised sectors of the labour market are thus deemed unskilled not on the basis of the actual skills performed but because of their association with women's work in the household and the consequent gendered devaluation of their competencies, which results in more precarious employment conditions (Harvey 2014; Federici 2006; Vosko and Clark 2009). For migrant women, on top of these deeply entrenched gendered inequalities, unstable migrant statuses further put one at risk of facing precarious socio-economic conditions by limiting economic opportunities to highly segmented sections of the labour market, thus actively producing 'precarious workers' (Anderson 2010).

This political economy approach is not without relevance to a broader understanding of precarity as a mode of governance under neoliberal capitalism. In this perspective, precarity amounted for Bourdieu to a form of domination as a state of permanent insecurity fosters subordination, acceptance and exploitation (Bourdieu 1998). In this sense, increasing precarity demonstrates how existential precariousness can be limited or exacerbated through socio-economic policies. Isabell Lorey's argument makes that point clearly: 'Precarization means more than insecure jobs, more than the lack of security given by waged employment. By way of insecurity and danger it embraces the whole of existence, the body, modes of subjectivation' (Lorey 2015, 1). The lived experience of precariousness is thus shaped by the multidimensional conditions of precarity.

Ontological Precariousness and Socio-Political Precarity

Precariousness as ontology also presents its own philosophical genealogy, with the thought of Judith Butler being particularly influential. Butler starts from the level of the body and its inherent biological precariousness: 'To be a body is to be exposed to social crafting and form, and that is what makes the ontology of the body a social ontology. (...) The more or less existential conception of "precariousness" is thus linked with a more specifically political notion of "precarity"' (2009/2016, 3). Precariousness in this perspective is both existential and social, and because it is social, it is not distributed equally and is thus inherently political. Some are more exposed to precariousness than others along intersecting axes of

inequality. Bringing to the fore an existential precariousness without theorising how it articulates with domination, power and privilege would indeed conceal that if we are all biologically precarious, we do not face the same levels of political and socio-economic precarity. This terminological distinction is summarised by Lorey: 'Precarity can therefore be understood as a functional effect arising from the political and legal regulations that are specifically supposed to protect against general, existential precariousness. From this perspective, domination means the attempt to safeguard some people from existential precariousness while at the same time this privilege of protection is based on a differential distribution of the precarity of all those who are perceived as other and considered less worthy of protection' (2015, 22). Inequality in the face of precarity triggers for Butler a commitment to political change: 'Precariousness is not simply an existential condition of individuals, but rather a social condition from which certain clear political demands and principles emerge' (2009/2016, xxv). Furthermore, as a socio-political condition, precarity is also shaped by gendered norms: Butler draws our attention to the risk of violence against those whose genders differ from the dominant binary (2009); our volume is equally attentive to how a gender coded as feminine, by virtue of being devalued and associated with negative stereotypes, engenders particular forms of violence, whereby the body is exposed to harm and injury, yet whereby this risk of violence is shaped by gendered patterns of oppression.

Scholarly Debates around Precariousness / Precarity and Vulnerability

While in relation to gender politics, the notion of vulnerability has been used more widely than the concept of precariousness, including beyond academia, at the theoretical level the significant overlap between the two notions is striking. In her review of vulnerability studies, Alyson Cole considers for instance Butler's proposition as equating precariousness with vulnerability: 'Butler, to give another example, distinguishes between ontological and situational vulnerability; in other words, between the vulnerability that is a condition of life (precariousness) and the vulnerabilities that are embedded in specific structures of power (precarity)' (2016, 266). As a matter of fact, in parallel to her focus on precariousness and precarity, Butler uses at times 'vulnerability' in a sense that appears to be synonymous to that of 'precariousness', emphasising bodies' biological exposure

to injury. At the same time, vulnerability studies have developed their own typologies around the notion of vulnerability, opening up alternative venues for theorisation. It is beyond the scope of this introduction to review the varied theoretical understandings of vulnerability; it appears however that the existential/social divide applied to precariousness / precarity is also intensely mobilised within vulnerability studies (see also Reilly et al., in this volume). For instance, Mackenzie, Rogers and Dodds distinguish between inherent, situational, and pathogenic vulnerability. While the first is bound to our corporeality, the second is shaped by political and socio-economic environments and the third serves to identify vulnerabilities that are situational yet of particular concern, including interpersonal abuse and socio-political oppression (Mackenzie et al. 2014, 7-9). Another influential use of vulnerability has been developed by Martha Fineman, who equally combines the universality of biological being with the distinctions that social inequalities engender: ‘Undeniably universal, human vulnerability is also particular: it is experienced uniquely by each of us and this experience is greatly influenced by the quality and quantity of resources we possess or can command’ (2008, 10). Furthermore, Fineman’s notion of the ‘vulnerable subject’ that goes beyond the ‘liberal subject’ construed as an autonomous individual resonates with a feminist ethics of care. Overall, while major overlaps between existential precariousness and vulnerability traverse the literature, some have argued that conflating these notions impedes a clear understanding of what are their respective implications in terms of moral responsibility (Miller 2020).

Vulnerability and Gender-based Violence in Migration: Policy and Practice

Theoretical overlaps with the concept of precariousness notwithstanding, it is the notion of vulnerability that gained great purchase within gender and migration related fields of policy-making. On the policy level, EU asylum and refugee policies have formally adopted the language of vulnerability to indicate that Member States have specific obligations towards vulnerable persons, as an essentialised category, rather than accounting for contingent reasons of vulnerability and thus situational vulnerabilities. The EU policy category of vulnerability remains largely operationally undefined and without clarification of its relation to other criteria of selection (Welfens and Bekyol 2021). However, in selection practices the category includes pregnant women, victims of trafficking and persons who

have been subjected to sexual violence (Freedman 2019; Welfens and Bekyol 2021). While most probably well-intended, transposing notions of vulnerability into concrete tools for migration management without clear definitions and ‘situated’ intersectional analyses (as argued in Chap. 2 of this volume), has proven complicated and has brought about ambiguous results, with the declared intent of protection remaining a ‘discretionary promise’ (Welfens and Bekyol 2021). Jane Freedman revealed for instance how fitting the most easily noticeable signs of vulnerability, mainly physical handicap or a state of pregnancy, trumped a more nuanced approach to vulnerability given the conditions in which rushed and superficial interviews took place. A very limited understanding of vulnerability came in this context to determine who was able to leave the difficult material conditions of the Greek islands where migrants first arrived during the so-called 2015 migration ‘crisis’ in order to be transferred to mainland Greece (2019, 8). This concrete example illustrates well the risk of essentialisation that a truncated use of the notion of vulnerability entails. Turner (2016) equally argued that an essentialised understanding of Syrian women as vulnerable, as opposed to Syrian men, led to practices of humanitarian assistance that have exacerbated men’s vulnerabilities by strongly limiting their access to support services, which included overlooking or dismissing the risk of GBV for men. Santilli (2020) in her ethnography of two medical NGOs providing for migrants in Paris and Rome further uncovered how fixed criteria of vulnerability came to be used as a tool for medical triage. Tastsoglou et al. (2021) research on asylum-seeking women in Greece has revealed how essentialised constructions of asylum-seeking male survivors of GBV have left them with limited protection, exacerbating their vulnerability. In light of such ‘mixed results’, several researchers argue for a revisited understanding of vulnerability within policy realms, so that on the one hand the relational and contextual dimensions of vulnerability are embraced and that on the other hand the agency of those construed as vulnerable is not denied in the process (Freedman 2019; Grotti et al. 2018; Butler et al. 2016). On the conceptual/theoretical level, Reilly et al. (in this volume) argue for an ‘expanded, critical and heuristic vulnerability approach which integrates key insights of ‘situated intersectionality’ along with a deep understanding of structural and discursively produced forms of oppression revealed by the precarity approach’ as a theoretical framework that can enrich empirical research on and interpretative analysis of GBV in contexts of migration. Our volume further contributes to this debate by engaging with both theoretical conceptualisations and empirical

uses of the notion of vulnerability and precarity and by suggesting ways forward from the perspective of GBV in migration contexts.

STRUCTURE OF THE BOOK

All the contributions to the volume engage with the central themes laid out here, using various national case studies to illustrate the theoretical and conceptual arguments around GBV in the context of migration. The first part of this volume, ‘Against Essentialism and Beyond Abstract Universalism: Theorising Gender-Based Violence in Migration Contexts’ introduces the book conceptually, theoretically and in terms of its constituent chapters. It navigates the challenging path between, on the one hand, accepting multiple identities while rejecting notions of essentialised group qualities and identity politics, and on the other, moving beyond abstract universalism while maintaining the universality of human rights and vulnerable situations affecting human beings—albeit not in similar ways. The present introductory chapter is followed by a theoretical chapter on ‘Vulnerability, Precarity and Intersectionality’ by Niamh Reilly, Margunn Bjørnholt and Evangelia Tastsoglou, which examines in further depth the three key concepts of vulnerability, precarity and intersectionality and how these can be productively deployed within the ‘feminist fusion’ applied to the question of GBV in the context of migration that the chapter offers.

The second part of the volume, ‘Policy Intersections: Combating Gender-Based Violence and Managing Migration,’ contains chapters which focus on policy frameworks, analysing the ways in which various migration and asylum policies in different national contexts act to create situations of risk for GBV for migrant women, and the ways in which GBV in the context of migration is understood and framed in political and media discourses. Case studies from Austria, Canada, France and Israel demonstrate the ways in which these discourses and framings of migrant ‘others’ and of ‘cultural’ forms of violence linked to migration result in a failure to act to protect migrant and refugee women which represents a form of symbolic violence. Chapter 3 by Madita Standke-Erdmann, Milena Pieper and Sieglinde Rosenberger critically examines the framing of GBV within political and media discourses in Austria. They meticulously unpack how reducing the risk of GBV to a cultural issue by pointing to a racialised ‘other’ paves the way for individualised policy solutions that conceal the structural conditions that perpetuate GBV. The authors equally point to

the politicisation of gendered violence as a migration issue that these framings achieve, while GBV is depoliticised as a matter of individual failure. The Canadian case study, authored by Evangelia Tastsoglou, Chantelle Falconer, Mia Sisic, Myrna Dawson and Lori Wilkinson (Chap. 4), assesses the Canadian legal and policy frameworks at the crossroads of GBV and immigration. The chapter identifies crucial fault lines within existing policies and their implementation, and notably the absence of an intersectional understanding of GBV and human rights which negatively impacts migrant women's access to legal and social protection. With striking similarities to the Austrian and Canadian policy contexts, Chapter 5 demonstrates that the French media and political discourses around GBV and migration are also strongly imbued with culturalist frames of interpretation. Jane Freedman, Nina Sahraoui, Elsa Tyszler study political discourses and government-sponsored reports and conclude that GBV in migration contexts is equated with forced marriage, female genital mutilation (FGM) and trafficking, leaving systemic causes of violence unaddressed. This chapter identifies several forms of gendered violence migrant women are exposed to once in France, including heightened risk of sexual violence while living in the streets in the context of a structural lack of accommodation for asylum seekers. Nomi Levenkron, Hadar Dancig-Rosenberg and Ruth Halperin-Kaddari in Chap. 6 develop an intersectional lens to account for the implications of the criminalisation of migration for women asylum seekers. The authors identify patterns of institutional discrimination that limit the accessibility of police services to GBV migrant victims.

The final part of this volume, 'Understanding Policy Implications, Foregrounding Women's Voices' consisting of Chap. 7 to 10 explores migrant and refugee women's experiences of violence and resistance to violence and discusses the ways women face violence and their responses to this. These chapters look at social networks and family violence in the context of migration in Canada, experiences of trafficking victims in Norway, and the continuum of violence experienced by women migrating to France. Chapter 7 by Cathy Holtmann demonstrates that while immigrant women in Canada are not more likely to face family violence than non-migrant women are, they are less likely to seek formal support. This chapter uncovers that the individualistic approach to gendered violence carried out by social actors in Canada risks increasing migrant women's vulnerability notably through greater isolation. Holtmann argues that meaningful engagement with migrant communities is needed to render

public services more accessible. Drawing on the analysis of the case of a trafficking victim with a long trajectory in the Norwegian legal system Yngvil Grøvdal and Margunn Bjørnholt in Chap. 8 find that the Norwegian state fails to protect women victims of trafficking who seek protection owing to piecemeal responses that produce structural violence. Finally, in Chap. 9, Nina Sahraoui and Jane Freedman focus on the experiences recounted by five young women from West African countries who sought asylum upon arrival in France. The chapter foregrounds the continuum of violence that characterises their trajectories while highlighting the importance of understanding women's migration caused by GBV as a political act of resistance to patriarchal structures through which these women demonstrate their agency. The material precarity they face constitutes, however, constraints that weigh on their experiences and lead to heightened risks of GBV also after they have 'reached' European settings. In addition, the blindness of bureaucratic procedures to this continuum of violence produces an institutional violence that exacerbates their trauma.

We conclude this volume with a detailed discussion of authors' contributions, focusing on their engagement with the key theoretical concepts and ideas that inspired this volume and identifying broad similarities, convergences and divergences across the various chapters.

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Vulnerability, Precarity and Intersectionality: A Critical Review of Three Key Concepts for Understanding Gender-Based Violence in Migration Contexts

*Niamh Reilly, Margunn Bjørnholt,
and Evangelia Tastsoglou*

INTRODUCTION

This chapter offers a theoretical framework for examining gender-based violence (GBV) in contexts of migration. Our theoretical quest is underpinned by three important questions: First, how to comprehend and

N. Reilly (✉)

School of Political Science and Sociology, National University of Ireland, Galway,
Galway, Ireland

e-mail: niamh.reilly@nuigalway.ie

M. Bjørnholt

Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS),
Oslo, Norway

Department of Sociology, University of Bergen, Bergen, Norway

e-mail: margunn.bjornholt@nkvts.no

interpret the complexities of the lived experience of GBV in contexts of migration? Second, how to understand best the gendered aspects of the different forms of violence that occur in contexts of migration, including forms of gender-based violence that are specific to these contexts? Finally, how to best theorise and analyse the responses and responsibilities of receiving states towards people who seek to enter new countries or regions?

To address these questions, we unpack key concepts and debates in theoretical discussions that are most relevant to understanding and analysing the nexus of gender-based violence and migration. Specifically, we focus on the concept of vulnerability—primarily as it is elaborated by Martha Albertson Fineman (2004, 2008, 2010, 2017)—and its relation to associated ideas of precariousness, ‘precarity’ (Butler 2004, 2009, 2012; Turner 2006; Standing 2011, 2015) and intersectionality (Anthias and Yuval-Davis 1983; Hill Collins 1986, 2000; Crenshaw 1989, 1991). While there is little consensus around their meanings and application in practice, and whether or not they are mutually compatible, all three concepts feature to some extent in most feminist and mainstream policy and academic discourse relating to gender-based violence and migration. In this chapter, we argue that each concept has the potential to illuminate different, interrelated dimensions of the nexus of gender-based violence and migration. Therefore, to better understand, interpret and propose effective policy responses to the issues that arise in this complex nexus, we posit that it is most productive to approach vulnerability, precarity and intersectionality as mutually interrogative concepts within a wider critical feminist framework for addressing gender-based violence in contexts of migration.

Finally, we note that we use ‘migration contexts’ in a broad way, considering ‘migration’ as a complex, multi-causal, multi-stage, often non-conclusive and non-linear process. It includes a spectrum of forms from the ‘freely decided’ economic or family migration to forced migration and asylum-seeking, producing a multitude of categories of migrants with differential legal/citizenship statuses and associated rights (e.g., Tastsoglou et al. 2021; Freedman 2016; Freedman, Sahraoui and Tastsoglou in this volume).

E. Tastsoglou

Department of Sociology, Saint Mary’s University, Halifax, NS, Canada

e-mail: evie.tastsoglou@smu.ca

In the next section, we start with a brief theoretical excursus on the concepts of vulnerability, precarity and intersectionality and associated debates. Next, we theorise the ‘structural level’, in particular the responses and responsibilities of the state and institutions involved in receiving migrants and refugees, from the perspectives of our selected categories of analysis, vulnerability, precarity and intersectionality. We conclude with a critical analysis and posit particular interpretations of these important concepts, which, we argue, when taken together, comprise an incisive theoretical framework for investigating and understanding GBV in migration contexts, as well as informing formulation of more effective, context-specific remedial responses.

VULNERABILITY

The concept of vulnerability has seen a renaissance over the last two decades. Within this development, there is a tension between Fineman’s approach, which calls for recognition of universal human vulnerability and a seemingly contrary tendency in policy and practice to focus on the vulnerabilities of particular groups. Hence, we have seen an increase in the use of vulnerability as a concept aimed at differentiating between those who are deemed to be in need of support and those who are not. From this perspective, being assigned the status of ‘vulnerable’ has the potential to give access to resources and more secure statuses (Freedman 2019; Brown et al. 2017; Virokannas et al. 2018). For instance, Peroni and Timmer (2013) cautiously point to the benefits of the European Court of Human Rights’ recognition of asylum seekers as a ‘vulnerable group’ (*M.S.S. v. Belgium and Greece*) (see Da Lomba 2014 for a critical reading of this development). A metastudy of the use of vulnerability (Virokannas et al. 2018) found an overwhelming pattern of applying vulnerability only in terms of ‘vulnerable groups’, most notably children/young people, elderly and women in relation to certain ‘life situations’—for example, motherhood/reproduction, survivors of war/conflict, women of colour, refugee women, women prisoners or rural women.

However, this ‘vulnerable group’ approach has been criticised for being linked to the stigmatisation, essentialisation, paternalistic targeting and increased control and repression of those identified as vulnerable (Freedman 2019; Peroni and Timmer 2013; Brown et al. 2017). Implicit in an understanding of vulnerability as pertaining (only) to particular groups is that vulnerability is a fixed property or, more specifically, a lack

or deficiency of some groups and individuals compared to a presumed norm of ‘invulnerability’. As Brown et al. (2017) characterise the situation: ‘while vulnerability has a deep discursive connection with connotations of empathy and compassion, and can be used in pursuit of enhanced support for certain individuals or groups, there is increasing attention to the ways in which it can also serve regulatory functions ... when deployed in a normative way’ (Brown et al. 2017).

Viewed through a Foucauldian lens, the ‘production’ of some groups as vulnerable is further implicated in the governance of populations and the extension of state bio-power (Butler 2004, xv). FitzGerald (2016) also points to examples of the instrumentalisation of vulnerability. For instance, regarding human trafficking in the context of immigration and border control in the UK, she argues that the stance of protecting assumed vulnerable trafficking victims has served to legitimate restrictive migration policies, with the aim of protecting the UK and its citizens against ‘undesirable people’, under the pretext of protecting women victims of trafficking (see also Grøvdal and Bjørnholt in this volume who make the same point for Norway). Vulnerable groups discourse also fosters conditions whereby the instrumentalisation of vulnerability can become the principal available mode by which certain migrants might become visible and have their needs met in the first instance (Tastsoglou et al. 2021), or in Butler’s terms, achieve recognition as ‘livable subjects’. Freedman (2019), for instance, notes the example of increased numbers of women choosing to travel alone to the EU to seek international protection, aware that they would be more likely to be defined as ‘vulnerable’ than if they travelled in a group (10). Critics have also pointed out the apparent paradox that the proliferation of policies, which ostensibly seek to ameliorate vulnerability, come at the same time as ‘failures to adequately protect “the most vulnerable” seem to have become a pervasive feature of the political landscape’ (Brown 2017, 423).

Universal Vulnerability

In contrast to ‘vulnerable group’ centred uses of the concept, a more radical definition of vulnerability takes as its point of departure the premise that vulnerability is a universal, inevitable, and constant human condition (Turner 2006; Fineman 2008; Mackenzie et al. 2014). Rejecting ‘the impoverished legal subject of Locke and liberal thought, with its characteristics of autonomy and independence’ Fineman (2013, 31) calls on

critical legal scholars to argue for an alternative conception of the legal subject that is ‘flexible, powerful, and able to incorporate a panoply of circumstances and positions’. In doing so, she draws on feminist theorisations of care and dependency (Kittay 2020 [1999]; Tronto 1993, 2013; Fineman 2004), as well as feminist economics and other critical perspectives, that reject the assumption of the self-interested, rationally calculating ‘economic man’ as the defining feature of human behaviour and source of the contractual view of society and social relations (Wærness 1984; Ferber and Nelson 1993, 2020; Folbre 2001; Fineman and Dougherty 2005).

In Fineman’s conceptualisation, ‘the human condition is one of *universal* and *continuous* vulnerability’ (Fineman 2017, 134, emphasis added). It ‘carries with it the imminent or ever-present possibility of harm, injury, or misfortune’ (Fineman 2010, 30) through external and internal forces, including the passing of time and eventually death. In this respect, Fineman’s assumption of universal vulnerability resembles arguments made by Judith Butler regarding precarious life (2004), discussed below. However, while vulnerability is universal and constant, Fineman argues, it is also experienced differently, depending on the particularities of individual embodiment and positions ‘within webs of economic and institutional relationships’ and ‘the quality and quantity of resources we possess or can command’ (Fineman 2010, 30). Although society cannot eradicate vulnerability, it can and does mediate, compensate and lessen the consequences of vulnerability. Importantly, the counterpoint to vulnerability is not invulnerability but resilience. As Fineman describes it, ‘resilience ... provides an individual with the means and ability to recover from harm, setbacks and the misfortunes that affect our lives’ (2017, 149). Resilience is acquired over time within social structures and institutions (family, market or state); it depends on the quantity and quality of the resources we have access to and shapes our capacity to take advantage of opportunities and cope with adversity. It follows that unequal access to societal structures or unequal allocations of privilege and power within social structures diminishes resilience (2017, 147).

PRECARIOUSNESS AND PRECARIETY

In parallel to increased engagement with the concept of vulnerability, there has been a similar growth in writing that develops ideas of precariousness and precarity. As Turner notes (2006, 32), discussions of both

vulnerability and precariousness reflect an attempt to develop a contemporary theory of the state ‘without the limitations of a utilitarian and rational theory of social contract based on self-interest’. There are two principal currents of theorising in relation to precariousness and precarity. The first foregrounds precarity as induced by the political economy of advancing global capitalism. In this current, precarity is conceptualised as an outcome of capitalist development (Bourdieu 1998; Della Porta 2015), a labour condition (Kallenberg 2009; Vosko 2000) and even a class identity of the ‘precariat’ (Standing 2011). It is associated with various expressions of inequality, including health status deterioration for the impacted populations (Barlow et al. 2015; Consonni and Merler 2013; Fanourgiakis 2016; Bouhamam et al. 2012; Fernandez and Noël 2008; Schiltz et al. 2007). Historically, under the impact of the oil crisis and consequent stagflation since the mid-1970s, global capitalism initiated new fiscal and monetary policies, including labour restructuring with ‘flexible’ and casual work arrangements, and retrenchment of social services (Della Porta 2015). Ideological support for such ‘new’ policies and practices was provided by neo-liberal ideas of free trade, market deregulation, privatisation, individual responsibility and austerity (Dyer-Witheford 2015; Standing 1999a). In the same political economy vein, other scholars have argued that, in fact, precarity has always been the capitalist ‘norm’ (Betti 2016), with ‘precarious work’ constituting a permanent feature of especially certain sectors such as domestic and care work, agriculture, hospitality, retail and construction (Mitropoulos 2005, 3).

There is a strong gender dimension in such precarity (Harvey 2014; Vosko and Clark 2009; Federici 2006; Standing 1999b) interweaving with race, migration/citizenship status and other social divisions (Harney 2013; Freedman 2012; Anderson 2010) and requiring feminist and intersectional analyses. Other scholars have demonstrated the global interlinkages of precarity and labour mobilities that are classed, gendered and racialised. For example, Sassen (2001) and Parreñas (2001) have argued that the capitalist labour markets of the ‘North’ are intertwined with and give rise to the precarious labour in ‘global care chains’ of women from the global ‘South,’ with socio-economic reconfiguration of the North intensifying such movements (Tastsoglou et al. 2021).

The second current, exemplified by Judith Butler’s *Precarious Life* (2004) and subsequent writings (2009, 2012), is fundamentally concerned with exposing and disrupting discursive processes of recognition and disavowal through which some come to count as subjects (2009, iv)—as ‘normatively human’ (2004, xv)—and others do not. Such recognition

is the condition of a ‘livable life’ and a ‘grievable death’. In contrast to Fineman’s and Turner’s reading of ontological vulnerability as arising from the embodied dependency of each human being, Butler foregrounds universal vulnerability to violence: ‘anything living can be expunged *by will* or by accident; and its persistence is in no sense guaranteed’ (Butler 2009, ii; emphasis added). Furthermore, Butler differentiates between precariousness and precarity with ‘precariousness ... not simply an existential condition of individuals, but rather a social condition from which certain clear political demands and principles emerge’ (Butler 2009/2016, xxv). Butler refers to this social condition, produced by political, social and economic institutions, as precarity. However, while she recognises that political, social and economic institutions are ‘designed in part to minimise [such] conditions of precarity’, her theorisation of precarity is principally concerned with revealing how ‘certain populations’—of which some categories of migrant and refugee are exemplars—do not enjoy the safeguards offered by such institutions (2009, ii). From this perspective, precarity as a category of analysis illuminates ‘*ways of distributing vulnerability*, differential forms of allocation that make some populations more subject to arbitrary violence than others’ (2004, xii; emphasis added). These differential forms of resource allocation reflect the processes of boundary creation, exclusion and intersections of privilege and disadvantage for various populations and associated discursive practices.

It can be argued that precarity, in a migration context, refers first to *economic precarity*, that is, a global, uneven distribution of economic vulnerability and privilege under capitalist production arrangements. The capitalist labour markets of the ‘North’ mobilise workers from the ‘South’, in search of ‘livable lives’, to enter informal economic activities and occupations that are gendered, raced and class-based (Castles 2015). Furthermore, this economic precarity is transformed into a *hyper-precariity* (Lewis and Waite 2015), leading to super-exploitation (Coppola et al. 2007), as economic marginalisation interacts with and exacerbates the absence of or limited citizenship status and associated rights, gender inequality and other social divisions. Finally, increased securitisation or raising of borders against the ‘others’ (Harney 2013) and immigration controls both derive from exclusion of the ‘others’ from the national ‘self’ but also ‘produce’ illegality (Anderson 2010, 306; Freedman 2019; Hodge 2019; De Genova 2002) in a migration context.

In conclusion, the precarity approach overall conceptualises precarity as socio-economically and politically induced precariousness in which various population groups are rendered differentially vulnerable by political

actions and omissions that involve complex and intersecting hierarchisations, exclusions and othering (Lorey 2011). Common in all understandings of precarity is that the ensuing vulnerability, contingency and risk are, in fact, produced by material political and social structures, as well as related discursive practices. Precarity ultimately refers not to permanent individual or group identities but to precarious situations/states produced by such structures and discursive practices.

INTERSECTIONALITY AND MIGRATION: COUNTERING FALSE UNIVERSALISM, ESSENTIALISM AND IDENTITY POLITICS

Following decades of post-second wave feminist debate, it is now well-established in contemporary feminist thinking that women cannot be viewed through an essentialist lens, as a homogenous group with a 'natural' shared identity, experience or agenda. Rather, the common point of departure of feminist projects that accept this premise is that gender power relations which typically disadvantage women and gender minorities persist in all societies *and* interweave with other forms of social divisions to distribute power and resources in context-specific ways, conferring greater disadvantage or advantage on some groups relative to others. Gender inequalities, intersecting with other hierarchies of power, privilege and inequality, are embedded in the organisation of societal institutions and structures and also manifest on the level of interpersonal relations, experiences and identities. Broadly speaking, an intersectional *feminist* perspective entails recognition that different women experience gender-based disadvantage or oppression differently and remedial legal and policy responses must take account of this reality. Further, applying an intersectional lens to migration contexts demands that we foreground examination of how differences in location vis-à-vis geographical and political borders interact with gender and other forms of power relations.

Intersectionality as an idea has precursors in US black feminist thought (Davis 1983; Hill Collins 1986; hooks 1984), black women's studies and 'women of color' writings (Hull et al. 1982; Smith 1983; Moraga and Anzaldúa 1983; Lorde 1984), as well as in critical race theory as an offshoot of critical legal studies (Crenshaw et al. 1995). Hill Collins underlines that although 'Intersectionality as a knowledge project remained unnamed as such' until the 1990s, in the 1980s the phrase 'race, class and gender' was its precursor (Hill Collins 2015, 9). Intersectionality also has

parallel antecedents in black British feminism (e.g., Amos and Parmar 1984), which similarly emerged in the 1980s challenging the exclusions of white feminisms, and black women's organising, which also grappled with differences among black women in relation to the focus and strategy of the movement (Brixton Black Women's Group 1984).

Since the term 'intersectionality' was coined by Kimberlé Crenshaw (1989, 1991), it has attracted extraordinary levels of attention among feminist and equality-oriented academics and policy practitioners looking for ways of thinking about and addressing gender and other social inequalities that are inclusive and non-oppressive. The global diffusion of the concept was given particular impetus by a decade of transnational mobilisation to advance recognition of 'women's rights as human rights' through engagement with a series of UN world conferences (Reilly 2009). This culminated in the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban in 2001 (WCAR). During the WCAR preparatory process Crenshaw's concept of intersectionality was actively taken up and subsequently became very influential in UN discourses, particularly in framing 'gender' and 'race' as interrelated loci of discrimination (Crenshaw 2000; Powell and Lee 2002).

Crenshaw's conceptualisation of intersectionality did not start as an 'academic enterprise' but from an activist perspective, 'trying to make sense out of why it was the case that certain issues in ... [antiracist and women's] movements tended to always disappear' (Guidroz and Berger 2010, 63). Black women's experience of domestic violence in the USA was one such issue. Crenshaw's efforts to obtain statistics on arrest rates for domestic violence by neighbourhood in Los Angeles (and implicitly by 'race') were opposed by women's organisations who feared that this data would undermine their efforts to present domestic violence as a universal problem for all women, and by men of colour in civil rights movements who feared if released such statistics could undermine their struggle against police brutality (Guidroz and Berger 2010, 64). This example illustrates well what Crenshaw means when she claims that 'specific experiences of ethnically or racially defined women are often obscured within broader categories of race or gender' and why it is essential to build knowledge 'from the ground up' in order to make visible instances of 'intersectional vulnerability' (Crenshaw 2000). Importantly, therefore, Crenshaw's conceptualisation was intended to challenge forms of 'identity-based politics' that asserted the homogeneity of a group's identity by falsely universalising from a particular perspective—in this case the perspectives of

certain ‘white women’ and ‘black men’ who used their relative privilege in a specific context—in ways that ignored the experiences of those who were both women and black.

Contrary to Crenshaw, Fineman (2008, 2010, 2017) cautions against approaches that foreground particular vulnerabilities of specific groups, which from her perspective undermine a universal understanding of vulnerability and the case for ‘state policy and law ... [that is comprehensively] responsive to human vulnerability’ (2017, 134). Significantly, Fineman contends that such a responsive state cannot be achieved ‘through intersectionality and multiplicities of identities’ (Fineman cited in Kohn 2014, 8). From her perspective, targeting of subgroups according to particular characteristics (e.g., poverty, illness, age) and classifying them as differently or particularly vulnerable accentuates a narrow concept of equality and invariably stigmatises those individuals (Fineman 2010, 2017, 147). Instead, Fineman proposes ‘vulnerability analysis’, which focuses not on identities but on structures, through a critical analysis of the ‘distribution or allocation of resources and the structures within which they are produced’ and asking, is ‘institutional, and not individual, functioning inadequate’?

Fineman’s insistence on the adequacy of institutional and policy responses to vulnerability, and her objective to avoid the stigmatisation of vulnerability labelling, are compelling strengths of her theory. However, pitting ‘universal vulnerability’ against ‘particular intersectionality’ suggests an unnecessary binary. The major contribution of the concept of universal vulnerability is to make clear the need for a responsive state that is capable of providing the infrastructure and policies required to ameliorate our common vulnerability and foster an equitable society. It is possible to embrace this pivotal dimension of Fineman’s theory while rejecting her aversion to attending to difference as a source of particular ‘vulnerable life situations’, which any credible vulnerability analysis must also take into account in its call for effective state and policy responses to enhance resilience.

Nira Yuval-Davis’s theory of ‘situated intersectionality’ (2015) offers a way to do this. Yuval-Davis shares Fineman’s critical stance vis-à-vis the fragmentising and essentialising tendencies of identity politics, but without resorting to a universalism that eschews difference. On the contrary, ‘situated intersectionality’ retains a primary commitment to researching, revealing and understanding difference and its associated complex inequalities as a vital step in challenging and transforming them. Anthias and

Yuval-Davis (1983) first presented their version of intersectionality as an analytical framework for theorising the ‘interrelationship of ethnic and gender divisions’. They cautioned against reductionist understandings of identity and, anticipating Crenshaw’s account, underlined the imperative *of context-specific analysis* to reveal the specific, varying effects produced by different intersectional configurations. Of particular relevance to this volume, Anthias and Yuval-Davis explicitly include migration status and the diversity of women’s migration experiences to demonstrate the limitations of an abstract ‘race, gender and class’ lens that cannot account for such nuanced positions. Understanding the complexities of anti-immigrant discourse and practice, for example, also requires an understanding of how ‘nation’ and ‘ethnicity’ operate with gender to control women in any given context (70).

Building on this, Yuval-Davis has elaborated her theory of ‘situated intersectionality’ (2015), which also resonates with writing on precarity and precariousness. Yuval-Davis is especially concerned with avoiding the pitfalls of essentialism. Similar to Fineman, she refutes versions of intersectionality that engender ‘fragmented identity politics’ (93), whereby, for example, instead of prioritising ‘women’ or ‘blacks’, proponents focus on the concerns of ‘black women’. This runs the risk of ‘reifying and essentialising social boundaries’ rather than analysing them and understanding how they work in practice (93). Instead, Yuval-Davis argues, to harness the transformative, analytical potential of intersectionality, it ought to be understood as a generic approach, applied to ‘all people and not just to marginalised and racialised women, with whom the rise of intersectionality theory is historically linked’ (93).

On Yuval-Davis’s view, intersectionality is ultimately a theory of complex social stratification and inequality; it is concerned with analysing the distribution of power in society while not reducing the complexity of power constructions to a single social division, such as ‘class’, ‘gender’ or ‘race’ (94). She identifies three facets of social analysis to be considered: first, people’s positioning along socio-economic grids of power; second, their experiences and sense of identity and belonging; and third, their normative value systems. These facets are interrelated but not reducible to each other (95). This means that each facet must be studied independently in order to understand, as far as possible, what is happening in any given context. In contrast, the logic of identity politics is to make assumptions about all facets on the basis of one. Situated intersectionality, therefore, calls for particular attention to be paid to the ‘geographic, social and

temporal locations' (95) of the individual and collective actors who we seek to understand. As such, it is especially relevant to the study of power relations in contexts of migration, not least in relation to gender-based violence.

In tandem with the three facets of social analysis that attend to micro level experiences, Yuval-Davis's situated intersectionality framework posits four macro 'domains' that produce social inequalities in global perspective (98). The first relates to variations in the legitimacy of and modes in which states govern, draw and regulate politically defined boundaries, which have far reaching implications for those living within and seeking to cross them. The second domain, overlapping with precarity theory, foregrounds differentials in how economic, social, cultural and political goods are 'produced, reproduced and distributed' to people and groups within these boundaries (98). The third domain encompasses various 'political projects of belonging', such as nationalism, religion, cosmopolitanism and so forth, which traverse conventional political boundaries, structure social 'positionings' and afford differential access to social capital of different types (98). Lastly, resonating with Fineman's feminist interrogation of the public-private divide, Yuval-Davis clusters familial, intergenerational and informal networks concerned with 'social, biological and symbolic reproduction', as the fourth domain in which social inequalities are produced (98).

Approached as a comprehensive analytical framework along these lines, situated intersectionality encompasses the core concerns of intersectionality theory as articulated by Crenshaw (1991, 1124), to '[explore] the various ways in which race and gender intersect in shaping structural, political and representational aspects of violence against women of color'. At the same time, it expands the scope and levels of analysis of the intersectionality lens to deepen understanding of context-specific complexities of multi-faceted inequalities and the forms of resilience and agency that are possible in the situations being studied.

Both vulnerability and precarity theories deal with the ways in which structures and related discursive practices generate and sustain inequalities and oppressions, which pave the way for gender-based violence. Fineman's conceptual point of departure, 'universal vulnerability,' offers a vantage point from which to observe and identify particular and situational vulnerabilities of groups, while it foregrounds the agency and responsibility of the state and institutional structures in remedying such vulnerabilities. Precarity theories, regardless of their analytical focus on forms, causes,

consequences or groups affected, recognise the uneven spread of vulnerability and risk as a result of institutional structures and discursive practices. As both approaches understand institutional structures (including states) as a principal means of reducing or eliminating vulnerabilities, a discussion of the role of institutions and states is warranted. This is what we turn to in the next section.

THE ROLE OF INSTITUTIONS AND THE STATE

For Fineman, vulnerability as a universally shared human condition is *the moral basis for society* and the main argument for social institutions and states. Further, she argues that recognition of inevitable human dependency demands ‘more equitable distribution of institutional responsibility for ensuring the provision of essential care ... shared across social institutions’—especially state institutions (Fineman 2017, 139). Fineman insists that the fact that societal institutions are implicated in ‘maintaining and extending inequality is the very reason that we need a more active state ... responsive to that reality’ (Fineman 2008, 2). A vulnerability analysis, therefore, starts by asking if state institutions have acted ‘in ways that are consistent with [the state’s] obligations to support a vital and robust equality regime ... in which individuals have a true opportunity to develop ... resilience in the face of their vulnerabilities?’ (Fineman 2008, 20). This means the state has a duty ‘to actively assume broad societal responsibility in regard to ensuring equality for its citizens *and others to whom it owes obligation*’ (2010, 256; emphasis added). Although Fineman does not enter into a debate about the limits of ‘citizenship’, she does not restrict state responsibility to the notion of citizenship; rather state responsibility applies to all citizens and others residing within a state’s territory. The implications are potentially wide-ranging: from this view of state responsibility, resonating with ideas of substantive equality in human rights thinking (Fredman 2019), a state would not only need to ensure that the people under its jurisdiction are not subject to harms arising from discrimination or exploitation but it should also address what caused or facilitated offending practices in the first place, and endeavour to avoid them re-occurring.

In contrast to Fineman’s relatively benign view of the responsive state, warnings against the dangers inherent in relying on state institutions are abundant in sociological, Marxist and feminist critiques of state institutions (Butler et al. 2016). Alert to the biases of state power experienced by

black women in the United States, Richie (2012) criticises the universalist feminist approach to justice and its reliance on the legal justice system for failing the most marginalised. Virokannas and others (2018) warn of the prospect of the intrusive or authoritarian ‘responsive state’ and the potential to exacerbate vulnerability (e.g., by impeding autonomy or undermining trust). Fouladvand and Ward take the critique of paternalism one step further as they argue that vulnerability theory ‘may obscure the ways in which states do not merely fail to respond to vulnerability but positively use situational vulnerability as a tool to control or exploit their populations’ (2019, 42).

Bryan Turner (2006) interprets these tensions in terms of the Hobbesian paradox whereby ‘we need a strong state to protect us, but state power is often the cause of human rights failures’ (33). He addresses this paradox in his sociological theorisation of universal vulnerability. Turner (2006) begins, as does Fineman, with the corporeal origins of vulnerability. He posits:

[O]ur ontological vulnerability includes the idea that human beings of necessity have an organic propensity to disease and sickness, that death and dying are inescapable ... [and as a result] human beings are involved in various relationships of dependency throughout the lifecycle. (29)

In response to this universal human condition, Turner theorises social institutions as ‘bridges between humans and their physical environment’, created to mitigate corporeal and psychological vulnerabilities (29). His account of the state’s role in ameliorating vulnerabilities retains a central commitment to liberal ‘legal institutions that underpin the rule of law, civil liberties and human rights’—in which he emphasises the imperative of meaningful social and economic rights—as ‘fundamental in providing some degree of security in this precarious environment’ (29). Turner’s theory expressly recognises ‘institutional precariousness’ (32) as a social fact no less than human vulnerability. Presupposing neither a benevolent nor a dominating state, he posits a ‘dynamic and dialectical relation between institutional precariousness and ontological human vulnerability ... [in which] institutions need to be continuously repaired and redesigned, and human rights need to be constantly reviewed in the light of their misapplication, misappropriation and failures’ (32). Fineman (2010, 273) similarly recognises that society’s institutions are riddled with their own vulnerabilities’ and ‘often operate to exacerbate ... our individual

vulnerability', which requires acceptance of 'monitoring, evaluating, updating, and reforming our societal institutions when necessary'. However, as human rights legal scholar Paul Hunt (2016) has cautioned in relation to implementation of the human right to health, 'while effective ... monitoring is important, it is not the same as accountability' (123). Turner's theory reintroduces 'rights' into vulnerability theory, which Fineman had deliberately de-emphasised (2010, 255). Specifically, he foregrounds human-rights based actions that seek accountability for abuses or misuses of state power as part of a sociological process of achieving amelioration of vulnerabilities through state institutions.

The theory of the state implicit in vulnerability theory has a bearing on how inequalities of different types are understood and addressed within a vulnerability paradigm. Fineman recognises 'two relevant forms of individual difference' and associated inequalities (2017, 144). One relates to embodiment and the second to embeddedness 'in social institutions and relationships' (2017, 144). Embodied differences are 'physical variations exemplified in anti-discrimination laws' (2017, 144). In contrast, while Butler's starting point is biological precariousness, she quickly recognises the 'social crafting and form' (2009/2016, 3) the human body is subject to and how precariousness is not distributed equally because of its articulation with domination, power and privilege. Hence, her approach foregrounds how precariousness is distributed unevenly among human populations as a result of social institutions and related discursive practices and not an innate quality of individuals and groups.

Fineman's principal quarrel is not with essentialism, as it is with Butler, but with the conventional equality paradigm, which only permits 'unequal or differential treatment' in narrowly-framed circumstances to address 'past discrimination or present stereotyping', particularly by state actors (2017, 134). Fineman characterises this state of affairs as the imposition of 'fictitious equality', which militates against 'equitable treatment' (as distinct from equal treatment) in situations of 'inescapable or inevitable inequality' (e.g., in parent-child or employer-employee relations) (2017, 135). Bjørnholt (2013b) builds on this insight to criticise the fiction of the 'gender neutral' family and associated labour policies in Norway that disadvantage women in practice. Instead of individually-focused ideas of equality, vulnerability analysis begins with a focus on the 'distribution or allocation of resources and the structures within which they are produced' and by asking, as earlier mentioned: is 'institutional, and not individual, functioning inadequate'? (Fineman 2017, 147).

Fineman's second concept of 'embedded difference' captures different manifestations of structural inequality insofar 'every society is composed of individuals differently situated within a web of economic, social, cultural and institutional relationships that profoundly affect our destinies' (2017, 145). This aspect of Fineman's conceptualisation of vulnerability, based on embedded difference, brings her theory closer to Butler's precarity paradigm, as well as neo-Marxist accounts of socio-economically and politically induced precariousness. From Fineman's perspective, seeking social justice in the face of such unequal outcomes requires the state to 'monitor a given institution in a way that is responsive to human vulnerability' and to answer the question: 'can the differences in treatment be justified?' (2017, 145). However, critics would say that this assumes a benevolent state that does not go far enough to recognise and respond to the role of the state in reproducing structural inequalities and/or perpetrating abuse.

In response, as Turner's sociological vulnerability theory clarifies, it is not necessary to begin with a premise of a benevolent *or* oppressive state. Fineman's and Turner's recognition of the vulnerability of institutions imply that state institutions have the potential to be benevolent, oppressive, or both, depending on who is encountering what parts of the state and under what conditions. By invoking human rights monitoring processes as the mechanism through which state institutions are scrutinised, Turner's approach both admits a vital role for activism and collective action in vulnerability theory and addresses the problem of trusting 'the state' to hold itself to account for instances of rights 'misapplication, misappropriation and failure'.

A CRITICAL LENS ON VULNERABILITY THEORY

In the preceding sections we have highlighted key strengths as well as critical gaps and weaknesses in the theorisation and practical application of vulnerability and precarity as conceptual tools to inform research and understanding of GBV in migration contexts. We considered how the vulnerability framework, developed by Martha Fineman in particular, relates to theories of precarity and intersectionality. Based on our review, in this section we highlight two broad deficits in Fineman's vulnerability theory and possible ways to address them. The first concerns the pervasive tendency for the concept of vulnerability to be applied only to those deemed to belong to 'vulnerable groups' and the implications this has for

reinforcing essentialist thinking and undermining autonomy and agency. The second concerns the view that ‘vulnerability theory’ and ‘intersectionality theory’ are incompatible on the supposed basis that the former, to be an effective universal paradigm, must reject the latter, which, on this view, is understood as an expression of fragmentising identity politics.

Revaluing Autonomy and Agency in Vulnerable Life Situations

To counter the predominant pattern of applying vulnerability only to ‘vulnerable groups’, Virokannas and others (2018) recommend that efforts to implement Fineman’s universalistic version of vulnerability should focus on ‘vulnerable life situations’ and not on specific groups or individuals, while also being cognizant of the potential of welfare services, as state institutions, to both *reduce* and *(re)produce vulnerability*. This approach is echoed in literature on bioethics research and vulnerability wherein it is increasingly recognised that vulnerability must be understood as ‘context-dependent and dynamic and not a static definition aimed at targeting and permanently labelling certain groups’ (Wild 2012, 95).

Nina Kohn underlines the negative implications for autonomy of vulnerable group logic, observing that ‘current applications of the theory tend to proceed in a manner that is less critical and less nuanced than might otherwise be possible’ (Kohn 2014, 4). She argues that Fineman’s own analysis of old-age policies demonstrates the theory’s weaknesses of reverting to a group-based approach and tending to ‘promote excessively paternalistic laws and policies’ (2014, 4). Specifically, Kohn criticises Fineman’s advocacy of special ‘protections’ for *all* older adults (e.g., vis-à-vis management of financial affairs) and the creation of ‘new laws that ... socially construct differences based on chronological age’ (2014, 12) as unduly limiting individual autonomy. This reflects a general bias among Fineman-inspired vulnerability theory proponents who prioritise ‘safety and security’ over autonomy and fail to recognise autonomy as an independent value or as ‘instrumental for supporting safety and security’ (Kohn 2014, 14). Ultimately, Kohn asserts, for vulnerability ‘to be an effective and appropriate trigger for special protection ... it must be defined in relation to a particular threat’ (Kohn 2014, 23). This requires focusing on the relationship between an individual and their environment.

Catriona Mackenzie speaks to this point. Also sympathetic to vulnerability theory, Mackenzie locates the problem in Fineman’s ‘conflation of autonomy with a libertarian conception of autonomy’. While she agrees

with the critique of the libertarian concept of autonomy defined in terms of ‘the rhetoric of maximal choice, personal responsibility, and the minimal state’ (2014, 37), Mackenzie disagrees that autonomy should be discarded altogether. She argues:

[I]n my view autonomy—understood as both the capacity to lead a self-determining life, and the status of being recognised as an autonomous agent by others—is crucial for leading a flourishing life in contemporary liberal democratic societies. It is a mistake therefore to reject the value of autonomy altogether.... (Mackenzie 2019, 147)

Instead, Mackenzie elaborates a relational concept of autonomy, arguing that ‘[o]ne of the central aims of relational autonomy theory is to explain how gender and other kinds of social oppression, such as racial oppression, can threaten a person’s social status as an autonomous agent and can impair the development or exercise of the capacity for autonomy’ (Mackenzie 2019, 147).

Regarding collective agency, a review of vulnerability literature by Brown and others (2017, 498) raises concerns that the term vulnerability is ‘creeping further into understandings of the relations between state and citizen, with implications for citizenship, such as [a] diminished view of the human subject, erosion of collective movements and expansion of state-sponsored social control’. The rise of vulnerability as a cultural metaphor has also been linked to a decline in political optimism about social and economic progress, and a corresponding individualistic ‘therapeutic’ turn in left/liberal agendas for social justice (Frawley 2015). The lack of scope for collective agency and engagement with the political are serious limitations of vulnerability theory, which tends to deal with individuals and groups in their relations with institutions/states as objects of policy intervention rather than as political and civic subjects.

This raises the question: who shall hold the state to account and push it to become more responsive in non-oppressive ways? If we look to the development and history of human rights, this ‘push’ has depended on the mobilisation and collective agency of civil society, in particular, women’s and anti-racist movements, among others (Reilly 2009, 2011; Weldon and Htun 2013). In this regard, Turner (2006) provides a valuable amendment to vulnerability theory, firstly, by reaffirming the indispensable role of civil liberties in facilitating individual and collective action to hold the state to account; and secondly, by recognising—as part of a necessary

political-sociological process—collective agency and engagement to continually ‘repair and redesign’ precarious state institutional and policy responses to human vulnerability.

Intersectionality and Identity Politics: Breaking the Link

Fineman’s vulnerability theory emphasises structure and social functioning of institutions as determining the allocation of power and privilege, and considers identity-based categories (such as gender, sexuality and ‘race’) as secondary aspects in this process. From this perspective, she presents her account of vulnerability theory as a ‘post-identity’ approach to social justice. However, Fineman unduly discounts the importance of circulating norms in mobilising people to resist, accept or ignore—for good or ill—the intersectional effects of group positions and identities. For example, analysing policing and racial profiling in the USA, Frank Rudy Cooper (2015) argues that although ‘vulnerability theory helps us challenge the state to address the harm of racial profiling ... [a] theory of privilege is [also] necessary to understand why elites allow racial profiling to continue. I thus argue for revising vulnerability theory [to acknowledge] the *ways identities and privileges influence social practices*’ (Cooper 2015, 1346; emphasis added).

Calls for vulnerability theory to take account of identity power relations (Cooper 2015), for vulnerability analysis to focus on ‘vulnerable life situations’ (Virokannas et al. 2018), and, if formulating targeted protections, to address particular threats (Kohn 2014) signpost the route to reconciling vulnerability and intersectionality theory in ways that eschew counter-productive identity politics and essentialist logic. Ultimately, they are an argument for making context-specific vulnerability analysis the most important part of vulnerability theory. Moreover, Yuval-Davis’s theory of situated intersectionality suggests a particularly apt matrix for applying vulnerability analysis along these lines in relation to GBV in contexts of migration. As noted above, this envisages micro analysis that attends to the socio-economic position of individuals, their sense of identity and belonging and their values. On the macro level, situated intersectionality encompasses interrogation of the operation of state borders, as well as processes of distribution of economic, social and cultural goods (also central to precarity theory), political projects of belonging (including issues of agency within these), and familiar and informal networks, as loci of inequality.

Yuval-Davis's framework is compatible with Fineman's objective to map the 'allocation of resources and the structures within which they are produced' and, in this context, to scrutinise the adequacy, or not, of institutional functioning to foster resilience (Fineman 2017, 147). At the same time, at the micro level, by taking seriously and respecting individuals' sense of identity and belonging in vulnerable life situations *and* critiquing political projects of belonging that might exploit the same, situated intersectionality suggests how we might approach identity in vulnerability analysis, in research and activism, without resorting to false universalism or essentialism. Further, situated intersectionality aligns with neo-Marxist, feminist and post-structuralist theorisations of precarity. Like Neo-Marxist theorisations, situated intersectionality is centrally concerned with revealing inequalities at the macro level in the distribution of power and resources within 'nation states' and transnationally. Yuval-Davis's own interrogation of the interaction of gender and nation addresses myriad forms of structural violence affecting women, in or from the global 'South' in particular ways, from sex tourism (1997, 52) to orientalist varieties of feminism that focus disproportionately on 'harmful cultural practices' such as female genital mutilation (FGM) or polygamy (118). At the same time, situated intersectionality is compatible with post-structuralist analyses that focus on how discursive processes create precarious subjects and associated precarity.

CONCLUSION

There are several advantages to deploying this expanded, critical and heuristic vulnerability approach in migration and GBV research. First, the approach places the spotlight firmly on the institutional contexts, environment, situations and social relations, in which migrant and refugee women and others affected by GBV find themselves, and requires us to examine the adequacy or not of institutional and policy responses. By placing the emphasis squarely on the role of socio-economic and political institutions in the distribution, aggravation and mitigation of vulnerability, it has the capacity to fully incorporate the insights of the precarity approach, which deals directly with addressing politically and socio-economically induced vulnerability. However, in focusing on institutions, it is reasonable to ask if the philosophical assumption of universal human vulnerability is strictly necessary to the deployment of vulnerability analysis, which focuses on the state's responsibility to foster justice and equality. Arguably, it is not

necessary to agree with Fineman's particular formulation of the universally vulnerable subject (and its rejection of intersectionality) to harness the transformative potential of vulnerability analysis of institutions.

Second, Fineman's vulnerability analysis, deployed through a lens of situated intersectionality that reveals inequality, injustice and harm as the result of institutional arrangements, is especially useful in analysing the relation between the individual, state and society. Moreover, it shifts the responsibility and the blame from the victim to the institutions that partly produce or facilitate the conditions that give rise to harms, while also failing to respond adequately to them. Further, vulnerability analysis may be applied both at the institutional level and at the individual level. This potential is evidenced by Bjørnholt (2013a), for example, in a detailed analysis of the role of Norwegian state policies in the (re)production and remedying of gender inequality and in a recent examination of individual victimisation over the life course, which brings into focus institutional contexts, responses and responsibilities (2019).

Third, a vulnerability approach that revolves around context-specific vulnerability analysis and targeted interventions devised in relation to a specific threat, is especially relevant to the migration context, which presents an array of specific threats at various stages of the migration/refugee journey. Such threats require that the autonomy and agency of migrants are respected and that appropriate state and institutional protections are afforded, in variable degrees, to ameliorate the particular vulnerable life situation they are in. For example, when crossing borders without authorisation, hiring facilitators for such crossings, relying on fellow travellers for protection that state authorities cannot provide, experiencing overcrowding in camps, or being left with only their own sparse resources living with their abusers or caring for small children and other dependents. These are all situations that can render migrants vulnerable to GBV and requiring appropriate state or other institutional protection, both as a matter of justice and as means of underpinning the resilience of migrants to enable them to address their vulnerable situation in ways that work for them. The protection offered would not and should not abolish their agency even as they continue to make all kinds of hard and sometimes impossible 'choices'. For example, women seeking international protection who take contraception pills while crossing Sub-Saharan Africa on their way to European 'safety' know full well what to expect and yet have to make this impossible 'choice' (Tastsoglou et al. 2021).

In summary, our expanded, critical and heuristic vulnerability approach has the potential to effectively inform and organise empirical research on migration and GBV and to be a compelling interpretive framework in the field. However, several marked pitfalls need to be avoided. They include both essentialism that encourages reified understandings of vulnerable groups without agency and false universalism that obliterates relevant differences between groups. Moreover, differences in identity and experience map onto context-specific, consequential social, economic and political inequalities, which vulnerability analysis should reveal. This cannot be achieved without an intersectional lens that deploys the insights of ‘situated intersectionality,’ in particular, the centrality of gender to our understanding of the operation of borders, geographic, political, economic, social or cultural, in migration research. It is also imperative to guard against an undervaluation of autonomy as an independent value and a source of resilience and, equally, to guard against an overly optimistic or benign view of the state. Last but not least, when employing a vulnerability approach it is vitally important to recognise the historical and continuing role of social movements mobilising in a sustained way to achieve migrants’ rights and citizenship.

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PART II

Policy Intersections: Combating
Gender-Based Violence and Managing
Migration



Countering ‘Their’ Violence: Framing Gendered Violence Against Women Migrants in Austria

*Madita Standke-Erdmann, Milena Pieper,
and Sieglinde Rosenberger*

Abbreviations

BFA	Federal Office for Immigration and Asylum
BJA	Federal Chancellor’s Office
BMEIA	Federal Ministry for Europe, Integration and International Affairs
BMI	Federal Ministry of the Interior
CEDAW	Committee on the Elimination of Discrimination against Women
FGM/C	Female genital mutilation and cutting
FPÖ	Freedom Party Austria
NAP	National Action Plan
NGO	Non-governmental organisation
ÖIF	Austrian Integration Funds

M. Standke-Erdmann (✉) • M. Pieper • S. Rosenberger
Department of Political Science, University of Vienna, Vienna, Austria
e-mail: madita.erdmann@univie.ac.at; milena.pieper@univie.ac.at;
sieglinde.rosenberger@univie.ac.at

ÖVP	Austrian People's Party
SPÖ	Social Democratic Party Austria
ZARA	Civil Courage and Anti-Racism Initiative (NGO)

INTRODUCTION

In previous years, gendered violence against women migrants has become a topic of recurring interest to the media, policy makers and academics concerned with human rights and immigrant integration in European societies. However, until today, media and politics tend to limit the debate on violence against women migrants to the issues of Female-Genital Mutilation/Cutting (FGM/C), forced marriage and 'honour killings' categorised as culture- or tradition-specific (Ercan 2015; Sauer 2011; Razack 2004; Farris 2017; Korteweg and Yurdakul 2009), while leaving discrimination as well as violence experienced during migration largely undiscussed. At the same time, feminicides¹ as well as domestic violence committed by individuals without migration background are discussed predominantly as single events. Therefore, public discourse in Europe emphasises alleged cultural peculiarities on the one hand, while on the other, it neglects debates about structural conditions perpetuating and (re)producing gendered violence within societies (see Freedman et al. in this volume). Instead, individual sanctions as well as educative measures targeting migrant inclusion are said to reduce gendered violence against women migrants (Farris 2017). This approach underscores feminist scholarship and activism, which has demonstrated how violence is treated publicly as a private, individual matter by reducing it to a handful of individual cases. Curiously, it appears that the discourse on gendered violence against women migrants has gained prominence along with further restrictions in migration policies after migration movements of 2015.

Chantler (2018) identifies three major ways in which gendered violence against women migrants is discussed in public discourse. First, there persists the idea that gendered violence is similar for all women. Such universalist assumptions about and solutions to gendered violence continue to

¹ 'feminicide is systemic violence rooted in social, political, economic, and cultural inequalities. In this sense, the focus of our analysis is not just on gender but also on the intersection of gender dynamics with the cruelties of racism and economic injustices in local as well as global contexts' (Fregoso and Bejarano 2009, 5).

feature in migration policy and conceptualise migrant women as a monolithic group (Razack 2004; Mohanty 1984; de Jong 2017), glossing over the social context and impairing structural elements in and through which it is committed. Second, Chantler identifies a pathologizing manner through which culturalised forms of gendered violence against women migrants are rendered hypervisible (Boesten 2018). Thirdly, Chantler highlights that public discourse on the issue is largely held *about*, but *not with* women migrants and their experiences with violence and discrimination. She denotes this silencing of women migrants as a 'normalised absence' (Chantler 2018, 271). These effects rely on the construction of women migrants as a passive, victimised group, caught in oppressive, patriarchal cultures and in need to be saved from violent migrant men (Braun and Pagano 2018; Razack 2004; Castro Varela and Dhawan 2016). At the same time, women in Europe are presented as emancipated individuals. In turn, migrant men are constructed as more prone to committing gendered violence as opposed to 'non-migrant' men (Farris 2017). These lines of argument build on discursive dichotomies such as norms/culture, civilised/uncivilised, emancipated/oppressed, based on which political actors distinguish between the European Self and the foreign Other to locate violence as foreign to the host society. This juxtaposition paired with the alleged need to save and protect migrant women resonates with what Spivak (1988) coins 'white men [and women] saving brown women from brown men', informed by racialised and gendered notions of masculinist protectionism (Young 2003) evoked by the paternal state. Thus, public discourse on gendered violence against migrant women frequently relies on what Hadj Abdou (2017) terms *gender nationalism*. Gender nationalism reinforces Othering by placing women's rights and gender equality as an achievement of European societies in stark contrast with non-European ones to 'establish "Europeanised" nationalist narratives of the "Self" and the "Other"' (ibid., 84).

Against this backdrop, we investigate how political actors and the media frame gendered violence against migrant women by analysing discursive interlinkages between migration policies and policies countering gendered violence. We are interested in how this political framing not only intends to counter violence but may also contribute to narratives of a restrictive migration politics. To conduct this study, we consider the discursive and policy landscape in Austria a relevant example to study (see subsection 3 for a detailed illustration).

Drawing on the concept of gender nationalism, our analysis elucidates how migration is presented as the main reason for gendered violence

against migrant women. We show how the framing of ‘their’ violence becomes intelligible by identifying cultural peculiarities that lay ground to a phenomenon assumed foreign to the host society. At the same time, we demonstrate how violence is presented as a phenomenon of single cases, which should be addressed individually, uncoupling it from structural and racist violence that is known to present a constant challenge to migrants in Austria and other European societies (ZARA 2020; European Agency for Fundamental Rights 2018). We demonstrate how strategies of culturalising as problem definition and individualising on the level of solutions strengthen gender-nationalist narratives through a common denominator of racialisation and lay ground to restrictions and sanctions in migration policy. We extract the following three interrelated processes as inherent to the framing: Othering, the omission of structural aspects that foster violence as well as an overall weakening of an anti-violence agenda that aims to address root causes of violence against women. In sum, gendered violence becomes politicised as an issue relevant only to migration, and is depoliticised as a phenomenon pertaining to single cases.

In the following, we contextualise the analysis within the Austrian political and discursive landscape around gendered violence and migration. After outlining data and methods, we move on to results of our analysis of policy and media documents. We conclude with an interpretation of the three interrelated processes.

CONTEXTUALISING THE CASE OF AUSTRIA

In what follows, we illustrate developments in Austria’s discursive, policy and political landscape between the 1990s and late 2010s. In the 1990s, Austria enjoyed an international reputation for its progressive legal and policy commitments to protecting women from domestic violence in line with international developments around, for example, the General Recommendation No. 19 of the UN-CEDAW Committee² (CEDAW 1992), the Vienna Declaration (United Nations 1993) and the Beijing Declaration (United Nations 1995). Austria became an important state actor who vouched for acknowledging violence against women as human rights abuse and making it a public matter. This agenda was promoted by the country’s first Women’s Minister Johanna Dohnal, resulting in the First Protection against Violence Act in 1996 (Dearing-Haller 2005).

² Committee on the Elimination of Discrimination against Women.

Shortly thereafter, politics against gendered violence took a turn. Over the course of the 2000s, the media as well as anti-violence campaigns barely identified gendered violence as a societal and systemic phenomenon (Wolf 2018). As governments implemented corresponding measures in the context of migration, policies and public debates concerning what is often referred to as ‘culture or tradition-specific violence’ began to emerge (Sauer 2011). In their discursive chronology of the term ‘cultural violence’, Mendel and Neuhold (2015) show how feminist and anti-racist perspectives were discursively suppressed in public discourse. Instead, universalist and pseudo-feminist arguments deemed necessary the ‘liberation’ of women migrants from forms of oppression as task of a European society (*ibid.*). This left aside growing criticism by scholars and NOGs like ZARA³ who illustrate the severity of structural and racist violence which migrants⁴ endure, and the lack of prevention and protection against these forms of violence (Schwarz-Schlöglmann 2017, 172). Thus, racism and racist violence remained rather unattended in policymaking. Instead, policy makers emphasised legal bans on certain forms of violence, for example, by introducing forced marriage as a stand-alone offence in 2015 (Erdmann et al. 2019). As Table 3.1 shows, legal policies against gendered violence often coincided with increasingly exclusive policies in the field of migration and asylum (Rosenberger 2012; Rosenberger and Gruber 2019).

These policy developments complemented the reallocation and pooling of competences in the Ministry for Europe, Integration and International Affairs (BMEIA) in 2014, which linked issues of foreign affairs to migration and integration. Among other things, this shift in ministerial responsibility lay ground for interlinking development programmes abroad and policy on violence against migrant women on a domestic level. In addition, the Austrian Integration Funds (ÖIF) became affiliated with the BMEIA. Following the Integration Act of 2017, the ÖIF became a central actor to Austrian migration and integration politics, and put special focus on gendered violence. For example, the ÖIF published several booklets mostly focusing on FGM/C and forced marriage between 2017 and 2019. That way, policy instruments on gendered violence and migration were intertwined increasingly. In the wake of the 2015 migration

³ Zivilcourage & Anti-Rassismus-Arbeit.

⁴ Showing that in 1999, 18.090 racist incidents were reported (ZARA 2020, 15) (1950 cases in 2019 (*ibid.*, 14)).

Table 3.1 Chronology of relevant policies on violence against women and migration between 1993 and 2019

<i>Violence against women policies</i>		<i>Migration policies</i>
1993		Aliens Act: Tightened up regulations regarding entry and residence of aliens Residence Act: Signalled the start of a controlled immigration system
1997	First Protection Against Violence Act: Provides the victim’s right to protection from an offender in his/her living environment by entitling the police to impose eviction and barring orders	New Aliens Act (‘Integration Package’): Focused on integration instead of new immigration
1998		Citizenship Act: Implemented principle ‘integration before citizenship’
2002		Amendments to the Aliens Act: Implemented compulsory ‘integration courses’
2003		Amendments to the Asylum Act: Accelerated asylum proceedings
2005		Aliens Law Package: Implementation of EU directives, strengthening of measures against ‘illegal’ immigration
2006	Initiatives on ‘Harmful traditional practices’, Ministry of Women and Health; part of Austria’s EU Council Presidency	
2009	Second Protection Against Violence Act: Several changes improving the protection of victims	
2009–2011	NAP to Prevent and Eliminate FGM in Austria as part of EU Daphne project	
2012–2015	NAP on Combatting FGM/C: Claiming that any type of FGM/C is illicit and is considered a crime within but also outside of Austria	

(continued)

Table 3.1 (continued)

	<i>Violence against women policies</i>	<i>Migration policies</i>
2014	Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence)	
2014–2016	NAP on the Protection of Women against Violence as implementation of Istanbul Convention: Addition to First and Second Violence Against Women Act; in response to previous screenings targeting violence and increase victim protection	
2015	Parliamentary approval of changes to Penal Law: Included forced marriage as stand-alone offence	
2016		Modification of the Asylum Act, Aliens Police Act and the BFA-Proceedings Act: Regulates the proceedings of the Federal Office for Immigration and Asylum
2017	Amendment to the Penal Code: Implemented changes concerning the persecution of Stalking	Integration Act: Governs legal aspects concerning migration and asylum Anti-face-covering law: Suggests to promote integration; directed towards <i>inter alia</i> women wearing the Burkha/ Chador
2018–2019	Task Force Penal Law	
2019	Third Violence Against Women Act: Implements higher penalties for the statement of facts rape and stalking Screening Group on feminicides	

^aAustrian Legislation against domestic violence (Haller 2005)^bFederal Republic of Austria (2009)

movements, the government adopted restrictions to asylum procedures. Even when asylum applications dropped significantly as a consequence of national and European measures in 2017, the far-right ÖVP-FPÖ-government (2017–2019) continued restricting border and asylum policies between 2017 and 2019 (Rosenberger and Müller 2020). At the same

time, the government put an emphasis on gendered violence, implementing the aim of ‘harsher penalties for sexual and violent criminals’ in its government programme (BMI 2019a, 1).

In 2018, the Ministry of the Interior’s State Secretary set up the ‘Task Force Penal Law’ to formulate reform suggestions to the penal law and victim protection. Notably, the government dissolved the Ministry for Women and Health and put in charge the Chancellor’s Office (BKA). Thus, a ministry concerned with general issues around women, and with the protection against violence, specifically, was non-existent. Instead, several ministerial actors⁵ were commissioned to implement an anti-violence agenda through the task force, leading to an increase of penalty, in the case of sexual violence, for instance (Press Service of the Parliamentary Administration 2019). Outside of the task force’s scope, also migration policy actors began to cover gendered violence against women migrants in documents such as in the government’s Annual Integration Report, which for the first time (since 2011), explicitly named FGM/C and forced marriage as issues to keep a close eye on (BMEIA 2019a). In addition, the BMEIA prioritised and made FGM/C visible by, for instance, providing funding of five million Euro ‘for the international fight against FGM’ in countries on the African continent in 2019 (BMEIA 2019b).

A further highly relevant development which made the years 2018 and 2019 a distinct period was a number of mediatised and politicised feminicides. According to Eurostat data for 2018, no European country showed higher numbers of feminicides than Austria (Pausackl 2019). Media coverage was accompanied by several ministerial press conferences, some of them in a pronounced ceremonious, statesmanlike setting such as the presentation of the ‘Task Force Penal Law’. While the ÖVP-FPÖ-government staged this task force as taking vigorous action, the technocratic interim government⁶ initiated a screening group on feminicides. This group was commissioned to analyse, among other things, common and generalizable characteristics of perpetrators and victims. Results showed that perpetrators with foreign citizenship (BMI, BKA, and BMFFJ 2019) committed around 50% of the feminicides, fuelling further debates on the relation between violence and migration. In 2019, the Parliament adopted the Third Protection against Violence Act, which experts and

⁵ Ministries of the Interior, Justice and Social Affairs and the Minister for Women, Families and Youth in the Federal Chancellery.

⁶ appointed in May 2019 after the dissolving of the ÖVP-FPÖ government.

civil society strongly criticised for its focus on the increase of penalties instead of providing sufficient funds for prevention measures (ORF 2019). In sum, the years 2018 and 2019 were marked by several measures against gendered violence but also strong restrictions within migration policy. Against this background, we analyse how political and media actors framed violence against migrant women within this period.

MATERIAL AND METHODS

To identify peculiarities to the Austrian public discourse on gendered violence against migrant women, we conducted a frame analysis (Rein and Schön 1996; Entman 1993) of policy and media texts. As ‘generic story lines’, frames underlie the problem-setting stories of each policy controversy. Consisting of the construction of problem definitions (‘what needs fixing’) and corresponding solutions (‘how it might be fixed’), frames are able to exert power within a policy arena (Rein and Schön 1996, 89). We identify how migration policy, women’s policy and media actors produce certain problem definitions from which they derive corresponding solutions. Through that, we carve out intertwined and overlapping discursive constructions.

As the period of inquiry, we chose the years 2018 and 2019, which are characterised by the previously described politicisation and mediatisation of gendered violence and migration. We selected policy and communication material published by the Austrian Federal Ministry for European and International Affairs (BMEIA), the Austrian Integration Funds (ÖIF), the Austrian Federal Ministry of Interior (BMI) (including documents deriving from the ‘Task Force Penal Law’) and the Federal Chancellor’s Office (BKA), responsible for women’s politics. In the analysis, we differentiate between two groups of actors: when speaking of migration policy actors, we refer to BMEIA and ÖIF, while we understand BMI and BKA as women’s policy actors, which were in charge of women’s politics in the selected period of inquiry. To depict the public discourse more broadly, we included media articles by the right wing and conservative tabloid *Kronen Zeitung*, a newspaper with the widest circulation in Austria, as well as the left-libertarian quality paper *Der Standard*. We considered articles on

forementioned socio-political or public events based on a keyword-search⁷ within the given period. The selection of material led us to the following number and types of documents: (1) eight policy documents; (2) communication material by policy actors, including three magazine articles⁸ and 44 ministerial press releases⁹; as well as (3) 64 mass media articles¹⁰ which we then coded according to the dimensions of problem definition and solution, including causes for violence, forms of gendered violence, voices, perpetrators, and victims as well as notions reinforcing respective narratives.

FRAMING 'THEIR' VIOLENCE

Overall, this frame analysis shows that gendered violence against migrant women is presented as 'their' violence. That is, public discourse frames violence as caused by migrants, allowing for the discursive relocation of gendered violence as a phenomenon 'outside' of what counts as 'Austrian society'. We identify two strategies in the dominant framing: on a problem definition level, *culturalising* ascribes the occurrence of gendered violence against women migrants to cultural and traditional peculiarities of perpetrators but also victims. On a solution level, *individualising* constructs violence as an issue to occur and to be solved on an individual victim and perpetrator level. Culturalising therefore serves as a foundation to derive individualised solutions. While we find shades of either strategy on both levels, this differentiation brings to the fore forms of racialisation as the common ground on which both strategies operate. With racialisation, we refer to processes that 'attach racial meanings to people [and are] born out of social dominance and power' to ascribe characteristics, practices or behaviour to specific, Othered groups (Gonzalez-Sobrinio and Goss 2019, 506; see also Goldberg 2009, Freedman et al. in this volume).

⁷ 'Violence women', 'violence men', 'violence migra*', 'violence refugees', 'violence gender', 'forced marriage', 'human trafficking', 'women trafficking', 'genital', 'FGM*', 'racist*', 'hate crime', 'hate', 'LGBTI', 'queer', 'gay', 'security* AND migra*', 'killing of women', 'femicide', 'circumcision', 'domestic violence', 'victim of violence', original keywords in German: 'Gewalt Frauen', 'Gewalt Männer', 'Gewalt Migra*', 'Gewalt Flüchtlinge', 'Gewalt Geschlecht', 'Zwangsheirat', 'Menschenhandel', 'Frauenhandel', 'Genital*', 'FGM*', 'Rassismus', 'Hate crime/Hassverbrechen', 'Hass', 'LGBTI', 'Queer', 'Schwul', 'Sicherheit* UND Migra*', 'Frauenmord', 'Femizid', 'Beschneidung', 'häusliche Gewalt', 'Gewaltopfer'.

⁸ Available on the ministries' websites.

⁹ Collected using the Austrian Press Agency's original text service (OTS), searching for the keywords 'violence AND women' (original keywords in German 'Gewalt UND Frauen').

¹⁰ Articles found via Austrian Press Agency's Online Manager Library.

Framing the Problem

On a problem definition level, gendered violence against migrant women is largely culturalised. Migration and women's policy actors stress the 2015 migration movements as the single event which brought unprecedented numbers of violence against women to Austria (ÖIF 2019a; BMI 2019b). Migration policy actors, in particular, establish this claim by pointing at traditions, cultures or religion of migrants which, in their unanimous difference to 'Austrian norms and values', are held responsible for an increase in gendered violence. Both, migration and women's policy actors underscore this culturalising by categorising FGM/C and forced marriage as 'tradition-specific violence',¹¹ 'violence in the name of honour', 'honour-cultural violence' or 'violence against women in the context of integration' (BMEIA 2019a, 73, b, 7; ÖIF 2019c). An abundance of such undefined descriptive vocabulary leaves open the question of how and to what effect the seemingly particular yet generalizable element of culture conditions gendered violence. Migration policy actors link culture to patriarchy through topoi such as 'collectivist culture' to explain the occurrence of violence, stating that 'violence against women, genital mutilation or forced marriage are often legitimised by patriarchal cultural ideas' (ÖIF 2018). This permits to trace the origin of violent behaviour in so-called 'collectivist cultures' (BMEIA 2019a, 72) where the individual is secondary to the community. While policy actors do not clarify, what characterises such communities, women read as belonging to these are presented as socially controlled. This allows migration policy actors to problematize the lack of individuality within these constructed groups:

Collectivist values play an important role in the foundation of the patriarchal system. In this form of social organisation, the interest of the community takes precedence over that of the individual. In this system, the individual experiences his or her worth primarily as part of a group. The 'we' are above the 'I', the individual freedoms are subordinate to the group interests. Since individual decisions are seen and judged in the light of possible consequences for the group, social control over the members plays an important role. (ibid.)

¹¹Translations by authors.

Migration actors place these societal structures in diametrical opposition to societal developments in Austria and Europe to emphasise ‘non-violence ... within family structures’ as the dominant form of social order ‘since the 1960s within European societies’ (BMEIA 2018, 80).

Congruent with these images, migration policy actors construct migrant men as the group of perpetrators. Actors, such as the ÖIF, explicitly define the group of (migrant) men as responsible for gendered violence: ‘We need to fight violence where it starts: with the perpetrators’ (ÖIF 2019a, 9). Using graphic language and vivid images such as ‘only the tip of the iceberg’, ‘ultimate escalation’ or ‘terrible offences’ (ÖIF 2019a, 3; 8, b, 1), they illustrate the severity of an offence. Migration policy actors underpin these notions along the lines of essentialised characteristics of individuals’ social and economic backgrounds: ‘Without the immigration of mainly young and destitute men from these strongly patriarchal cultures, we would not have the level of violence that we are currently confronted with in Austria’ (ÖIF 2019a, 12). With reference to men from countries like ‘Syria, Afghanistan and Iraq’ (BMEIA 2019a, 70), these actors reinforce racialised images of the migrant non-European criminal with reference to data gathered outside of Austria. ‘According to surveys in Middle Eastern and North African countries, two-thirds to 90% of men see it as their job to monitor the personal freedoms of women in their home country’ (ÖIF 2019a, 14). Using illustrative hypothetical scenarios like the following, migration policy actors build these essentialised characteristics as bedrock to violent behaviour.

But we can expect, even demand, that he or she abandon these patriarchal attitudes. Because no one who comes to Europe must say: ‘I will continue to live according to my tradition, I will marry off my daughter at the age of 13 or have her genitally mutilated because my culture dictates it. (ÖIF 2019a, 16)

Racialised notions of the migrant man are mutually constitutive of the construction of women as suffering individuals and a monolithic group of victims. Migration policy actors characterise men as emotionally uncontrollable and women as unanimously incapable to escape the control of male family and community members due to a lack of social emancipation. This becomes evident in the way in which a woman’s emancipation is connected to a migrant man’s loss of control and ‘attack on his masculinity’ which ultimately results in violence (BMEIA 2019a, 72). While migration policy actors construct the feminised group of victims as embedded in

racialised ‘collectivist’ structures, women’s policy actors, in some documents, refer to women in technical terms as ‘High Risk Victims’ (BMI 2019a, 9) or ‘High-Risk-Women’ (BMI 2019b, 16). Culturalising violence is therefore underscored by notions of risk: women are at ‘risk of violence’, while migrant men are constructed as a risk to women (e.g. BMI 2019a; BMI 2019b). In their framing strategies, the media differ from policy actors by largely focusing on case-to-case coverage. While we find that media outlets tend to discuss the topics of migration and gendered violence separately, a victim’s and perpetrator’s migration background appear especially in articles published by the right wing and conservative tabloid *Kronen Zeitung*. It often establishes a link between a perpetrator’s migration background and the criminal offence, constructing a common racialised narrative of migrants as violent criminals (see also ZARA 2020). The attribution of women at ‘risk of violence’ finds especially vivid expression in the media (e.g. ‘A mother and her daughter suffered under years-long ordeal’ (Kronen Zeitung 2018a)). The use of notions such as ‘shocking facts and figures’, ‘indescribable suffering’ (Kronen Zeitung 2019) or ‘marriage became hell’ (Kronen Zeitung 2018b) visualises the reported cases, while descriptions of victims and perpetrators such as ‘tears were running down her cheeks’ (ibid.) or ‘indescribable suffering’ (Kronen Zeitung 2019) emotionalise them. That way, some media outlets contribute to the process of culturalising gendered violence. In contrast, especially the left-libertarian newspaper *Der Standard* acts as a corrective to the government’s policies, criticising a limited problem definition by policy actors that omits structural reasons for gendered violence:

But one runs the risk of shifting far-reaching attitudes that run across society to an individual level — and thus playing them down. It appears that these are individual men or groups of men who are characterized by problematic behaviour. (Hausbichler and Maan 2019)

In addition, *Der Standard* attempts to broaden the debate by including voices of experts and academics who emphasise the precarious socio-economic as catalysts for gendered violence (Der Standard 2019).

Framing the Solution

As the culturalising of gendered violence on the problem definition level feeds into this level, we find similar racialised notions serve to individualise solutions to gendered violence. Both women’s and migration policy actors

respond to violence through individual solutions from case to case, sanctions combined with educational interventions as well as preventive and protective measures. Derived from the notion of ‘collectivist cultures’ as causing violent behaviour, migration policy actors identify solutions targeting men based on ideas of ‘us’ in individualist and ‘them’ from collectivist societies. While this acknowledges culture as an isolated structural element, solutions suggest that transcending ‘collectivist cultures’ can prevent the transmission of patriarchal, oppressive and violent behaviour is best achieved on an individual level.

The focus must be on strengthening the individual’s development opportunities as well as the clear communication of Austrian values and norms and it must be made clear that collectivist, patriarchal structures are in contradiction to this. Suppressive role models and violence must not thwart the emancipatory achievements under the guise of religious freedom or misunderstood tolerance (BMEIA 2019a, 91).

While men are to be individualised beyond ‘collectivist cultures’, every migrant mother, essentialised as female nurturer, presents a promising hinge between ‘their’ culture and ‘our values’ for a successful integration process as ‘on the one hand, they are an engine to integration, but on the other hand, they pass on traditional patriarchal values to their children themselves’ (ÖIF 2019a, 12).

The question arises as to how this emancipation process of women can be initiated or accelerated within a liberal democratic society. First of all, it is important that attitudes are clearly communicated and exemplified in encounters and interactions. (BMEIA 2019a, 73)

When addressing FGM/C and forced marriage, however, it is peculiar that women’s policy actors ascribe women migrants the role of both victim and perpetrator. This victim-perpetrator-binary becomes secondary to the migration background, produced as conducive to culturalised forms of violence. A focus on such forms results in suggested solutions, which combine sanctions, high penalties and restrictive measures. These suggestions include passport withdrawal, the reduction of social services and monetary as well as material allocations (BMI 2019b, 37–38).

If the Mother-Child Card examinations reveal that an expectant mother is a victim of FGM, this fact should appear in the Mother-Child Card or in

ELGA.¹² These mothers must attend counselling on the subject of FGM as well as special advice at centres / maternity clinics. This is intended to sensitise future mothers and thereby possibly prevent their daughters from being genitally mutilated. If these compulsory consultations are not taken, sanctions should be provided (e.g. administrative penalties, reduction in childcare allowance, certain observation period by the KJH¹³). (ibid., 40)

Compared to migration policy actors, women's policy actors focus primarily on assuring women's safety through their behaviour but also sanctions against men. These solutions build on notions, which produce the racialised male migrants as the 'site' which requires unequivocal attention. These actors describe migrant men as unanimously fragile as their masculinities are said to build on 'honour', making them prone to violent behaviour. From this line of argument these actors extrapolate the need to convey European liberal norms and values through education and counselling.

Special counselling facilities for men could, on the one hand, protect men themselves from violence, on the other hand, by conveying a new sense of honour in a protected environment, these men could be prevented from becoming perpetrators themselves. (BMI 2019b, 39)

When speaking of women, actors demonstrate their capability to act through 'efficiently coordinated protection mechanisms' (BMI 2019b, 15) and 'Task Force' contexts where they present solutions geared towards 'hazard management' and 'monitoring', using a 'window of opportunity' to stop violence (BMI 2019a, 7). On the other hand, a 'risk-assessment tool and de-escalation' (BMI 2019b, 24) can assess whether women are 'High-Risk-Victims' or not. These entail individualised 'advice on how to get out of an inconvenient situation' and 'security training' (BMI and Zwickl 2019, 22–23; BMI 2020) paired with 'a healthy confidence in one's own competence' (ibid.) in which 'attention and self-assertion count as optimal protection'. 'A lack of confidence in their physical as well as intellectual abilities' (ibid.) allegedly hinders women, irrespective of their background, to protect themselves against gendered violence (ibid.). Consequently, women's policy actors suggest working on 'confidence at their own convenience' (ibid.). While policy actors locate the solutions to violence with both women, in general, and the racialised individual, in particular, especially *Der Standard* presents structural elements as important to reflect upon and, therefore, diversify the common political discourse.

¹² Electronic health record.

¹³ Child and youth care.

But it has to be called into question whether those 50 planned revisions of the penal law will truly ‘put a stop’ to physical and psychological violence against women and children, as vice-Chancellor Heinz-Christian Strache (FPÖ) claims. The most dangerous place for women and their offspring remains to be the supposed beloved family — no matter what background they may have or which class of income they belong to. And anyone who takes a closer look at domestic violence knows that many victims require more than one attempt, i.e. years, until they find the courage and energy to break away from the violent perpetrator. (Der Standard 2019)

In sum, the empirical data show that migration policy actors mainly culturalise gendered violence, located on the level of problem definitions, while corresponding solutions dominate in the women’s policy material with a focus on individualising gendered violence. While at times the media attempts to serve as a critical corrective to policy action, we find that migration and women’s policy actors dominate and structure the discourse. Remarkably, there is not much public controversy over the origins of violence against migrant women as it is attributed unanimously to migrants and migrant communities, locating its origins outside societal structures and ‘Austrian norms and values’. Processes of culturalising and individualising, while at times contradictory, construct the dominant framing of ‘their’ violence through the common denominator of racialisation.

BEYOND ‘THEIR’ VIOLENCE: TOWARDS A MORE RESTRICTIVE MIGRATION POLITICS

We conclude this analysis with engaging with three interpretative findings, which underscore the discursive entanglements to frame ‘their’ violence. First, we find the process of Othering, second, the palpable absence of structural elements reinforcing and conducive to gendered violence which, thirdly, interact with an overall weakening of an anti-violence agenda which, ultimately, culminate in an anti-migration narrative.

Othering ‘Their’ Violence

Othering functions to culturalise ‘their’ violence and to uncouple it from the Austrian Self. This process builds on suggested conflictual differences between so-called collectivist cultures and the liberal European individual, and establishes a demarcation between ‘their’ culture and ‘Austrian norms

and values'. Communities, within which 'their' culture is located and reproduced, are characterised by the construction of culture/values, patriarchal/modern, women/men and victim/perpetrator dichotomies. This finds particular expression in an explicit hypervisibility of FGM/C and forced marriages as grounded in tradition which puts the state in position of a moral actor to support as well as sanction an otherwise oppressed group of women who need to be liberated and emancipated. Positioning individualism as European and in opposition to culture relates to what Yeğenoğlu (1998) identifies as 'designat[ing] the West as a place without culture but with values, thereby locating Westerners firmly within modernity and on the terrain of the universal, a logic that has been hegemonic since the enlightenment' (148/49). Oppressed women are contrasted with hypermasculinised migrant men, portrayed as violent and uncontrollable in their emotions and behaviour and in need of corrective educational and sanctioning interventions to assimilate. Along the lines of colonial discursive continuities, a linear spectrum of historical social development perpetuates especially racialised but also gendered hierarchies of the non-European 'less civilised' migrant subject (Opratko 2019; Brubaker 2017). The framing, consisting of intertwined culturalising and individualising strategies operating on racialisation, allows for a discursive coexistence of monolithic Othered groups on a problem definition level and the image of the violent man or individual woman at danger on a solution level. Consequently, policy actors derive concrete, generalisable insights about 'collectivist cultures' along distinct victim-perpetrator binaries, which are addressed with the aim of liberating and emancipating women, on the one hand, while sanctioning and educating men, on the other. Through Othering, gendered violence is politicised in an already heated Austrian discourse on migration and feeds into narratives of further restrictions in migration politics.

Omitting Structural Conditions

Apart from Othering, the dominant framing of migration and women's policy actors of 'their' violence is sustained by suggesting that women migrants face no other forms of violence but FGM/C and forced marriage. This stands in stark contrast with literature and data on racism in Austrian political discourse but also daily racist violence as well as discrimination through institutional racism which was fuelled during the years of 2017–2019 (Castro Varela and Dhawan 2016; Opratko 2017, 2019; Mendel and Neuhold 2015; ZARA 2020). Although some media outlets

attempt to correct this image, the gaze on physical and culturalised forms of violence deflects from complex intersecting structural, that is, economic, social or political causes for as well as gendered and racialised forms of violence (Hill Collins 2017; Anthias 2014). While culture and migrant communities are acknowledged as structure, such isolation makes addressing gendered violence as ‘their’ violence intelligible through uncoupling it from the Austrian Self. That way, analysing the occurrence of violence on a comprehensive societal level is neglected, as it appears sufficient to address ‘their’ violence by focusing on an individualised risk- and case-management with sanctions and restrictions. This individualisation is underscored by a management rhetoric through which state actors imply effective and decisive action against threats read as foreign to the host society. Thus, policy actors present themselves as corrective entities, entitled to convey liberal values to the Othered individual. Consequently, policy actors appear as in control of ‘their’ violence, its Othered victims and perpetrators. The Othered victims and perpetrators become subjects in need of simultaneous policing and emancipation through the paternal protection of the state (Young 2003). This conflation becomes especially evident in the case of suspected FGM/C and respective measures directed against women migrants (see 5.1). It becomes a matter of power in choice what form of violence is acknowledged and what is omitted. These mechanisms underscore a ‘hierarchy of oppression’, an element conducive to gender nationalism (Hadj Abdou 2017, 87), which put oppression of women before other forms of oppression. We thus find that inscribed into the concept of gender nationalism is the omission of economic, social and political structural conditions which perpetuate and manifest violence. Instead, gendered violence against women migrants is turned into a solely ‘migrant/Muslim woman-only issue’ (Farris 2017, 9). It is therefore not surprising that there persists a palpable absence of women’s voices in this discourse. Were these voices and accounts included, this would shed light onto various forms of violence which the state, in the material considered, does not account for. In turn, this would dismantle the construction of the Austrian Self as being detached from ‘their’ violence. An individualisation of gendered violence, a concomitant normalised discursive absence of structural elements for violence (Chantler 2018) at the intersections of race, gender and immigrant status as well as the absence of women’s voices manages its societal relevance towards the apolitical as a whole (Crouch 2004).

Weakening of an Anti-Violence Political Agenda

As we find that processes of Othering have a politicising effect of 'their' violence, the framing of culturalising and individualising also weakens an anti-violence agenda which addresses societal roots of gendered violence. This finds expression in a narrowing of migration and women's policy in this context. As migration policy actors preoccupy the problem definition level, the process of Othering initiates the framing of 'their' violence which women's policy actors react to. Women's policy actors then take on the role of primarily focusing on solutions and measures countering violence and, at the same time, side with migration policy actors that specific forms of violence are attributable to culture (BKA 2018). This narrowing of women's policy and migration policy is facilitated through reducing analyses of the reasons for violence to and within migrant communities. In addition, the focus on culturalised forms at the cost of structural causes of violence frames migration policy actors as in charge. Thus, the framing of 'their' violence prioritises migration policy actors to prevent violence and to sanction those that commit violence. In addition, individualising violence sidelines the societal roots of gendered violence. As a result, an anti-violence policy agenda is weakened in its relevance. Congruent with Mendel and Neuhold (2015) we find that right-wing and conservative political actors adopt achievements of emancipation to their political agenda to establish a demarcation between 'us' and 'them'. That way, the weakening of women's politics concomitant with the described process of Othering and the consequent restrictive migration politics are conducive to a gender-nationalist narrative.

These developments are reinforced and manifested through structural changes of women's politics in Austria, initiated through the formation of the far-right government in December 2017. As the budget for anti-violence programmes had not been increased for years (Press Service of the Parliamentary Administration 2020), this shortens the possibilities to implement a comprehensive anti-violence agenda. For example, policy actors presented the 2019 Protection against Violence Act as a women's political achievement. However, feminist and anti-racist civil society actors have criticised that the explicit focus on violence interlinked with culture is constantly instrumentalised 'to legitimate certain forms of institutional and state violence against women in favour of a racist migration politics' in Austria (Mendel and Neuhold 2015, 40). Despite multiple shadow reports on the implementation of the CEDAW and the Istanbul Convention

published by (feminist and migrant) civil society groups and NGOs over the years, policy actors stick to focusing on restrictive migration politics instead of improving the protection of women against violence. As a consequence, the framing of ‘their violence’ renders women’s politics less relevant.

CONCLUSION

In this chapter, we conducted an analysis of how gendered violence is framed between 2018 and 2019 in Austrian public discourse. In this period, we identified a close intertwinement of women’s and migration politics in order to counter gendered violence against migrant women. In the light of recent restrictions in migration policy, this intertwinement serves to narrow political approaches to violence and thus plays into manifesting the development towards a restrictive migration regime. We find that strategies of individualising and culturalising, both operating on racialisation, produce the dominant framing of ‘their’ violence. This renders gendered violence against migrant women politicised and depoliticised at the same time.

Gendered violence is politicised, dominated by a process of Othering and thus feeding into the already heavily polarised public discourse on and the political saliency of the topic of migration in Austria. Migration and women’s policy actors instrumentalise gendered violence against migrant women by cementing it as an entirely foreign issue. This permits to (willingly) conceal structural conditions and racist violence through which the state is relieved of its responsibility to acknowledge gendered violence as an issue to society as a whole. In consequence, socio-economic and political inequalities of migrant women remain undiscussed. Thus, gendered violence is uncoupled from its societal embeddedness and is depoliticised. We agree that in the context of gendered violence against women migrants, referring to gender equality serves to ‘establish “Europeanized” nationalist narratives of the “[S]elf” and the “Other”’ (Hadj Abdou 2017, 84). We expand on *gender nationalism* by showing that not only Othering but also the omission of structural and societal conditions leading to violence and the weakening of an anti-violence agenda are inscribed into the concept. In ‘the name of women’s rights’ (Farris 2017) and ‘Austrian norms and values’, political actors consider themselves entitled to culturalise ‘their’ violence. Simultaneously, this frame facilitates the dominance of individual, restrictive measures on the level of solutions, leading to

narrowing the political approach to gendered violence towards a migration-only issue. In their interaction, these processes weaken an anti-violence political agenda which aims to address societal roots of gendered violence that the framing of ‘their’ violence. As a result, gendered violence against women migrants is both politicised and depoliticised which ultimately serves a narrative towards a more restrictive migration politics.

We acknowledge that the conceptualisation of gendered violence against women migrants in itself is potentially problematic as it inevitably reduces the discussion to certain discourses. Framing the group of women migrants implies tensions between specific forms of violence women migrants are concerned with due to precarity in status, economic conditions, social and political exclusion and considering them as part of the group of women in general which may lead to glossing over some of the named forms. In addition, the national frame we set cannot account for gendered violence *en route*, which finds little attention in Austrian public discourse.

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The Gender of Canadian Legal and Policy Gender-Based Violence and Immigration Frameworks

*Evangelia Tastsoglou, Chantelle Falconer, Mia Sisic,
Myrna Dawson, and Lori Wilkinson*

INTRODUCTION

This inquiry is situated at the cross-section of the Canadian legal and policy framework intending to protect immigrant and refugee women from gender-based violence (GBV) and the immigration legal and policy

E. Tastsoglou (✉)

Department of Sociology, Saint Mary's University, Halifax, NS, Canada

e-mail: evie.tastsoglou@smu.ca

C. Falconer • M. Sisic

Management-Dean's Office, Dalhousie University, Halifax, Canada

e-mail: Chantelle.Falconer@dal.ca; mia.sisic@smu.ca

M. Dawson

Centre for the Study of Social and Legal Responses to Violence, University of Guelph, Guelph, ON, Canada

e-mail: mdawson@uoguelph.ca

framework established for that protection. We aim to understand: (1) the gender and intersectional dimensions of GBV protection afforded to immigrants and refugees in Canada through a critical examination of selected seminal legal and policy documents, and (2) the experiences and perspectives of ‘key informants’, whose professional roles include putting into practice these laws and policies in their work to support migrant and refugee women. Our interviews with key informants were conducted as part of the Canadian GBV-MIG research project.¹

In contemporary Canada, GBV is recognised as key contributor to women’s marginalisation. A recent federal strategy aimed at redressing GBV and bringing forward a more equitable society is articulated in *It’s Time: Canada’s Strategy to Prevent and Address Gender-Based Violence* (Status of Women 2018). One of the first Trudeau government initiatives was an inquiry into the root causes of the high rates of violence and homicide experienced by Indigenous women and girls. In 2019, the Inquiry concluded that GBV experienced by Indigenous women and girls can be traced back to the persistent disenfranchisement and genocidal violence perpetrated against Indigenous people since colonisation. In this contemporary political climate in Canada, in which gender equity and GBV are receiving unprecedented attention, we examine federal legal and policy frameworks directly working to protect against GBV as a point of departure, while we aim to understand how adequate these frameworks are and how GBV continues to be structurally reproduced.

Moreover, this chapter focuses on the protections afforded to migrant and refugee women. Canada is considered to be at the forefront of migrant protections globally: the UN Refugee Agency named Canada ‘world

¹The Canadian GBV-MIG project is a three-year (2018–2021) research project that involves collaboration of researchers between four Canadian Universities. <https://www.smu.ca/gendernet/welcome.html>. It is funded by the Canadian Institutes of Health Research (FRN 161903) and forms part of the international GBV-MIG consortium project (‘Violence against Women Migrants and Refugees: Analyzing Causes and Effective Policy Response’) of University researchers from seven countries, a winning project of the Gender-Net Plus Joint Call on Gender and UN Sustainable Development Goals. For this chapter, we have drawn significantly from our *Country Review Canada* document (Tastsoglou et al. 2020).

leader' in the global-refugee system (UNHCR 2020). Canada has a 'safe' country designation, meaning that it does not produce refugees and it receives people who need protection because they are fleeing violence and/or persecution. Canada is a signatory on the UN *Convention* (UN General Assembly 1951) and *Protocol* (UN General Assembly 1967) *Relating to the Status of Refugees*, and settles people through the *Canadian Refugee and Humanitarian Resettlement Program* annually. In addition, Canada has an asylum programme, whereby people make claims for refugee protection upon arrival in Canada. Since 2018, Canada has resettled more refugees annually than any other country, and from 1980 to present day, it has resettled over 1 million refugees (UNHCR 2020). Although Canada leads in resettlement, the refugee system favours claims based on certain types of persecution. To redress the 'gender gap', Canada has issued its own *Chairperson's Guidelines* (Government of Canada 1996, 2017). The application of these guidelines however, remains inconsistent and problematic, illustrating stereotypical and racialized constructions of GBV.

The key legislative and policy documents we focus on in this chapter consist of Canada's *Immigration and Refugee Protection Act* (hereafter *IRPA*), the *Canadian Human Rights Act* (hereafter *CHRA*), the *Criminal Code* of Canada (hereafter *CCC*) and the more recent policy document *It's Time: Canada's Strategy to Address and Prevent GBV*. Other legal and policy documents are drawn upon to supplement the analysis. Methodologically, we take a two-pronged approach: First, we present a critical interpretation based on themes and discourses arising from these documents. Second, we incorporate findings from a thematic analysis of qualitative interview responses of 43 key informants.

Our main objective is to identify the 'fault lines'—the gaps within and between policies, problems in policy application, or unintended consequences of protection policies. Our findings indicate that fault lines include omissions and exclusions related to: (1) **the absence of a national strategy** that is effective, intersectional, multi-faceted and informed by international human rights norms and obligations that Canada has formally assumed, (2) **the absence of a conceptually broad, intersectional understanding of GBV and human rights** and (3) **exclusion from GBV protection** (through lack of access and / or ineligibility) for newcomers and non-citizens respectively, particularly undocumented women, including gender persecution as ground for protection.

We use the terms 'migrant' and 'refugee' as umbrella categories to refer to a range of legal statuses under which non-Canadian-born individuals reside in Canada: naturalised Canadian citizens, permanent residents,

individuals on temporary work or study visas, resettled refugees, refugee claimants, as well as undocumented women. Below, we first briefly outline our theoretical approach to GBV in the context of migration.

THEORETICAL AND METHODOLOGICAL APPROACH

GBV is generally understood as violence directed towards a person or a group on account of their perceived gender. The concept of ‘gender’ has a long, rich genealogy in feminist, social scientific, linguistic, philosophical, psychological and psychoanalytic circles (Meyerowitz 2008). We conceive of gender as a ‘constitutive element of social relationships based on perceived differences between the sexes’ (Scott 1986, 1067), and fundamental to how the social world is hierarchically ordered. Furthermore, the gender hierarchies that prevail as ‘hegemonic masculinity’ (Connell 1987) are reproduced through patriarchal social structures, ideologies, everyday processes of normalisation, and violence. Perceptions of female and male bodies are reproduced through everyday life routines, media and texts as ‘natural’ and normal. Violence (or its threat) is manifested not only in the perceptions and constructions of male and female bodies but, more importantly, through enforcement of gender hierarchies.

GBV can only be understood as emerging from material and discursive structural gender inequalities rather than individual or group perpetrator dynamics (Davies and True 2015). Nevertheless, GBV is not only the result of patriarchy. The enforcement processes mobilised by patriarchy are intertwined and mutually constituted at various levels with processes (re)producing class, race, age, and other social divisions, rendering gender and gender inequalities intersectional (Anderson 1997; Choo and Ferree 2010; Collins 2010; Crenshaw 1991). Our conception of gender is also non-binary: GBV cannot be understood as operating only within male-female, masculine-feminine binaries (Shaw 2017; O’Toole et al. 2007). In this paper, we are focusing on women, in their diversity, as studies and statistical measurements show that globally women/girls are the principal victims of GBV (e.g., WHO 2013; UNHCR 2003; CCR 2001). We understand women in non-essentialist terms, as also including individuals with female gender expression, gender identity or perceived gender.

According to UNHCR (2001–2020), GBV ‘is rooted in gender inequality, the abuse of power and harmful norms...It also includes threats of violence, coercion and manipulation’. Moreover, this ‘expanded definition’ of sexual and gender-based violence (SGBV) makes explicit reference to the state and institutions ‘perpetrating’ or ‘condoning’ it (UNHCR 2003, 11)

and clarifies that SGBV can take the form of a ‘denial of resources or access to services’ (UNHCR 2021, 1). The Istanbul Convention adds the intersectional dimension to the structural understanding of GBV: ‘while women face violence and discrimination based on gender, some women experience multiple and interlocking forms of violence [intersectionality]’ (Council of Europe 2014). This expanded, structural, understanding of GBV allows us to link acts of violence that occur interpersonally, to policies and practices, and to institutional and legal frameworks relating to violence, which are, in turn, based upon underlying and intersecting structural inequalities.

While some research has shown that reports of victimisation are lower among immigrant populations compared to Canadian-born women, the latter face unique barriers to reporting, such as mistrust of police and language barriers (Cotter 2021; Ibrahim 2018). We also know that some women come to Canada seeking protection for past trauma, with GBV amounting to persecution the most common reason (Carman and Elash 2018). In the context of migration, we understand GBV as fundamentally structural violence manifesting ‘as unequal power and consequently as unequal life chances’ (Galtung 1969, 171). This violence is exerted systemically, by institutions, laws, policies, and practices relating to migration and human rights governance which fail to protect. It is also exerted by individuals, citizens or others against insufficiently protected ‘others’ who arrived recently. With a structural conceptual understanding of GBV, we find the Canadian legal and policy protective framework focuses mostly on direct expressions and ‘narrower’ notions of GBV. Narrow notions of GBV often feed directly to ‘culturalist’ interpretations and indirectly to anti-immigration discourses and an overall weakening of the anti-violence agenda, as other chapters in this volume argue (Friedman et al. and Standke-Erdmann et al.).

Our assessment of the effectiveness of law and policy is complemented by semi-structured interviews with key informants from across Canada. Key informants worked directly or indirectly with migrants and refugees in a variety of roles in GBV intervention and prevention. We asked them questions about their institutions, services provided, institutional priorities, challenges experienced at work, and gaps in policy and services related to GBV. For this chapter, we focused on responses about policies and practices about immigration and/or GBV. Key informants often articulated policy gaps in terms of how policy translates on the ground and referred to gaps within specific policies and gaps between policies. Policy gaps included issues such as (1) the spaces between what is written in policy and what happens in service provision or how policies are experienced by migrant/refugee women; (2) unintended consequences; and (3) efforts by advocates to shape policy.

GENDER-BASED VIOLENCE AND THE CANADIAN CRIMINAL JUSTICE FRAMEWORK

The *Criminal Code of Canada* (1985) is one of the federal legal frameworks that cover GBV. The federal government is responsible for the Criminal Code and prosecutions in the territories and of federal offences; the provinces and territories administer the criminal justice system. The CCC codifies specific criminal behaviours, which include harm, threatening to harm, or engaging in harassing conduct against another person; and so forth. However, there is no criminal offence that specifically captures GBV in any direct manner. Domestic/family violence is considered a crime for which there is a pro-charge policy: police must lay charges if there are reasonable grounds to do so (Department of Justice Canada 2014). In 2019, Bill C-75 introduced procedural and substantive legislative changes or merged reforms previously introduced in other bills to: address delays and reduce the overrepresentation of the Indigenous people and vulnerable populations in the criminal justice system; facilitate the prosecution of human trafficking offences; and improve the law's response to intimate partner violence and violence against Indigenous women and girls (Department of Justice Canada 2019).

The use of the term GBV at the federal policy level is a newer discursive shift from the more commonly used term family violence. The Trudeau government integrated the language of GBV into policy with its initiative, *It's Time: Canada's Strategy to Prevent and Address Gender-Based Violence* (2018). This strategy defines GBV as 'violence perpetrated against someone based on their gender expression, gender identity or perceived gender' and identifies two primary forms of GBV: (1) interpersonal and (2) structural, incorporating a broad range of violence such as physical, sexual, emotional/psychological, harassment, online/technology-facilitated, or financial (Status of Women Canada 2019, 4). A number of concrete funded initiatives put into practice the official language of the structural conceptual understanding of GBV (e.g., 'enhance Settlement Program' of the Department of Immigration, Refugees and Citizenship Canada, or 'Support to Sexual Assault Centres near Canadian Armed Forces Bases and Wings').

The Fault Lines of the CCC

The Need for a National Strategy

The *Special Rapporteur on Violence Against Women, its Causes and Consequences*, noted in her 2018 Canada report that the new GBV strategy is limited because ‘it is largely project-oriented, focusing on specific areas and lacking a human-rights based holistic legal framework and comparable data collection for all forms of GBV against women in all jurisdictions’. Among a variety of concerns were the lack of an explicit definition of family or domestic violence and the absence of a national strategy, including a legal framework on violence against women and domestic violence, both in general and with respect to Indigenous women and girls specifically (HRC 2019, 6). Both lead to geographic variations in the identification of violence as GBV which become subject (or not) to charges and an inability to accurately document the prevalence of GBV due to the lack of reliable and valid data (e.g., McInturff 2013).

The need for a national strategy is highlighted when considering how CCC overlaps with other legal jurisdictions across the country. Relevant legislation falls under the umbrella of family law, a child and family act, victims of crime act, and/or a domestic violence act. Family law may overlap with criminal law, particularly in instances of domestic/family violence; however, family law deals explicitly with the breakdown of the family unit, including divorce/separation and parenting agreements. There may also be an overlap between family law, criminal law and child protection legislation. For example, all Canadians have a duty to report instances when a child needs protection, due to exposure to physical, sexual or emotional violence, including neglect. A matter that is being dealt with by criminal or family law may also become a matter for child protection and investigation. Canadian provinces/territories have their own set of legal and policy frameworks that work in conjunction with the federal CCC to offer protection to survivors of domestic violence/family violence. However, there is significant variation between provinces/territories, with some having more developed and specific legislation for certain forms of GBV. Because family/domestic violence cases may be addressed by overlapping legal systems and at different levels, the experience for families and children is what has been described as ‘unintelligible and inconsistent’ (Neilson 2013, 4).

A director of a shelter expands on the need for a national strategy beyond policing and criminalising violence:²

We need to have a national response to violence against women. That is what we need. So that if something happens to a woman in BC it is the same thing that is gonna happen—so you know, she has got a restraining order in BC and he comes look at her in Ontario, that it is gonna be patchwork. And unfortunately, still the first response is a police response. Years and years ago when I first started there was a wonderful program that had a social worker and a police officer working from 7 to 3 and it was a fabulous program because if there was a response they could come in together. (KI20)

The Need for a Culturally Sensitive and Anti-Racist Strategy

Participants noted positive system changes towards immigrants, but challenges remained, particularly in recognising the role culture and/or ethnocentric and xenophobic practices play in victims' willingness and ability to seek support. A director of a family resource centre noted that migrants may be reluctant to access services or leave a relationship because of prior experiences in their country of origin and/or a lack of trust with the Canadian legal system or police:

Depending on where they're coming from, again, if it's a country that had a high political crisis (...) when they come here and they're exposed to police or any other judicial system, they will shy away or they will rather stay in that GBV relationship instead of facing the legal system, just because again, from their previous experience, that was the negative. (KI22)

Some key informants underscored racism experienced by immigrant and refugee women as contributing to reluctance to seek services: 'Racism is one of the biggest pieces that newcomer people think twice before they ask for service' (KI22).

A greater problem is inability to access services because of a lack of or limited linguistic skills, a 'deficit' that state services do not adequately address. Key informants were clear that the root of this omission is systemic discrimination. It is their clients' immigrant or refugee status that disadvantages them when accessing services without the state recognising and addressing their different positionality. Systemic discrimination is based then on one's 'otherness' or 'foreignness' (i.e., xenophobia), while

² Interview quotes have been slightly edited for readability.

some key informants specifically identify this as racism. The systemic lack of access to services for immigrants and refugees was discussed by many key informants with examples within their practice. KI2 described someone who tried to remove a protection order, but was not able to because of language barriers:

If people have to do a protection order and language being an incredible barrier and technically if it's a right—and they should be offering language services in terms of policy. (...) We find situations where someone went to remove the protection order and then nobody could help the person because they needed to bring their own interpreter.

Even where interpretation services are provided, they are inadequate in scope. KI42 commented on the systemic inequality in accessing services between immigrant and Canadian-born women (specifically, in Quebec), stemming, in large part, from the need for interpretation services to be provided at every step of the process (e.g., meetings with lawyers before court). Without this, women are forced to use their own networks, if available, and disclose intimate details:

They [immigrant women] don't have the same access to services as a woman who's a victim of domestic violence who was born in Quebec.... If a woman in Quebec needs to meet with a lawyer and she has a Legal Aid mandate to pay for that lawyer, an interpreter will be provided in the courtroom, but all of the meetings that she has to have with her lawyer in order to explain her story and write up the initial paperwork and make what she needs and what she wants from the lawyer clear, she's expected to bring a friend or somebody who can interpret for her. And that is absolutely ridiculous.

Some key informants name racism as the source of differential treatment. For example, the race of the perpetrator plays a role in the criminalisation of their behaviour:

Another client who has multiple reports of witnesses with this (...) he's white, multiple cases and evidence of him intimidating, harassing, and also abusing physically (...) his child; the case has gone on for a year and we just got a phone call that it was dismissed 'cause there's not enough evidence'. And so you see this pattern over and over again. (KI43)

The Need to Improve Intersectoral Collaboration

A major gap in the application of the protective framework comes *after* the woman has left the violent relationship. Several key informants working in the settlement sector reflected on efforts to educate women about their rights in Canada and encourage them to recognise GBV as a criminal act.

Many key informants stated cooperation and intersectoral work was a great source of optimism, however many also said the lack of an intersectoral approach posed grave consequences for victimised women. KI20 illustrated how lack of comprehensive and coordinated services is problematic, especially for housing/accommodation needs:

As I said, he will go for 2 days to jail and then is he supposed to come home? I still get calls from colleagues saying 'This guy, you know he is on the [housing] lease, so she has to leave because he is on the lease'. So her and her kids have to leave right?

Housing is difficult for women to access if they have left the family home and do not have the financial resources to afford housing:

once they leave and they stay in those 30-day transition houses and if they are lucky the 2-year second stage housing, they have no place to go! There are no houses. There is no affordable housing. So now, you have put this thing in their head, that violence is wrong, they move out but then what? What are you telling the woman? Yah, this is morally wrong, so it is better for you to live on the street you live, you know as a homeless person, than stay in the home? (...) The system that starts with 'Violence is wrong, it is a criminal act' doesn't support that anywhere else afterwards. So, there is a way but no way. (KI18)

The Need for an Intersectional Analysis

A potential overlap between GBV and other hate crimes was underscored by a recent report on police-reported hate crime, defined as: 'a criminal violation against a person or property motivated by hate, based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or gender identity or expression, or any other similar factor' (Moreau 2020, 4).

Furthermore, hate crimes often involve intersectional processes going beyond gender. Compared to other populations, violent hate crimes directed towards Indigenous and Muslim populations were 45% more likely to include female victims (Moreau 2020, 3). Hate crimes related to sexual orientation which targeted South Asian, Arab and West Asian, and

East and Southeast Asian populations were significantly more likely to be violent compared to hate crimes targeting sexual orientation of other populations (Moreau 2020, 3). Although numbers were reportedly small overall, likely partially due to the lack of recognition of these forms of violence as hate-motivated, hate crimes targeting sex or gender have increased in the last three years. Some key informants told us that women belonging to multiple categories of oppression were victimised more often:

My understanding [of GBV] encompasses an intersectional perspective, so recognising that violence can occur [at] different levels of marginality and vulnerability. And specifically for women or for people who identify as trans or nonbinary, it's more prevalent—significantly more. And then, of course, folks who are in those groups, but also in other groups. So people who have disabilities or who are single parents or who are new to Canada. (K17)

A culturally sensitive and anti-racist strategy is ultimately one that takes into account intersectionalities:

We also work a lot with intersectionality. Yes, she's here for conjugal violence. But there's so many layers. There is her culture, there's her tradition, there's her values (....) And for her the notion of a separation or a divorce is just not realistic, because of religious beliefs, because of her values. So, we cannot impose our own values and our beliefs on her. A lot of our work is to get her to reflect, to propose different options to her, to work on a security plan, to work on a contract, perhaps if she decides to go back. (K127)

Furthermore, improving intersectoral collaboration also requires taking into account relative lack of information about rights in Canada and possibly lack of supportive networks, that is intersectionalities. However, violence against women and girls is often not seen as hate crimes and there is little systematic examination of intersecting identities. As such, the true extent of GBV against immigrant and refugee women remains unknown.

GENDER-BASED VIOLENCE AND THE CANADIAN HUMAN RIGHTS FRAMEWORK

The Canadian human rights framework related to GBV consists principally of the *Canadian Human Rights Act* (CHRA) and the *Canadian Charter of Rights and Freedoms*. Both aim at implementing equality rights

in Canada. The *CHRA* prohibits discrimination, that is, action or decision that results in the unfair or negative treatment of a person or group. Prohibitions protect from harm, including violence, by removing the act of discrimination and enabling restitution of harm. Sex, gender identity and gender expression are all included in protections. Thus, GBV may also constitute a form of sex or gender-based discrimination with legal consequences under the *CHRA*.

The *Canadian Charter of Rights and Freedoms* (1982) guarantees broad equality rights and other fundamental civil rights of all Canadians from infringements by government authorities. This means that, for the most part, a person cannot mount a Charter challenge against a private business or an individual, for example (CHRC, Guide n.d.). Historically, the federal law creating equal opportunities by prohibiting discrimination and protecting civil rights has been the *Canadian Bill of Rights*, passed in 1960. The overarching framework for the *CHRA* was provided by the 1948 Universal Declaration of Human Rights (UN General Assembly 1948), discussed in the last section of this chapter.

The Fault Lines of the CHRA

Lack of Explicit and Structural Definition of GBV

GBV is not defined in the *CHRA*. Thus, GBV actions not explicitly identified in order to invoke the Act for protection, need to be argued as forms of ‘harassment’, in order to invoke the Act for Protection. People can turn to the *CHRA* to protect themselves against harassment or discrimination based on the prohibited grounds. Harassment, and specifically sexual harassment, is mentioned as a discriminatory practice. The Canadian Human Rights Commission (CHRC) offers examples of harassment: ‘verbal or physical offense or humiliation; threat or intimidation; unwelcome remarks or jokes about one’s race, religion, gender, gender expression and other prohibited grounds; and unnecessary physical contact such as touching, patting, pinching or punching and possibly assault’. Thus, the Commission interpreting the Act identifies *specific gender-based violent actions* as constituting harassment, that is prohibited discrimination, but not GBV itself as prohibited discrimination.

Moreover, protection from specific forms of GBV sidesteps protection from the broader, more structural forms of GBV produced by social and economic barriers and lack of actions to lift barriers. This is connected to

the most serious criticism of the *CHRA*, especially by international human rights monitoring bodies, which pertains to the scope of ‘human rights’ that the *CHRA* protects. These are civil and equality rights, not social or economic rights (Jackman and Porter 1999). The significance of this distinction results in the ‘narrow’ understanding of GBV that fundamentally leaves out (1) structural barriers that (re)produce it (e.g., economic rights) and (2) concrete pro-active, ‘affirmative’ actions that need to be undertaken to lift such barriers. Seeking protection even on grounds explicitly itemised in the *CHRA* may be problematic for immigrants who are then forced to endure lack of protection of their rights inflicted by state authorities.

This has led to an ongoing criticism of Canada for reneging on its international obligations to include economic and social rights within its domestic implementation of human rights. The UN Committee on Economic, Social and Cultural Rights, monitoring the implementation of the *International Covenant on Economic, Social and Cultural Rights* (*ICESCR*, *UN General Assembly* 1966), in its concluding observations about Canada in 1998, had expressed ‘grave concerns’ with measures of the federal government that severely impacted the social and economic wellbeing of specific categories of Canadians. The Committee had drawn attention to the link between poverty and women’s ability to escape domestic violence and argued that omissions of social and economic rights violated international human rights norms (Jackman and Porter 1999, 50).

The Canadian government responded that it would recommend an expanded mandate of the *CHRC* to monitor compliance of the *CHRA* with international human rights treaties ratified by Canada (such as the *ICESCR*). They also committed to a comprehensive review of the *CHRA*. Scholarly debate about including ‘social condition’ as a protective ground from discrimination (MacKay and Kim 2009) and recent periodic reviews by UN human rights treaty-monitoring bodies and domestic NGO responses (FAFIA 2016) provide testimony of ongoing concerns. Similarly, recommendations for poverty reduction, improved family income and meeting housing needs demonstrate little progress on socio-economic rights in the last 20 years (HRC 2018, 113–116).

Lack of action to redress structural barriers further means non-compliance with Canada’s Supreme Court’s ruling affirming that, under the *Canadian Charter of Rights and Freedoms*, equality guarantees in federal and provincial human rights legislation require *positive measures* to address social disadvantage. Finally, there is no recognition of the

interdependence of rights and of how economic and social barriers may translate into limitations on civil and political rights when lives are plagued by GBV.

Eligibility and Access to Protection

The CHRA protects Canadian citizens and those who have a right to reside in Canada (CHRC, Guide [n.d.](#)). Thus, people who are in Canada without legal status or with precarious status cannot access protection. A Settlement Director spoke of a client, a temporary worker in Canada, who is afraid of retaliation and losing her job before permanent residency process is completed, if she brings forth a complaint:

I see more temporary foreign workers have [been] stepping up and sharing their story about GBV. However, there are still many who will share their story but they won't make the decision to pursue further because they worry if they lose the job they're not going to have another job. And so therefore if they don't have another job, they're not gonna have the permanent residence. (KI23)

But there are important protection access issues for immigrants with status. Invoking CHRA protection requires resources, such as access to information about the Act, command of languages spoken, legal and cultural knowledge. Our key informants spoke about lack of access to services, especially interpreters, by immigrant and refugee populations.

When it comes to the use of interpreters and being prepared to serve the public (...) It can get really difficult when we're doing some referrals, when we're asked 'Oh can you send an interpreter or can you send a volunteer for this and that?' as if because the person is labelled as a refugee, all of a sudden, this person isn't part of the regular demographic that [the] service provider would see, and then, all of a sudden, they're viewed as kind of an outsider (...) It [interpretation services] needs to be viewed as an accessibility issue. (KI38)

Protections Limited to Federal Scale

The CHRA protects people of Canada from discrimination when they are employed by or they receive services from the federal government, First Nations governments or private companies that are regulated by the federal government. Canada's Constitution splits legal responsibility, or jurisdiction, between the federal and the provincial/territorial governments. Provinces/territories regulate other businesses and service providers and have their own human rights laws and agencies. This multi-scalar

jurisdictional landscape is confusing to non-legal experts, average citizens and, even more so, to immigrants with access obstacles. Finally, this legal landscape raises obstacles to consistency in human rights principles across Canada.

GENDER-BASED VIOLENCE AND THE IMMIGRATION/ ASYLUM FRAMEWORK

Canada's *Immigration and Refugee Protection Act* of 2001 (IRPA) is the main legislation for the governance of immigrants, refugees, and refugee claimants—albeit amended several times and, most recently, in 2019. It covers the admission of newcomers, protection of vulnerable persons from overseas and in Canada, outlines the context of a made-in-Canada policy of refugee sponsorship, details the right to appeal and detention regulations, along with work and study permits. Immigration is a federal government concern, but most of the provinces/territories have signed agreements covering a wide range of immigration issues, allowing them some control over the number of newcomers annually.

For protection of non-citizens, IRPA implements the 1951 *Convention Relating to the Status of Refugees*, the 1967 *Protocol Relating to the Status of Refugees* and the 2004 *Safe-Third Country Agreement* with the United States (Government of Canada 2020). In Section 3(3)(f), IRPA is to be applied in a manner that 'complies with international human rights instruments to which Canada is a signatory'. The Immigration and Refugee Board of Canada (IRB) is the largest administrative tribunal, making over 40,000 decisions annually (IRB 2021) affecting non-citizens and their protection from international human rights (IHR) violations. Despite the fact that such protection is a feature of IRPA, legal scholar Dauvergne (2012) finds that there is a notable 'lack of engagement' with IHR of non-citizens in the IRB and also in Supreme Court decisions. Furthermore, she points out that to the extent such engagement exists, individual outcomes tend to be more positive.

The Fault Lines of the IRPA

Gender Persecution as Grounds of Protection

Gender is explicitly mentioned in IRPA only once, in Section 94, regarding the Minister regularly conducting a gender-based analysis of

immigration-related activities (Mattoo 2017). Where gender is conspicuously absent, however, is as grounds for refugee protection. This ‘gender gap’ is related to the same gap in *the 1951 Convention*. Recognising the gap, UNHCR set up *Guidelines on International Protection* in 1991 that were revised in 2002 (UNHCR 2002). In Canada, the inadequacy of the *Convention* categories of persecution to capture GBV has been addressed through Canada’s own *Chairperson’s Guidelines* for its IRB members to consider in gender-based persecution claims (Tastsoglou and Nourpanah 2019). Of note are, Guideline 4, pertaining to gender-related persecution (Government of Canada 1996, revised 2018); and Guideline 9, pertaining to sexual orientation and gender identity and expression (Government of Canada 2017). These guidelines recognised that GBV, amounting to the legal threshold of persecution, provides grounds for protection.

There are sections within *IRPA* that outline procedures which women should follow for making a protection claim based on gender persecution (‘Part 2: Refugee Protection’), mostly through ‘membership in a particular social group’ (Article 96, *IRPA*; and *Immigration and Refugee Protection Regulations* 2002). Labman (2019) provides a good description of the ‘Women at Risk’ programme which provides some guidance to immigration officials when processing gender-based protection claims. However, despite some improvements, the application of the guidelines remains uneven, subjective and based on stereotypical assumptions around GBV intersecting with racialized stereotypes (Tastsoglou and Nourpanah 2019). There are complementary protections (e.g., ‘pre-removal risk-assessment protection’) that are extended to GBV claimants though they arguably contribute to producing a ‘harmful discourse’ on violence against women claimants (Liew 2014, 300).

More specifically, forms of GBV appear to be understood in gender-stereotypical and racist ways, with more ‘public’ and ‘culturally different’ forms of violence from ‘persecutory cultures’ (Arbel 2013), being elevated to persecution, with survivors worthy of protection in Canada. In contrast, more ‘private’ and common expressions of violence, such as domestic violence prevalent in Canada, were less likely deemed in need of protection from (Arbel 2013; Liew 2014). MacIntosh (2010) and Bhuyan et al. (2016) discuss this uneven application to domestic violence, while Murray (2015) unpacks the racialized stereotypes evident in the IRB decisions on refugee claims based on persecution due to non-heteronormative

identities and expressions. ‘Culturalist’ understandings of GBV in Canada were recently fuelled by Bill S-7 passed into law as ‘Zero Tolerance for Barbaric Cultural Practices Act’ (Government of Canada 2015) during the Conservative reign. This Act was meant to amend the IRPA, the Civil Marriage Act and the CCC provided an instance of a larger social and political support of state-sanctioned xenophobia. This law was short-lived and amended shortly after the Liberal Government came into power in 2015, through another Bill removing ‘barbaric cultural practices’ from the existing law that bans forced marriage, polygamy and some other practices (Smith 2017).

Key informants in our study recognised that GBV occurs on a continuum and that some forms of violence (e.g., physical violence) are more likely to be taken seriously than other forms of violence (e.g., controlling behaviours) even when outcomes may not differ in severity. Treating some forms of violence more seriously was perceived as problematic for many reasons.

GBV is prominent with non-status, refugee and immigrant women, and I think that what we’ve been looking at is also the way that immigration laws create and perpetuate this kind of gendered violence in terms of who becomes eligible, what kind of work is viewed and valued in ways that even grant permits to be working in these spaces. The ways that, for example, people that are fleeing violence, the way that violence that they’ve experienced if it’s domestic, if it’s a gendered form might not be considered legitimate to make certain claims under the Canadian state. (KI4)

The Safe Third Country Agreement: Obstacles to Protection

This Canada-US Agreement, returning to the US the asylum claimants who have arrived in Canada through the US, effectively denies protection to those fleeing GBV. The Agreement has a history of appeals with the latest Federal Court decision ruling that the Canadian legislation designating the US as a safe third country is of no force or effect as sending refugee claimants back to the US violates their right to liberty and security protected by section 7 of the *Canadian Charter of Rights and Freedoms* (CCR 2021). Criticisms from key informants echoed the appeals and one participant spoke about the issue of upholding the United States as a safe place for asylum seekers, particularly those victimised by GBV:

I think a really big one is the Safe Third Country Agreement, in the refugee policy world this issue of domestic violence it is like a big difference between American refugee policy and Canadian where it is possible to make a refugee claim based on GBV here in Canada whereas that is not a ground for consideration in the US ... this upholding the US as safe for asylum seekers, this particular issue, is just blatantly not true. (K119)

Accessibility to Protection in Canada

While violence is mentioned in IRPA as a reason for providing vulnerable individuals protection, there are no provisions that relate to the protection of peoples from violence perpetrated *within* Canada. The federal framework of protection from GBV for these individuals is provided by CCC and CHRA implementing several international human rights instruments. The federal government has recently introduced policy changes including fee exemptions for applications for temporary resident status to enable access to protection for victims of family violence (Government of Canada 2021). However, these policies are either unknown to newcomers or inaccessible due to legal costs and language barriers.

Key informants noted accessibility issues for newcomers and suggested interventions to ensure newcomers have access to legal information. A family support coordinator working at immigrant services suggested that pre-arrival services should do more to inform newcomers about Canada's laws, as it is logistically challenging for newcomers to attend all the information sessions and services being offered by settlement services:

It's pre-arrival services (...) the impression I get from the type of, the level of knowledge of immigrants is that it's just you know arranging, it's just travel arrangements. (...) it's not proper orientation, it's not education about the laws. Some families get in trouble as early as the first month with the law, because they don't know. So, pre-arrival services I think they're insufficient. (...) once they arrive because of the amount of work that they need to do at the very early stages of settlement, they are unable to attend all of the services that we provide. (K113)

Limited Intersectoral Collaboration

It is simply not practical for newcomer women victimised by GBV to leave their home; in some cases, they may be 'persuaded' to remain in unsafe situations by partners who threaten to have them deported claiming that the woman's migration status is tied to that of her partner. Threat of deportation was conceptualised as violence by the key informants because

it is often unclear to migrant/refugee women whether the threat is real. While the sponsor cannot 'deport' a newcomer, there is some vulnerability for the sponsored person (e.g., they may not know there are laws that protect them from deportation). Key informants showed concern that a sponsor can easily withdraw sponsorship in domestic violence cases:

This has been a huge growth recently where no government services want to provide services to people with no status and no status is a very simple thing you can get into. Like you can come sponsored by somebody and the person can just withdraw sponsorship and they become with 'no status'. It can be refugees [who] got into domestic violence. (KI18)

Furthermore, in cases where violence occurs in Canada, the onus is on survivors to provide evidence of abuse before government assistance can be obtained. This puts GBV survivors in precarious situations that often prolong the abuse.

Key informants talked about women being removed from shelters but they also asserted that there is currently less willingness to deport women found in shelters than in previous years. As KI20 noted, Canada Border Services Agency have been less willing to deport women in shelters:

We actually have negotiated something with Canada Border Services, where if there is a court order to remove a woman from a shelter that we actually have it so that they know this is a shelter ... I see there is much more willingness not to deport women as it was years ago.

Lack of an Intersectional Understanding of GBV

A crucial implication of the problematic legal/policy framework on GBV is that gaps disproportionately impact certain groups who may already be vulnerable to GBV, including migrants/refugees. Inadequate knowledge about rights and custody regulations, for example, can work effectively as a threat to persuade migrant/refugee women with precarious status to stay in abusive relationships.

The violence that we see in the women who come to our shelter are women who have been completely isolated in order to be better controlled by their spouse (...) There's an aspect of control over the kids too. All sorts of threats like 'You'll never be able to survive without me. If you leave me, you'll lose the kids, youth protection will take them'. That threat is particularly hard for immigrant women

who don't know their rights, they believe it. And they start to doubt their ability as a mom like 'If I leave (...) they'll take my kids away from me'. (KI42)

Not only is an intersectional lens to understand the various vulnerabilities of survivors with different identities necessary, but it can also help improve cross-sectoral communication so that all dimensions of each situation can be addressed. One key informant working in refugee resettlement states:

When this kind of intersectionality exists, several ministries of several services need to come together to deal with it, not one can deal with it alone (...). You have systems here, criminal system and immigration system, and family law system, not talking to each other, and this is what I am saying that you need these things in place for a society to function, for it to act in the same way. So, our major goal always has been that immigrants are treated like all other citizens and they aren't second class citizens, so you develop more equitable society. (KI18)

INTERNATIONAL HUMAN RIGHTS (IHR) AND GBV IN CANADA: A FAIR RECORD?

Canada is a state party to almost all the major international human rights instruments protecting from GBV, in particular, protecting from violence against women and girls and other forms of discrimination. Canada was one of the first countries to ratify the 1981 *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, and a state party of the *Convention of the Rights of the Child*; the *Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment*; the *International Covenant on Civil and Political Rights*; the *International Covenant on Economic, Social and Cultural Rights*; and the UNSC series of Resolutions on GBV from 2000–2013. Further protection of migrants/refugees from GBV can be afforded by other international human rights instruments implemented in Canada, such as the *International Convention on the Elimination of All Forms of Racial Discrimination* and the *Convention on the Rights of Persons with Disabilities*. This is a fair record, overall, arguably better than that of many other countries.

Despite supporting these international initiatives and conventions, there is a limited domestic incorporation of international human rights.

Decades later, the Special Rapporteur noted that not all CEDAW provisions have been incorporated into Canadian legislation (HRC 2019). Findings of other international human rights bodies point to Canada's breaches of its obligations, specifically towards non-citizens (Dauvergne 2012). Furthermore, other important relevant conventions have not been signed or acceded to by Canada, including the *Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others* (1951); the *Convention on the Rights of All Migrant Workers and Their Families* (1990); the *International Convention for the Protection of All Persons from Enforced Disappearance* (2007); and the *Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women* ('Convention of Belém do Pará' 1995).

Finally, as noted, the IRB, Federal Courts and the Supreme Court do not engage much with IHR of non-citizens. There is a long list of serious issues whereby international human rights norms have been rejected or passed over at the Supreme Court. This is despite Supreme Court landmark decisions, in 1985 and 1993, which ruled that *the Canadian Charter of Rights and Freedoms* applied to everyone within Canadian territory, and that IHR are one source of interpretation of Canadian laws for non-citizens (Dauvergne 2012). These fault lines point to the contradiction between Canada's international posture on human rights and the manner in which IHR protections are actually implemented.

CONCLUSION

Canada has been lauded as a safe place for migrants and refugees. At the federal level and in conjunction with provinces/territories, legal and policy frameworks discussed above arguably offer protections for migrant/refugee women experiencing GBV. There are, however, major gaps in the frameworks that affect individuals before and after they enter Canada. Our analysis combined with the insights of key informants, enabled us to identify critical fault lines in protections afforded to migrant/refugee women, including those with precarious or no legal status. A 'hierarchy' of violence prevents some women from receiving refuge in Canada.

Once a woman does enter Canada, there remain issues. First, the patchwork making up the legal and policy framework shows no national GBV strategy including no national GBV strategy for migrants/refugees. This situation, in turn, produces limited understanding at the level of policy

about intersectional discriminations and limited intersectoral collaboration, further increasing migrant and refugee women's vulnerability to GBV. Secondly, there are diverse issues of eligibility and access to protection for immigrants and newcomers, illustrating a limited understanding of their intersectional positionalities. For example, legislations and policies meant to protect women from GBV are largely inaccessible due to time limits, linguistic barriers, inadequate interpretation and knowledge gaps of the victimised women. Thirdly, on the conceptual level, the legal frameworks provide no explicit definition of GBV and mostly imply a narrow conception leaving out structural factors although the recent federal GBV strategy introduces structural violence. However, this co-exists with other legal and policy documents from various times that rely on the narrow GBV conception. This narrow understanding is interconnected with a limited conception of human rights that omit social and economic rights. Both conceptions not only diverge from international human rights norms and violate Canada's international obligations, but also increase migrant and refugee women's vulnerability to GBV. Finally, international human rights instruments are not fully implemented and rarely referenced in court or IRB decisions.

More positively, national awareness of the continuum of violence against women—femicide (Dawson et al. 2021) has been increasing while renewed collaborative and intersectoral work is currently underway to develop a settlement sector strategy on GBV for newcomers and refugees specifically (IRCC 2021). The settlement and anti-violence sectors have come together to co-develop a shared knowledge base and a comprehensive approach. It is a high priority for the protection of some of the most vulnerable groups, such as newcomer and refugee women and children, that Canada's current legal and policy framework for GBV be (1) expanded according to international human rights norms and recommendations (2) supplemented with a national, intersectional and intersectoral strategy and an information dissemination plan both prior to and upon entry to Canada.

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Gender-based Violence as a ‘Consequence of Migration’: How Culturalist Framings of GBV Ignore Structural Violence Against Migrant Women in France

Jane Freedman, Nina Sahraoui, and Elsa Tyszler

INTRODUCTION

‘Rest assured that France is fully mobilised in favour of the emancipation of women worldwide. For this reason, a budgetary envelope of 120 million euros has been reserved for the French Development Agency in order to

J. Freedman (✉)

Université Paris 8 and Paris Centre for Sociological and Political Research (CRESPPA), Paris, France

e-mail: Jane.FREEDMAN@cnrs.fr

N. Sahraoui

Paris Centre for Sociological and Political Research, CNRS, Paris, France

e-mail: nina.sahraoui@cnrs.fr

E. Tyszler

Paris Centre for Sociological and Political Research (CRESPPA), Paris, France

e-mail: elsa.tyszler@cnrs.fr

help feminist movements and NGOs, in particularly in the Global South, to lead the fight for the equality, the rights and the dignity of girls and women everywhere' (Personal correspondence to the authors 2020).

This response to a letter to the Secretary of State for Equality between Women and Men seeking an interview for our research on gender-based violence (GBV) in the context of migration, illustrates clearly the way in which GBV is seen as a 'foreign' problem and not one which is linked to migration policies or other forms of structural violence that exist within France. Whilst Sara Farris (2017) and others (Hadj-Abdou, 2017) have analysed the ways in which the far-right have re-appropriated the concept of gender equality to stigmatise migrants (and especially Muslim migrants) through the process of what has been called 'femonationalism', it can be argued that in the contemporary French political landscape this process of stigmatisation of migrants through the language of gender equality has permeated all of the political spectrum and is no longer restricted to far-right parties or movements.

This chapter is based on a critical analysis of the political discourse on GBV and migration in France and assesses the processes through which culturalist framings have contributed to the racialisation of the issue and the stigmatisation of migrants. Within state-sponsored reports, notably by the French inter-ministerial mission for the protection of women victims of violence, GBV in migration contexts tends to be equated with forced marriage, female genital mutilation (FGM) and trafficking. Against this background and on the occasion of a three-months long state-sponsored public dialogue around domestic GBV in 2019, Marlène Schiappa, then the French State Secretary for Equality between Women and Men, called for instance, for the immediate deportation of foreign men guilty of GBV, feeding into the perception that GBV is first and foremost a foreign import. We argue that these culturalist framings of GBV result in a neglect of the deeper structural and systemic causes of violence and that they contribute to the circulation of racist, Islamophobic and anti-migration rhetoric within the French political space. These findings from an analysis of the French political space echo those of our Austrian and Canadian colleagues (see Standke-Erdmann et al. and Tastsoglou et al. this volume) in showing how questions of GBV are understood as a result of norms and behaviours of 'Other' cultures and may be used to justify increasingly restrictive migration policies.

The chapter draws on a critical analysis of policy reports, political discourses and media accounts to trace how the figure of the immigrant male came to be increasingly associated with GBV within but also beyond far-right politics, producing in its wake the gendered figure of the migrant woman, as a passive victim. We analysed official reports, strategies, speeches and policy documents dealing with either migrant women or with GBV issued in the last 30 years, since the emergence of the first major public debate on the 'headscarf' in 1989, a point which marked the beginning of the increasing visibility of the issue on the French political agenda. We also use data from interviews with key stakeholders in NGOs and civil society associations working with migrants, as well as observation in refugee reception and migrant detention centres to analyse the impacts that these framings of gender-violence in migration have on the lived realities of women migrants arriving in France. These interviews and observations were carried out in the Paris region from 2019-2020 in the context of our GenderNet research project on GBV and migration.

THE FRENCH REPUBLIC, WOMEN'S RIGHTS AND THE FIGURE OF THE MIGRANT/MUSLIM WOMAN

It is helpful to situate the terms of debates on GBV and migration and trace these discursive framings within the broader genealogy of the French Republic's dealings with 'women Others'. The category of 'women of immigrant background' emerged progressively within reports and policies in relation to the question of gender-based oppression (Manier 2013). As racialised Others, these women find themselves at the crossroads of the racialised and gendered politics of the French Republic. In fact, the racialisation that operates by way of cultural essentialisation is paradoxically carried out in the name of a general principle of equality derived from an abstract universalism. The celebrated version of the French revolution foregrounds citizens' equality within the nation, one that supposedly transcends any other form of belonging or affiliation to any group or community. Any reference to specific identities is thus not only perceived as contradicting a fundamental republican equality, it is understood as endangering the very existence of the Nation. If in theory, both gendered and racialised distinctions unsettle republican universalism, the constant polemics around religious, and in particular Muslim practices, make it clear that racialised identities crystallise much of the public debates around the republican values of universalism and French secularism, or *laïcité*.

Against the background of an essentialised understanding of gender-based violence as a ‘foreign import’, the figure of the ‘Muslim woman’ has been foregrounded in public debate. The label of the ‘Muslim woman’ and the attached imaginaries are at the heart of the gendered-cum-racialised politics of successive French governments since at least the first headscarf polemic of 1989 for the contemporary period, and more broadly speaking since the colonial period for the longer history of how these representations came into being. Three questions can be explored to illustrate the Republic’s dealings with Muslim women: the political meanings attached to Muslim women’s clothing; the hypervisibility of the figure of the ‘Muslim woman’ while Muslim women’s voices are silenced; and the reduction of the question of violence to the narrative of the oppressed woman, leaving little space for the acknowledgement of other forms of structural violence.

For three decades Muslim women’s clothing have come to occupy a growing space in the discussion around gender equality, arguably shifting the focus away from general inequalities between men and women in French society towards the construction of a ‘Muslim problem’ as a priority for the Republic’s policies in the field of women’s rights. From the first headscarves polemics in 1989 to the burkini bans of the summer of 2016 (Almeida 2018), Muslim women bodies have been simultaneously framed as in need of saving by being emancipated from Muslim patriarchy and as representing a threat to the Nation’s egalitarian values and the Republic’s universalism. By exploring the main speech artefacts at play in these polemics, it appears that the figure of the ‘Muslim woman’ conveys not only the image of a passive victim but is also portrayed as an aggressor who needs disciplining. This double meaning can be traced back to representations already in use at the times of the colonial Republic. French colonialism called upon a universalist republican ideology to justify France’s civilising mission while relying on racialised hierarchies inscribed in law. These obvious contradictions were swept away by merely casting colonised subjects as not ‘yet’ ready to be emancipated. In particular, emancipating Muslim women was mobilised politically by the colonial Republic as it offered a readily available rhetoric to sustain the narrative of the civilising mission. The public unveiling ceremony of May 1958 in Algeria organised by the wives of military officers (Scott 2007; Éwanjé-Épée and Magliani-Belkacem 2012; Macmaster 2015) showcased the emancipation of oppressed Muslim women, a colonial instance of the saving of ‘brown women from brown men’ (Spivak 1988) that was to become a recurrent

trope within the Republic's gendered and racialised politics. Muslim clothing is thus portrayed as a question of public order. In postcolonial France, this ambiguous reading of the veil oscillating between victimhood and perpetrator has far from vanished; Joan Scott quotes a speech by Jacques Chirac, the then French President, pronounced in 2003: 'Wearing the veil, whether it is intended or not, is a kind of aggression' (Scott 2007, 158-159). The three main episodes of the debates surrounding the wearing of headscarves in school that took place in 1989, 1994 and 2003-2005 (Freedman 2007; Scott 2007; Bouyahia and Sanna 2013) produced a wide coalition of republicans and mainstream feminists considering the veil as incompatible with Republican values and led up to its prohibition in March 2004. The visceral rejection of a piece of clothing reveals the centrality of this debate for a republican understanding of integration and gender equality: like yesterday's unveiling of Algerian women as symbol of the Republic's civilising mission, it's the very *raison d'être* of the Republic that seems to be at stake when Muslim women—many of whom are French—put on a headscarf.

The politics of women's emancipation are thus entangled with culturalist framings of violence against women, a political discourse that contributes to processes of othering and to the discursive denial of any agency for the women so racialised. In the wake of the terrorist assassination of the schoolteacher Samuel Paty in October 2020, a bill initially entitled 'law against separatism' and later renamed 'law reinforcing respect for the principles of the Republic' was debated by the Parliament in the first months of 2021 (at the time of writing this chapter) and finally adopted in August 2021. Among a collection of extremely varied dispositions (another dimension is analysed in the following section), the law intends to forbid healthcare professionals from delivering 'certificates of virginity', while a collective of doctors signed an op-ed to highlight that such requests are actually extremely rare and to argue that a ban would only exacerbate the vulnerability of the few women who ask for such a certificate (Libération 2020). As in the headscarf debates, the actual implications of the legislation for Muslim women are considered secondary at best and often entirely overlooked, centre-staging instead the symbolic fight of the Republic to emancipate its oppressed subjects. The same logic arguably presides the focus of many policies on female genital mutilation, forced marriage and trafficking—as analysed in the following section—that all cast certain racialised women, and Muslim women in particular, as victims of an imported patriarchy. While there is no denying that such forms of violence

exist and harm women, the absence of women's voices reveals the political instrumentalisation of culturalist framings that overlooks structural oppressions produced by restrictive migration policies and the difficulty to have gendered violence recognised in asylum procedures, as explored in the third section. Taking up the role of the 'emancipator' of oppressed victims, the Republic effectively conceals the other dimensions of structural violence affecting migrant women, and notably the racialised politics that ensue from the very legislations that aim at their 'liberation'. This republican narrative does not allow for the nuances and complexities that unpacking the category of the 'migrant woman' would necessarily produce and thus engenders an epistemic violence that translates in the silencing of these women's voices. This means that the experiences of racialised migrant women are neglected. Éwanjé-Épée and Magliani-Belkacem document for instance how the French Women's Liberation Movement (MLF) ignored in the 1970s the specific demands of the 'coordination of Black women' that concerned their legal rights and economic deprivation to focus instead on polygamy and female genital mutilation (2012). Quite tellingly and as explored below these remain two cornerstones of the state-sponsored fight for gender equality.

HOW GBV BECAME A MIGRATION PROBLEM

Culturalist Framings of GBV

'If your neighbour's house is burning, then you welcome him in your home. But if he starts hitting your sister then you throw him out' (Marlène Schiappa, JDD, 11/07/2020). As this phrase demonstrates, for Marlène Schiappa, the former Secretary of State for Equality between Women and Men and now Minister for Citizenship, the logic is simple: if a male migrant commits an act of violence against a French woman, he should be immediately expelled from the country. The reply to a question in an interview with a French Sunday newspaper (Ollivier & Paillou, 2020) also illustrates clearly how political discourses and policies on migration and GBV in France have become intertwined, and how the fight against GBV has been inextricably linked to the question of migration. Further, it is telling that this quote, which typifies the political and media approach to

these questions comes from a Minister in a self-proclaimed centrist¹ government and is published in a mainstream newspaper, and not from one of the political leaders or media of the extreme right in France. This demonstrates the way in which this type of discourse has become normalised and legitimised in mainstream and everyday understandings and representations, and the ways in which 'gender populism' (Agius et al. 2020) or 'gender nationalism' (Hadj-Abdou 2017) has seeped from the extremes firmly to the centre of political discourse. These dominant framings of gender equality, GBV and migration involve both a racialised understanding of migrants as a threat to national security/women's security, and a gendered understanding of women (and specifically white French women) as vulnerable victims in need of protection from these 'foreign' men. In parallel framings, when migrant women are considered, they are also largely represented as passive victims, vulnerable to GBV, but only to certain culturally specific forms of GBV, namely forced marriage and female genital mutilation (Manier 2013), and also as victims of human trafficking for the purposes of sexual exploitation (de Montvalon 2007). The focus on these issues and the way that they have been presented in political discourse and policy also reinforces a 'carceralist' feminist approach (Bernstein 2007) relying heavily on state law enforcement institutions and penal laws and policies to reinforce gender equality and fight against sexism (and particularly sexism and gender-violence perpetrated by migrants).

An analysis of framings of GBV against migrant women in recent French political and media discourse shows clearly the dominance of culturalist forms of understanding and talking about this violence. A turn to culturalism has been noted in the way that many European countries have increasingly framed and talked about violence against migrant and minoritised women (Chantler and Gangoli 2011). Within these culturalist framings, 'culture' which is used as a catch all term encompassing religion, patriarchy, race and ethnicity, is given as the principal (or sole) explanation for gender-based forms of violence against these women, thus ignoring the structural and systemic determinants of this violence. If 'cultures' or 'religions' can be blamed as causal factors of violence, then the ways in which immigration policies, economic inequalities, racism and xenophobia from the host country create situations of risk and vulnerability to

¹ Emmanuel Macron was elected on a platform that promised to be neither Left nor Right, although subsequent government appointments and policies point more generally to a centre-Right orientation.

GBV can be handily pushed aside. ‘Culture’ is generally used in these framings in a decontextualised and a historic way (Piedalue 2017) and is understood only to apply to foreign or ‘other’ women, either in their countries of origin or when they migrate to a European country. Thus, the high levels of GBV perpetrated by ‘native’ European men against women is detached from and overlooked in these discussions. Whilst, in a linked framing, the ‘securitisation’ of discourse and policy around migration into the European Union, has resulted as migrants being framed as a threat to European security, and increasingly male migrants being portrayed as a specific threat to the security of European women (Allsopp 2017). Migrant men are frequently depicted as predatory and sexually aggressive, ignorant of the more ‘civilised’ Western norms of gender equality, and posing a particular threat to European women, echoing preceding colonial representations of non-civilised African/Arab men whose uncontrolled sexuality posed a danger (Bilgic 2018). It is argued that the countries and cultures from which they come do not respect women’s rights, and have very low levels of gender equality, and thus the men from these countries do not understand ‘European values’ of gender equality or respect for women’s rights (Freedman et al. 2021). This framing of male migrants, and in particular male Muslim migrants, as a threat to native women, has long been present in the discourse of far-right, nativist and populist parties in Europe. However, as recent analysis shows, there are increasing discursive opportunity structures for these far-right framings to be transposed into ‘mainstream’ public and political discourse (Froio 2018). In France, these discursive opportunity structures are particular because of the historic nature and continuing centrality of debates over secularism in the French state as examined in the first part of this chapter. These debates over secularism and the French Republican model are highly gendered and have been crystallised in the arguments over Muslim women’s right to wear a hijab (Freedman 2007), or more recently over Muslim women wearing a ‘burkini’ on French beaches (Chabal 2017; Almeida 2018). During discussion of the current government (under President Macron) proposal for a law on ‘respect of Republican principles’, a law which is supposed to combat radicalisation and separatism within France, this debate has again surfaced strongly, with an amendment proposed by two members of the ruling majority to make it illegal for any girl under the age of 18 to wear a hijab. This amendment was rejected by a special commission because it was not closely enough aligned to the main subject of the proposed law. However, even without being debated the amendment gained

significant support and publicity from across the political spectrum, and the two deputies who had proposed it explained in an interview that, 'this debate has a legitimate existence in public opinion and we are proud of having brought it to the table' (Les Echos 2021).

The normalisation of the links between GBV and migration in the framing of these two issues can be seen both in the institutional setting of French politics and in the policies and discourses produced by these institutions. The institutionalisation of the link is illustrated by the way in which certain policy issues have been integrated into government appointments, and political alliances within government. Already in 2003 a framework agreement was signed between the Service for Women's Rights and Equality and the Direction of Population and Migrations for the purpose of 'favouring the integration of immigrant women and preventing double discrimination' (SDFE 2003), a sign of the way in which migrant women's rights and migration control were seen as closely interlinked within political institutions. A recent key example of this understanding is the transfer in the present government, of the Secretary of State for Equality between Women and Men, Marlène Schiappa, to the position of Minister for Citizenship, a post more closely aligned with the Ministry of the Interior thus positioning issues of GBV as issues of domestic security and public order, rather than as those of fundamental social justice. As we will see when analysing framing of GBV issues in policy documents, under the leadership of Mme Schiappa, this question of violence had been closely linked to those of migration and citizenship. It thus seemed in many ways a 'logical' step that she should integrate the Ministry of the Interior. At the same time, many of the issues which had been discussed under the umbrella of women's rights and gender equality were shifted to a more securitised framework and linked more closely to migration as they moved within the remit of the Ministry of the Interior.

GBV and Migration in Official Reports and Policies

Analysis of official government reports and policy documents on prevention of GBV and on migrant women reveals the culturalist understandings attached to the issue of GBV when it concerns migrant women, and the situation of this issue within the political framework of Republicanism, secularism and 'integration'. From the point of emergence of the issues onto the political agenda, this has been the case. Already in 1992, the Haut Conseil à l'Intégration (High Council for Integration), published a

report on migrant women in which it stated that France could not accept practices which were ‘incompatible with its fundamental principles’ such as FGM or polygamy (HCI 1992). Again, in 1995, the Commission published a report in which it stressed the need to reinforce the Republican model and to fight against ‘forced marriage of girls, women being locked up in their homes, repudiation of wives, girls being pulled out of school, polygamy’ (HCI 1995). These ‘cultural’ forms of violence thus became firmly anchored in the French public and political imagination and discourse when talking about migrant women. In 2004, in a further report on the government’s immigration policies, and in particular concerning a proposed ‘integration contract’ for new migrants, the HCI again reiterated the need to combat these particular forms of GBV committed by migrant communities, and added to the list a concern on protecting migrant women from trafficking and sexual exploitation (HCI 2004). This report shows the strengthened links between policies to fight against GBV and those to control/limit migration through a repression of forced marriages and of trafficking. Forced marriage is thus framed both as a form of violence against migrant women, and as a way for migrants to obtain legal residence papers in France through fraudulent measures. Concerns about this form of immigration ‘fraud’ led to a new law which was passed in 2006 relating to the control of the validity of marriages (law 2006-1376). Similarly, concerns about violence against migrant women who are trafficked for the purposes of sexual exploitation, whilst framed in a discourse of ‘protecting’ these women, have been used to justify strict measures to limit sex work and have in particular targeted migrant sex workers.

More recently, a report on ‘Equality for Women Migrants’ (Noblecourt 2014), commissioned by the Ministry for Women’s Rights in 2014, illustrates the ways in which GBV against migrant women is understood in political discourse. The report contains a section on migrant women’s risks of exposure to violence which starts by stating that the increasing autonomy of women’s migration puts them at greater risk of violence because they are migrating without the ‘support and protection’ of a family member, and thus are at greater risk of exploitation by smugglers or by partners who they meet on the route. This introductory paragraph goes on to highlight in particular these women’s risks of becoming victims of trafficking. From the start of this section then, we can see the framing of migrant women and in particular those who migrate alone, as vulnerable victims, at the mercy of smugglers and trafficking networks, and an erasure

of women's agency and autonomous strategies. The two pages devoted to violence against migrant women go on to provide statistics which show that migrant women from outside of the EU are far more likely to be victims of sexual violence outside of the home. But the reasons for this vulnerability (e.g., migrant women's lack of adequate housing as discussed in the third section of this chapter) are not explored. Rather, the report goes on to discuss in more detail the questions of FGM and forced marriage, providing detailed analysis and statistics relating to these two forms of GBV.

Similarly, the most recent government strategy (2017-2019) on Mobilising and Combating Violence against Women (MIPROF 2017) contains one short paragraph dedicated to the situation of migrant women in which it states that these women are generally more exposed to violence than other women naming forced marriage and FGM as the causes of this increased risk. There is also a short comment on the increased arrivals of women migrants independent of family reunification and the vulnerabilities to violence of these women on migratory routes is attributed 'notably to the smugglers whom they solicit' (MIPROF 2017, 55). The way in which violence against migrant women is framed either as a result of 'cultural' practices of forced marriage and FGM, or as resulting from the increased use of smugglers on migratory routes, acts to reinforce the 'otherness' of migrant women, and to distinguish the violence that they face from that faced by 'native' French women.

The focus on FGM as a principal form of violence faced by migrant women is also confirmed by the fact that the only statistics published by the OFPRA (the French refugee status determination agency) concerning the motives of asylum claims are those concerning 'minors protected because of the risk of female genital mutilation'². Thus, whilst it is impossible to find statistics on asylum claims by women seeking protection from other forms of violence, there are available statistics on those fleeing FGM. The issue of statistics is more generally telling in relation to both FGM and forced marriage, in the sense that, in the absence of detailed and reliable statistics on the numbers of women concerned by these two types of violence, political framings rely on estimates which are produced using unreliable or unproven methods, and which act more to create a 'moral shock' in public opinion than to communicate verified data or research.

²This information comes from a presentation by an OFPRA representative, head of the 'Vulnerabilities' division, at an online round table on sexual and gender-based violence organised by the UNHCR on 10 December 2020.

For example, in June 2017, the Ministry for Equality between Women and Men launched a campaign against FGM and forced marriage on the eve of the French school holidays, arguing that this was a moment where girls and young women were most at risk of being taken back to their countries of origin to undergo FGM or forced marriage. A film accompanying the campaign featured a ‘typical’ victim, a young Guinean woman ‘victim of FGM in her village, married at the age of thirteen, exiled to Europe and victim of domestic violence’. This film of the ‘innocent young girl’ embodying the victim of all of these ‘cultural’ forms of GBV, was accompanied by a text which proclaimed that although there are no exact statistics, over 200 million girls and women around the world are victims of FGM, over 53,000 women in France have undergone FGM, and three out of ten girls whose parents are from a country where FGM is practised are at risk.³ These statistics and the emotionally charged video accompanying the campaign reinforced the frame of the migrant women ‘other’, a victim to be protected from the violence inflicted on her by her own family.

Another area where framings of GBV and migration have been closely linked and where the securitised framings are currently being reinforced in political discourses and policies is that of trafficking. As mentioned early, the victim of trafficking has emerged through government reports and policies as an ideal type of migrant woman to be protected. The most recent law on sex work in 2016 (law 2016-444), which criminalises sex purchase (based on the ‘Swedish model’) has acted to further strengthen this nexus between securitisation of migration and criminalisation within which migrant sex workers have a particular place. In the Fifth Interministerial Plan on the Fight against Violence against Women (MIPROF 2017) the government claims that it will protect women victims of trafficking, but this is to be done through a route out of prostitution, and through social and professional ‘reinsertion’ of victims (de Montvalon 2018). As we will see in part three, this in effect means a protection which is severely limited and inaccessible to most migrant women victims of trafficking.

The framing of GBV against women migrants is also part of a wider framing which targets Islam (and in particular ‘political’ or ‘radical’ Islam) as a major barrier to women’s rights. This framing has been intensified in Europe with the recent ‘refugee crisis’ and incidents such as the highly

³ <https://www.egalite-femmes-hommes.gouv.fr/campagne-de-communication-pour-lutter-contre-le-mariage-force-et-lexcision/>

mediatised reports of sexual violence in Cologne on New Year's Eve 2016 (Boulila and Carri 2017), and has combined in France with forms of neo-Republicanism which reject Islam as a threat to French identity. Within this 'racialised' framing of sexism and GBV (Guénif-Souilamas 2006; Durand and Krefa 2008), the figure of the young Muslim man becomes the chief enemy of gender equality and the principal threat to both migrant and French women. These discourses which have been typical of extreme-right political parties (Kinnvall 2015) are moving further and further into mainstream framings of these issues, as our analysis of recent policy and media discourses shows. To take a striking example of this move into the mainstream of anti-Muslim gender equality discourse, Marlène Schiappa, explained in one newspaper interview that: 'The project of political Islam is to create a new norm, which goes against women's emancipation. Islamists are against contraception, access to abortion, the fact of being able to go out in a short skirt ... To be able to combat them and defend women's free choice, we need to start by describing this reality without fear' (Hausalter 2019). This type of discourse which stigmatises Islam and in particular Muslim views on women's rights, has for a long time been typical of the far-right in France, and indeed Marine Le Pen, the leader of the extreme-right Rassemblement National (formerly Front National) has expressed her support for government policies which integrate this understanding. On 6 November 2019, the government unveiled a plan to 'regain control of immigration', of which one of the measures called for expulsion of foreign citizens who are condemned for acts of sexual violence. This measure gained huge publicity, and also the support of many other political parties, notably the Rassemblement National. In an interview with the LCI television station, Marine Le Pen notably used the occasion to deploy a debatable statistic on the number of rapes committed by foreign men: 'In 2014, 52% of rapes committed in Paris were committed by foreign men. I'm not talking about people with double nationality, I'm talking about foreigners. These are considerable numbers. If even half of these rapists had been sent back to their countries of origin in 2014 then probably women would be much safer today' (LCI 2019).

Fighting GBV as a Diplomatic Strategy

A foregrounding of the fight against FGM and forced marriages as major forms of GBV has also been utilised by the French government as part of a diplomatic campaign to position France as a world leader in gender

equality, using its soft power for normative good and showing other nations (mainly those in Africa) the way forward. In positioning itself as an ‘exemplary country’ (MIPROF 2017), France claims to lead the way in the fight against GBV worldwide, again using culturalist frames to understand the types of violence committed against women in the ‘South’. GBV against migrant women is in this context framed as a problem to be tackled primarily in their countries of origin, before they arrive in France, and thus to remove one justification for their coming to France to seek asylum. In another interview, Marlène Schiappa supported her statement that any migrants who had perpetrated sexual violence should be expelled from France, with further statements linking GBV and migration, but this time showing how the French state would support women victims of violence elsewhere in the world. She argued that the French President had agreed to welcome one hundred Yazidi women and their children who had been ‘sexual slaves of Daesh’, and then went on to laud her vision of a ‘feminist diplomacy’, pointing out that France had been the first country to support the Mukwege Foundation for the victims of sexual violence in conflict and talking about the plan for the fight against FGM. ‘Feminist diplomacy’ and French immigration policy are explicitly linked in this framing, as she explains: ‘If we fight against violence against women in Africa, and if we support their economic emancipation, we will make it possible for them to live with dignity in their country of origin, instead of being forced to leave’ (Hausalter 2019).

This elision of the fight against GBV in other countries (usually African or other countries from the Global South) with the issue of migration is a theme which is not new but has become a constant of French political discourse. In 2007, the then presidential candidate, Nicolas Sarkozy, made a noted speech in which he claimed that ‘to each woman tortured in the world, I want France to offer protection by giving her the possibility of becoming French’. He went on to list the examples of women who France should support—women who risk stoning because they are suspected of adultery, women who are persecuted for being obliged to wear a burqa, victims of forced marriage, women ‘whose brother forbids them from wearing a skirt’—all of which rely on culturalist tropes of persecuted ‘other’/Muslim women. However, as many opponents pointed out, despite claims to want to protect women, the French asylum laws and refugee status determination system continue to refuse the majority of asylum claims by both women and men (Freedman 2008, 2015). The priority of ‘securing’ borders and controlling/limiting migration thus continues to take precedence over this stated desire to protect migrant women, as we will discuss in the following section.

UNWELCOME IN FRANCE. RACIALISED MIGRANT AND REFUGEE WOMEN FACING GBV ON ARRIVAL IN PARIS

'The big problem is accommodation! In terms of violence and access to care, it's a huge obstacle!' (Interview with a doctor who initiated a sexual health programme for migrants in a Parisian hospital, November 2020).

In this section, we shed light on the serious dissonances between official discourses and evidence emanating from our research in the field. On the basis of interviews carried out with activists for migrants' rights, professionals from NGOs and institutions working with migrants and asylum seekers in the Paris region, and fieldwork, in a reception centre for asylum seekers and in detention centres located in the two main Paris airports, we argue that the structural factors causing the gendered and notably sexual violence experienced by newly arrived racialised migrant women in France are not necessarily those put forward by the public authorities. While the dominant discourse almost systematically invokes subjects such as FGM, forced marriages and human trafficking in relation to migrant women (all forms of violence which are assumed to be perpetrated by 'foreign' men), this obscures the violence which occurs or is aggravated as a result of French immigration and asylum policies. An example of the discrepancy between rhetoric and facts is that of women victims of GBV seeking international protection who experience renewed GBV at the French borders, because they are seen as 'fake asylum seekers' and/or as 'migratory risk'. Another striking example to emerge from our research is the lack of accommodation for women migrants and asylum seekers. While the first subject is relatively unknown, given the difficulty of accessing the border detention area, the second was raised by all of our interlocutors during interviews, and pointed out as the most burning problem in the Paris region, causing an immediate increase in women's vulnerability and their de facto exposure to the risk of sexual violence.

According to a study conducted by Comede, an NGO specialising in the health of exiled people, 44% of their patients were homeless in 2017, of which 19% were rough sleepers and 13% in emergency accommodation (Petruzzi et al. 2019). The examination of the medical files of women followed by Comede as victims of rape shows the serious consequences of the

lack of accommodation facilities. In the past two years, out of 144 cases, 15% had been raped in France, explain two members of this NGO.⁴ According to these professionals, it is clear that the lack of accommodation in France, notably in the Paris region, increases GBV, and particularly sexual violence against women. As also indicated by other NGO or health professionals, women often testify that they were approached by men when they found themselves sleeping on the street or in railway stations. Some are sheltered in exchange for sexual services, explaining that they have no other option. Others find themselves in relations of domination or even sequestration as reported by Comede (Petruzzi et al. 2019, 332).

During our research, health professionals also pointed out the particular experiences of pregnant women or those with newborns, reminding us that the multiple violence experienced by some migrant women also affected pregnancies, life in-utero and the development of babies and of children (Roze et al. 2020). Health professionals have a front row seat to observe the structural violence experienced by pre- and post-partum racialised migrant women in the capital and its suburbs. This is the case of an experienced midwife we met, who observes from the maternity wards the worrying evolution of responses to homeless foreign women. *‘At some point, the hospital finds itself providing accommodation. Women who have no other solution than the street are told that they have to leave their rooms in the maternity ward but can sleep in the hospital lobby, and then it becomes something normal’* (Interview, January 2021). In 2019, only 4 to 6% of requests for accommodation from homeless families received a positive response, even though they are a priority, especially young mothers and their newborns⁵. In October 2019, according to the Samu social, one hundred women with a baby less than a month old were without accommodation in Île-de-France. As the midwife recounts, from the winter of the same year, hospitals decided to no longer allow women access to hospital halls and corridors at night, leaving them and their babies on the streets. She decided to alert the media about the situation of dozens of women who find themselves on the streets of Paris with their newborn babies, a few days after giving birth⁶. At the end of December 2019, there were 220 families without a solution.

⁴ Interview October 2019.

⁵ See Coq-Chodorge C., ‘Faute d’hébergement, des migrantes et leurs nouveau-nés n’ont plus que les maternités où s’abriter’, Mediapart, 08/01/2020

⁶ See for instance Le Monde 2020 and Mediapart 2020.

Multiple sources of structural violence are demonstrated by the case of Patricia P., a Congolese asylum seeker, survivor of sexual violence in DRC and also in the Samos refugee camp in Greece. She was seven months pregnant when one of the researchers in our team met her in administrative detention at Paris Orly airport. After having seen her request for access to the territory under the asylum rejected, her appeal before the administrative court of Paris was rejected and she was suspected of lying about the sexual violence 'she was allegedly subjected to' by the lawyer defending the administration. She spent 20 days deprived of liberty, she was transferred to police custody and then to prison (because she refused to board and this constitutes an offence under French law). A judge '*took pity*' on her due to her advanced pregnancy and released her. After these multiple experiences of institutional violence at the French border, Patricia found herself eight months pregnant in the streets of Paris. Despite daily calls to the 115 emergency accommodation phone line, she spent more than a month sleeping outside, sheltering in train stations or sometimes in churches. One day she finally managed to get someone on the phone. Patricia, relieved, explained her situation as a newcomer asylum seeker and a woman in the final stages of pregnancy. She was then asked to fax proof of pregnancy in order to follow up on her request for emergency accommodation. She managed to do so via contacts in NGOs. However, 115 still did not offer her accommodation. It was only after the announcement of the first lockdown in France at the end of March 2020 that the asylum seeker who was almost at the end of her pregnancy was offered a room in a shabby hotel, where she will only be able to feed herself with the support of individual activists. It is thanks to her determination and agency that Patricia was able to survive all these experiences, continue her follow-up in the maternity ward and then continue her journey as an asylum seeker while taking care of her newborn baby.

Investigations in the field reveal other forms of GBV that are silenced by the official discourse. These are violence experienced in many institutional settings such as detention centres, courts, prefectures, asylum offices, among others, which affect certain women as soon as they arrive in France, or even before. Patricia's example reveals a dimension of GBV which remains particularly invisible, especially when women have not really managed to set foot on French soil. This is the case of women who disembarked at Parisian airports and whose entry is prevented by the border police. During our research, we met many women asylum seekers fleeing GBV, detained in so-called 'waiting zones', and observed how the

functioning of border and migration policies precipitated them from one experience of violence to another.

'Why do they use such violence with us? We are Latinos, is that why they do this? Is that why? I have been mistreated (...). They told me to go up and talk to the captain, I said calmly that I refused to go up. So, they grabbed me, the six policemen, they took me away, they almost put me naked on the plane. Because when I said no, they grabbed me from all sides and stripped me naked. (...) Now I'm lying here on a bed; I can't even stand up because my body hurts so much. My nails hurt, my hands hurt, my wrists hurt because they put the handcuffs on me so tight it was unbearable ... And I asked them to loosen them a little because it hurt me, but they wouldn't loosen them either. They took my hands and squeezed them so tight ... my nails would break, so I wouldn't scream. I don't think they can treat people in this way. (...) We are humans, and among them there are women, and nobody knows what they have been through, the sacrifices they had to make. No one knows.' (Interview with a Dominican asylum seeker, a survivor of domestic violence in her country and of forced prostitution and sequestration in Turkey, who was detained in the waiting zone for two weeks and deported (to Istanbul) from Paris-CDG airport, January 2021).

The example of this Dominican woman reveals one of the types of recurring violence that can be experienced at the border by women classified as undesirable. The study shows how government discourses that construct racialised and gendered 'migratory risks' shape not only the everyday practices of border police but also those of asylum, justice and humanitarian actors, always aggravating the situation of vulnerability of these women to GBV. Among the undesirable figures produced at the border (and beyond), we can cite, for example, that of the South or Central American woman transiting via Paris, who is perceived as inevitably going to work in prostitution in Spain. Or the Nigerian woman who is seen as inevitably involved in human trafficking networks. Gendered and racialised violence against these women can occur at every stage and are mutually reinforcing: from their arrest by the border police, their placement in the waiting zone, to their daily life in detention and their interactions with the various humanitarian and security actors, not to mention their passage before various judges and their asylum interviews.

Concerning the protection of women fleeing/survivors of GBV, the study reveals that the specific asylum system at the border—characterised by ultra-fast interview and response procedures and poor-quality interpreting—offers them only a tiny chance of accessing French territory on

this basis. The women we met were generally re-traumatised by their experience at the French border. The vast majority of them saw their asylum application rejected and were forcibly deported or ended up in police custody and then in prison/detention centres on the territory. The case of Nigerian women asylum seekers is interesting to highlight. In its last activity report, OFPRA noted the persistent 'instrumentalization' of their asylum claims: 'OFPRA is fully mobilised to provide the best possible protection for victims who could not return to Nigeria without fear of persecution or serious harm, without allowing the asylum procedure to be instrumentalised by human trafficking networks and thus indirectly contribute to keeping their victims in exploitation' (OFPRA 2020). Research shows that, far from being protected, Nigerian women asylum seekers appeared to be systematically deported.

CONCLUSION

Our analysis of political and media discourses on migration and GBV, in conjunction with our field research, demonstrate the ways that the cultural framings of GBV and migration do little or nothing to offer any real protection to migrant women. In fact, they serve to obscure the ways in which migration policies and practices are themselves violent and serve not to offer protection to those who require it but to reinforce the material and symbolic borders of the French nation and French national identity. Racialised and gendered representations of migrant women render them vulnerable to structural violence at the hands of multiple perpetrators including state agencies, and show how postcolonial France still fights sexism with racism (Razack 1995, 72). Our observations at the border, as well as those carried out in the Parisian region, show some embodiments of the French state's position regarding the rights of certain migrant women: protection through detention and deportation, emancipation through street life.

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Crimmigration and Gender-Based Violence Against Women Asylum Seekers in Israel

*Nomi Levenkron, Hadar Dancig-Rosenberg,
and Ruth Halperin-Kaddari*

INTRODUCTION

Women asylum seekers suffer from continuous violations of their human rights, in Israel and elsewhere (Kritzman-Amir et al. 2013). These violations are often hidden from view, and awareness of their existence might be quite low. This harm can be explained by the intersectionality theory (Dancig-Rosenberg and Yosef 2019; Crenshaw 1989; McCall 2005; Davis 2008, 67–68), which clarifies the complex status of these women situated at multiple and overlapping socially marginalised fields—as women, as migrants, as visible minorities, who lack civil status in the country where they reside, and are often victims of crime.

Research to date has examined the characteristics of the phenomenon, described and conceptualised gender-based offences committed against women belonging to this group, and mapped the factors that create and

N. Levenkron (✉) • H. Dancig-Rosenberg • R. Halperin-Kaddari
Faculty of Law, Bar Ilan University, Ramat Gan, Israel
e-mail: nomi.levenkron@biu.ac.il; Hadar.Rosenberg@biu.ac.il;
ruth.kaddari@biu.ac.il

enhance their intensified vulnerability, as well as the unique barriers and risks they face (Freedman, Sahraoui and Tastsoglou, this volume). The uniqueness of this study lies in the fact that it is the first to outline the characteristics of the phenomenon in Israel, emphasising the policing of gender-based violence (GBV) against women asylum seekers. There are several reasons for the choice to focus our study on the police. First, this organisation is of immense importance in shaping the set of interactions between individuals in society, and between them and the state. Second, despite the criticism levelled at it on a variety of issues (Jordan 2004; Myhill and Johnson 2016), the police have been and remain a key player in the enforcement system, which substantially bridges the gap between the law in books and the law in action (Pound 1910). Third, unlike services such as health, welfare, or education, where reasonable civic alternatives are available, ‘taking the law into one’s own hands’ is interpreted as a violation of the state’s—via the police—monopoly on the use of force. All these justify tracing police actions, and especially their omissions, in dealing with GBV against asylum seekers, with the aim of assisting in the design of appropriate regulatory practices that would improve the accessibility of police services to these women.

We analyse the police activity in relation to GBV towards asylum seekers in Israel using two terms coined by immigration researchers over the past four decades. The first, *crimmigration*, reflects the mixing of administrative law, which previously characterised immigration policy, with criminal law. The term describes the increasing usage of criminal tools, such as arrest and surveillance, for the purpose of dealing with migrants (Stumpf 2006). The second, *legal violence* (LV) (Menjívar and Abrego 2012), describes regulatory practices by virtue of which migrants were granted a liminal status of residents with partial social rights, by that intensifying their exclusion and vulnerability. It is common to see these two practices as complementary and conducive both to reducing the number of migrants in the Western countries and to suppressing their status in the destination countries of immigration (Bosworth and Guild 2008, 703, 705). In more than one sense, both are expressions of institutional discrimination, whether by the law or by the police. Indeed, as we show below, both are reflected in the police handling of GBV against women seeking asylum in Israel.

This chapter is based on primary and secondary materials, including minutes of parliamentary sessions, reports of NGOs and government ministries, court rulings, and press articles, as well as in-depth interviews

conducted by us in 2019–2020 with 9 public servants, 24 civil society officials (including academics, NGO workers and lawyers) and 5 asylum seekers. The interviews with the asylum seekers could not be continued at the beginning of the closures in the wake of the spread of COVID-19. Most of the insights in this chapter are based on the interviews with NGO workers.¹

In the first section, we present our conceptual-theoretical framework, and focus on the changes that immigration policy in Western countries has undergone, including changes in the role of the police since the 1980s, when the collapse of the Soviet Union and instability in Africa and the Middle East led to increased immigration. In the second section, we describe how Israel, an ethno-national state with a Jewish majority, has dealt with the rapid growth in the number of migrants in its territory, focusing on women asylum seekers, the violence against them, and the effect of crimmigration and of LV on their prospects of obtaining relief from the law enforcement system. We then discuss in a third section the policing of asylum seekers in Israel, the most prominent component of which over the years has been the enforcement of immigration policy. Enforcement has focused on crime committed by asylum seekers in the public sphere, virtually ignoring GBV towards women in the community. Finally, we examine the barriers which asylum seekers who are victims of GBV face when attempting to receive protection from the police, focusing on the example of prostitution as an outcome of combined LV and crimmigration.

POLICING OF MIGRANTS AND THE EMERGENCE OF PUNITIVE REGULATION IN WESTERN IMMIGRATION LAW

The modern police developed along the processes of emergence of the nation state (Emsley 2014), which delegated to it the monopoly over the use of coercive force against those residing in its territory (Bittner 1970). Its course of action has been shaped in the image of the hegemonic society, has reflected the power relations embedded in it and it has determined the identity of those subjected to its action. Its position in the law enforcement chain is central: While the legislature decides what acts are criminalised and what their penalties are, the police are responsible for

¹The research has been approved by Bar-Ilan university IRB (November 26, 2019). We would like to thank Michal Meir for superb research assistance.

enforcing the law (Skolnick 1966), and their role in crime prevention has allowed it to act almost anywhere, anytime (Reiner 2010).

It is against this background that we must understand the encounters between the police and the migrants in many Western countries, and the outcomes of these encounters in the last four decades. The collapse of the Soviet Union, together with political instability in Africa and the Middle East, have led to a significant increase in the number of migrant workers and asylum seekers (Bosworth and Guild 2008; Bowling and Westenra 2020, 163–164), requiring the police to formulate law enforcement solutions in a cultural environment that is foreign to it. At the same time, whereas prior to the 1970s many migrants could arrive to work without any form of state control or border policing, during the 1970s and 1980s migration had been increasingly controlled. In this sense, the attention to the increasing number of migrants could also be attributed to new restricted borders policies. Culturally sensitive policing, however, soon became of secondary importance in the face of the perception that saw migrants as a threat. Migration raised concerns and sometimes became associated with disease and unemployment, not to mention crime and terrorism, especially during the 2000s, due to September 11 attacks and their implications on security policies (Gibney and Hansen 2005). Neoliberal governments have increasingly adopted practices of defensive nationalism, seeking to reaffirm their sovereignty by tightening immigration policies (Weber 2007; Walsh 2020). Politicians often used fear of foreigners as a pretext for avoiding the implementation of the Refugee Convention (Gibney and Hansen 2005).

This is how the phenomenon of crimmigration emerged. The concept, coined in 2006 by Juliet Stumpf (2006), names and exposes a unique criminal system, with its own rules, norms, and practices, aimed at enforcement against migrant populations, but lacking the protections afforded to civilians (Cohen 2017, 435–486).

A major outcome of crimmigration was the increased number of detention and deportation of illegal residents (Bosworth 2011). Even those who stay in the country legally have become subject to supervision. Crimmigration has required the police to perform two roles that may be contradictory: assisting in the enforcement of immigration policy (i.e., arresting and deporting illegal residents), and conversely, enforcing local criminal law against them in a manner that would provide protection to victims of crime within the community (Weber and Bowling 2004).

Simultaneously with crimmigration, which focused on maintaining state borders, the phenomenon of LV has developed. LV refers to structural violence against those who lack full civil status, normalising these harms by embedding them into the legal system. Restricting access to health and welfare services, and lack of job security, are just a few of the common examples of these practices (Menjívar and Abrego 2012; Abrego and Lakhani 2015; Kivilcim 2016; for a wider discussion on the link between violence against women and state violence, see: Hearn et al. 2016).

Although the scholarly discussion of crimmigration and LV is usually separate, we believe that it is appropriate to tie them together, as two aspects of institutional violence. Analytically, a joint discussion can reveal the interaction between them and allow a more comprehensive understanding of the impact of their harm. In practical terms, their combined actions amplify the power inherent in each of the mechanisms for harming its objects. The mechanisms of crimmigration and LV have reduced access to law enforcement for women migrants and asylum seekers. Additionally, the lack of trust of migrant communities in the police (Chakraborti and Garland 2003) makes it difficult for them to seek help, even when legally residing in the host country (Dancig-Rosenberg and Levenkron 2015 341–387, 361). This difficulty is exacerbated by the fact that they do not speak the local language.²

CHARACTERISTICS OF WOMEN ASYLUM SEEKERS IN ISRAEL

Q: *‘How many of them, in your opinion, have suffered from gender-based violence?’*

A: *‘I don’t think there’s anyone who hasn’t suffered from it’.* (An interview with a social worker)

Israel is a multicultural immigration state, in which Jews are the majority group, and only they have the vested right to immigrate to it legally and immediately become citizens. Since the 1990s, migrant workers, victims of human trafficking, and asylum seekers have been added to its

²In research conducted in the U.S cases have been described where police officers tended to accept the version of the violent male, when he was a citizen, and sometimes even his claim that his partner attacked him, see: Davis (2004, 557, 572–568); Ganatra (2001). Furthermore, the rights of women to motherhood have been partially or fully impaired upon encountering the welfare authorities, see: Hartry (2012).

population (Kritzman-Amir 2015). As of June 2019, according to data from the Population and Immigration Authority, there are 32,604 asylum seekers in Israel, most from Eritrea (23,140) and the rest from Sudan (6466), other African countries (2449), and other countries (549) (Population and Immigration Authority 2019). The reports are not gender desegregated; this is a fact that may serve to create and preserve gender-blind policies.

Over the years, migrants and asylum seekers in Israel were regarded as temporary residents. This perception prevented the creation of a coherent policy regarding them (Zilbershats 2006). The legality of their stay was through the Law of Entry into Israel (Entry to Israel Law, 5712–1952) which establishes entry and residency procedures, and leaves extensive powers in the hands of the Minister of Interior regarding the manner of their implementation (Marzel 2017). Only later did the understanding crystallise that migration was a phenomenon with long-term consequences, which was perceived as threatening the exclusivity of the ethno-national regime in Israel. The significant increase in the number of asylum seekers since 2006 exacerbated the sense of threat. A study examining public attitudes towards asylum seekers found feelings of fear, anger and hostility towards them, and the perception that they contribute to an increase in crime, morbidity and unemployment rates (Hochman 2017; Ravid 2018; Duman 2014). They are usually referred to as ‘infiltrators’,³ by Israeli officials in order to create and preserve the illegitimacy of the phenomenon. In international law, however, they are referred to as ‘asylum seekers’ upon arrival in the country, and ‘refugees’ after being recognised as such by the state.

To date, the Refugee Convention (1951) has been interpreted in Israel in a minimalist way, leading to two types of improvised solutions. The first type consists of ‘solutions’ that reflect the processes of crimmigration: attempts to prevent migrants from entering the country and deporting them upon arrival (Ben-Zeev and Gazit 2017, 84–101), imprisoning them indefinitely at Holot, a ‘custodial facility’ (Ben Dor and Ben-Zeev 2019), (which has since been shut down) or encouraging them to leave voluntarily through a one-time grant of \$3000 (Wiler-Volk 2013), or to leave

³ Right-wing parties have ruled Israel for many years, a fact that has influenced policy towards asylum seekers and made the term ‘infiltrators’ the most common term in this debate in the Knesset and the government. The term ‘asylum seekers’ is mainly used by NGO’S. The term ‘statusless’ or ‘strangers’ is sometimes used in official websites.

to a third country (Ziegler 2015; Yaron 2019). The second type of 'solution', which can be characterised as LV, limits their options in Israel. Most have been granted a temporary visa that does not confer social rights and requires constant renewal in a gruelling bureaucratic process (Population and Immigration Authority 2020).⁴ The vast majority of them received group protection as asylum seekers, and an individual examination of their applications has been rare. Only 30 people received refugee status between the years 2015–2021.⁵ Children receive limited assistance (State Comptroller 2013). At first, they were sent to sparsely populated areas in the periphery, and were prohibited from residing in the centre of the country (Center for the Advancement of African Refugees against the Ministry of the Interior 2009). With the enactment of the Deposit Law, they were required to deposit a part of their meagre salary into a fund as a means of securing their departure (The Prevention of Infiltration Law 1954; only part of the deducted money entered the deposit fund: Some employers deducted the deposit amounts but left it in their hands). Small businesses that they opened were closed by the authorities on the grounds that they did not meet the conditions required for their activities (Barak-Bianco 2019). Finally, during the COVID-19 period, unemployment rates have reached about 80% of the asylum seekers, according to estimation of NGO'S (Physicians for Human Rights et al. 2020).

According to estimates by members of the organisations we interviewed, most of the women asylum seekers in Israel today (about 7000) have come from Eritrea, and a minority (about 100) from Sudan. Most of the asylum seekers live in South Tel-Aviv, an area of poor socio-demographic with high rate of drug addicts, homeless and women in prostitution (Panini-Janowski 2016). At least half the women asylum seekers in Israel are mothers of children and some are single mothers (Assaf Association 2016). They have difficulty finding jobs because of their or their children's health problems, lack of knowledge of the language and a lack of care facilities for their young children (Meir and Sloan 2016).⁶ They are employed in cleaning jobs, usually through personnel contractors; they earn a minimum wage and they are exposed to arbitrary dismissal (Workers

⁴ The restrictions caused by Covid-19 led to an automatic extension of the visas for part of the period.

⁵ A letter from Mali Dudian, the Population and Immigration Authority, to Omri Rtnovski, 21.6.2021.

⁶ In illegal kindergartens opened in south Tel-Aviv by and for the community, there are at least five documented cases of babies that died in them.

Hotline 2015). Others make a living from small businesses whose customers are mostly Eritreans (Barak-Bianco 2019).

This is the local background, against which GBV towards asylum seekers must be understood. The offences against them are divided into those that occurred on the way to Israel, and those that were committed after their arrival. Most of the asylum seekers from Eritrea and Sudan arrived in Israel through Egypt's Sinai Peninsula, where the practice of kidnapping for ransom developed. Some Asylum seekers were held in harsh conditions and tortured to extort ransom from their family members. The torture, documented by human rights organisations, included physical and sexual violence, burns, electric shocks, and more (Nakash et al. 2015; The Hotline for Refugees and Immigrants 2011; The Hotline for Refugees and Immigrants 2012). Following these events, many of them suffer from physical and mental problems that make it difficult for them to function on a daily basis. After their arrival in Israel, the harm to many of the women continues, in part as a result of the torture they experienced on their way to Israel. Some women who arrived pregnant were murdered by their husbands who could not bear what they considered as 'disgrace', and others were forced into marrying men who paid a large portion of the ransom for their release. Alongside these, there are more common types of GBV, especially domestic violence, exacerbated by the cultural fractures that migration opens in the family unit (especially increased stress as well as a deviating from traditional gender roles), sexual abuse by asylum seekers or Israelis, and prostitution (on which we expand below). The scope of GBV cannot be known with certainty, but can be estimated. One of the interviewees, a lawyer, who emphasised that she was careful not to check what was going on in her clients' personal lives other than the issue they brought to her office, told of the variety of offences she had heard about: 'Women came to me after the husband physically pushed them onto the street, stabbed them with a knife, beat them, raped them, whatever you want. Locked them in the house. Restricted their freedom of movement, brought friends to exploit her. Waved an axe before her face. What not'.

POLICING IMMIGRANTS IN ISRAEL IN THE PUBLIC SPHERE

The Israel Police are a centralised national police force. As of 2021, most police officers are men (73%), and most are Jewish (87%) (Israel Police 2021). Over the years, specific solutions have been formed to meet the needs of the culturally diverse population of the country: the recruitment

of police officers from minority groups; use of cultural mediators in interactions with Ethiopian immigrants (Sharaby 2013) and Arab citizens (Al-Krenawi and Tubo 2002); appointment of two community police officers to improve the relationship between the police and the immigrants from the former USSR and Ethiopia (Bruchim 1998). However, these were all singular initiatives, directed only at citizens, and not part of an overall policy. Similarly, the response given by the Israel Police to GBV was far from optimal: It focused on the public sphere while neglecting the private one, attaching less importance to domestic violence, prostitution and sexual offences; the police officers' treatment of GBV victims lacked sufficient sensitivity; and investigators of these offences did not receive appropriate training (e.g., Shoham and Regrev 2000).

Like police forces in other Western countries, the Israel Police have come a long way in recent years towards culturally competent and gender-sensitive policing, with a focus on the Ethiopian community and Arab society. In 2019, a unit for gender equality and cultural diversity was established. The unit focuses on the internal organisational changes required with regard to these issues, including instilling and cultivating multicultural awareness in police officers, identifying barriers to the advancement of minority groups, supervising complaints about over-policing, etc. (Ministry of Public Security 2019).

There have also been changes in the specific field of GBV. Police officers are currently undergoing training to deal with these offences, in cooperation with NGOs, and the police have recruited social workers in dealing with domestic violence. Investigation of sexual offences has become more sensitive to the distress of the victims (Paz-Volk 2021). Awareness of offences linked with prostitution, especially trafficking in women, has increased in the last two decades, and currently a new law (2019) criminalises the demand side of prostitution. Yet, literature shows that criminalising the demand side might exacerbates the vulnerability and exposure to violence of these it seeks to protect, because prostitution is drawn further underground (Levenkron 2022). All these changes, however, have focused on Israeli citizens and left out those who do not have this status. With regard to women asylum seekers, the old practices are maintained, especially uniform policing, blindness as to gender and origin, thus ignoring their unique adversities.

Policing in relation to asylum seekers has developed in several stages. In the first years (2012–2013), the police focused on the crimes committed by asylum seekers in the public sphere, those who are difficult to prosecute

because of their temporary status. For example, in 2012, the police reported that pickpocketing along the beaches of Tel-Aviv has expanded because of the increase in the number of unemployed asylum seekers (Kubowitz 2012, see also: Aharonovitch 2012). In 2013, the police published a study that dealt with the ‘crime by infiltrators from Africa’ (Rothschild and Levy 2012–2013). Apart from its being a loaded term short of accusing them of spying, this clearly reflected a one-dimensional view examining crime among asylum seekers and ignoring its causes as well as their own victims. The data in this report are gender blind: The categorisation of offenders and victims is not gender desegregated; and apart from the figure according to which 23% of all crime committed by them was violence, there is no separate reference to domestic violence.

This perception led to an increase in the number of police officers at south Tel-Aviv stations. In 2012, their number rose from 80 to 150, all of them employed in positions that targeted crime in the public sphere, and the police explicitly stated this purpose (Committee 2012, 25–26). Moreover, the Minister of Internal Security decided to bring into the area a paramilitary force that deals with, among others, serious crime, terrorism, and containment of disorderly conduct. This unit is often involved itself in illegal use of force, and those serving in it justify the use of violence as an essential punishment tool within the reality in which they operate, to assist in achieving the legitimate objectives of the police (Shamir and Carmeli 2000; Shoham and Yehoshua-Stern 2013). Finally, in 2016, a new patrol unit was established in South Tel-Aviv, with the aim of improving security in the neighbourhoods (Israel Police 2016).⁷

Another step that was taken in the following years (2015 onwards), partly due to gentrification in the area, was ‘clean-up’ operations of the public space that were carried out in South Tel-Aviv. First, the number of drinking establishments (*hamaras*),⁸ which have become synonymous with crime in the asylum seekers’ community (see the declaration of the commander of the police station in south Tel-Aviv in the Knesset that the *hamaras* ‘produces crime’; Internal Affairs and Environment Committee 2016, 20–22), was reduced, and drug dealers were arrested, drug addicts

⁷ According to Facebook police posts, the unit began operating in April, but was officially set up in August.

⁸ The ‘hamara’ are community meeting places where alcohol is sold. According to a study by organisations in 2017, about 50 hamaras operate in Tel-Aviv, and a few are scattered elsewhere in Israel (Goor et al.).

sent to rehabilitation, and brothels closed. Difficulty in finding sufficient evidence of drug trafficking in *hamaras* has led to the use of administrative law, imposing huge fines for offences such as cigarette smoking in public places. In a case where a fine of NIS 20,000 (about 5000 euros) was imposed for smoking a cigarette in a *hamara*, a police officer interviewed during the operation clarified that it was regular police practice: ‘We will hit them in the pocket until we collapse them financially, just like they fought Al Capone through his pocket’ (Ashkenazi 2017). At a meeting with several state-funded welfare services for underprivileged populations, a senior officer noted at the outset that police officers ‘are oriented toward increased enforcement against the perpetrators of crime⁹ in the area of the central bus station, and not toward the exploited victims’.¹⁰

During the last few years, after the closure of the Holot facility (2018), following a petition filed in the Supreme Court which challenged its legality, the police found itself without an administrative tool which it regarded as an important component of the deterrence system. At one of the Knesset Committees’ meeting, a senior police officer pointed out the increase in crime following this step:

Anyone who has been involved in crime in the past, I could enforce on the administrative side by removal to Holot also for not having a visa, and today I cannot do that ... In these cases, we often find ourselves with our hands tied behind our backs. There’s a lot, a lot, a lot of activity in the field, a lot of enforcement, there are a lot of arrests, but unfortunately after a few days they are released back into the field. (Internal Affairs and Environment Committee 2016).

On the other hand, about a week after this meeting in the Knesset, another senior police officer was quoted in the media, saying the following: ‘It is impossible to say that this population does not exist, the people exist and they are here’. However, he justified his remarks as follows: ‘It is a basic police interest to give them police services, mainly to create governance’ (Brinner 2018; the quote from Commander David Philo).

At this point the police began to understand that long-term solutions were needed, yet it continued to focus on enforcement in the public sphere, resulting in an individualised ‘solution’ ignoring the structural

⁹This phrase is most often used regarding drug offences, weapons, organized crime. It is not used regarding GBV.

¹⁰A protocol of the meeting, dated May 4, 2017, is in the hands of the authors.

dimensions of inequality as well as their intersections. The main police station operating today in South Tel-Aviv, where most of the asylum seekers are concentrated, has undergone several changes that seem to be intended to make its services accessible to them, including extending its hours of operation and appointing an intelligence officer and additional Tigrinya-speaking police officers. Yet all are engaged in detective work, which does not cover GBV. Police have told the press that the purpose of the appointments was to make police services accessible to all asylum seekers living in the area, and that these police officers would collect complaints and mediate between them and the police for the purpose of ‘dialogue’ (Brinner 2018). In 2019, a community officer was appointed, suggesting an attempt to provide a solution for asylum seekers in a manner that has already been applied in relation to the Arab, ultra-Orthodox, and Ethiopian communities. But during our interviews, we found out that he was a policeman born in the former Soviet Union, which raises doubts as to his cultural and linguistic fitness for the job. At the same time, asylum seekers interviewed by us reported attempts to recruit collaborators from the community, but only for the purpose of passing information to the police, rejecting the community representatives’ offer of joint police and asylum-seeker patrols in the southern part of the city, as well as other joint activities.

It appears, therefore, that there has been no real change in police policy in relation to the asylum seekers community. Indeed, in the vision of the Minister of Homeland Security, as it appears on the website of the Ministry, the issue of multiculturalism is mentioned only with reference to the citizens of the country (The State of Israel and the Ministry of Public Security 2019). Nor does the police code of ethics address the issue in any way (Israel Police 2020).

BARRIERS WOMEN ASYLUM SEEKERS FACE IN FILING COMPLAINTS OF GBV OFFENCES

In this part, we discuss the barriers facing asylum seekers from the point of view of the organisations operating in the field and various factors in the community. We focus on policing the prostitution of asylum seekers, as a test case that illustrates the complexity of the encounter between criminalisation and LV, and the extent of its effect on the victims.

Unique Barriers on the Way of Filing Complaints

In The interviews we conducted, there was a repeated reference to the huge under-reporting of GBV offences in immigrant communities. In a study conducted in 2017–2018 among Sudanese asylum seekers, which examined their general willingness to contact the police, 80% answered ‘when my life is in danger’ and 20% answered ‘never’ (Barak-Bianco 2021). None of them chose the third option, ‘always, when needed’. When those who answered ‘never’ were asked to explain their choice, 85% answered that the police never help asylum seekers; 10% responded that they did not speak Hebrew; and 5% gave various answers, for example, that they did not know the phone number. Most of the women interviewed responded that they would not turn to the police, even if their lives were in danger or in the case of violence. One interviewee in our research, a social worker, said: ‘Very few will contact the police. Intimate partner violence is widespread, complaints are not’.

Various barriers were mentioned in our interviews, that prevent the filing of complaints with the police. Some are well known from the encounters of women from the majority group with the police, but others are unique to the study population, and reflect their weakened status.

Cultural barriers are produced and reproduced by the community of origin. In the asylum-seeking community, the already prevailing stigma regarding rape is intensified and translates into a dichotomous scenario: If the rapist is not from the community, the victim is perceived as guilty and becomes an object of disgrace; by contrast, if the rapist belongs to the community, a complaint against him risks being considered a betrayal of him and of the community, and the woman is open to harsh criticism. Similarly, domestic violence is not always perceived as improper and normatively flawed due to gender hierarchies and perceptions of gender roles within the family, and an appeal to community elders is seen as more appropriate than turning to law enforcement agencies (e.g., Birger 2015; An interview made by Lior Birger in her research on perceptions of Eritrean men asylum seekers regarding gender roles in Israel: ‘There is an

older man, there is a priest, you do not go to the police’).¹¹ One of the interviewees, a social worker, said that asylum seekers who were raped on the way, in Sinai, were referred to in the community as ‘Arab dregs’. Several cases of GBV and crimes against women were documented by media, NGO reports and courts’ decisions; our own research reveal instances of women who were murdered by their husbands upon arrival in Israel, or of husbands who chose to leave the women following rape.

In addition, there are two structural difficulties in the police work that affect most migrant workers and asylum seekers in Israel, regardless of their status: lack of familiarity with the language and with the law. The language problem has diminished over the years, although it is still present: asylum seekers wishing to file a complaint are required to recruit interpreters to accompany them to the police station, but the increase in the number of Hebrew speakers in the community, and volunteers willing to escort complainants to the police stations have improved the situation. The law, however, raises more complex problems. GBV victims among asylum seekers are not always familiar with the law and may mistakenly think that law does not apply to them. One of the interviewees, a lawyer who works for an NGO, said: ‘They feel that they don’t deserve anything, and the Israeli system won’t worry about them, that no one really cares what is being done to them. I heard that from them. And I’m frustrated that they’re somewhat right’.

A second group of barriers is based on the inherent reluctance that asylum seekers feel towards the police, as an institution that took part in their persecution in their countries of origin, but also following previous encounters with the Israeli police, when they entered the country or during their stay. This is where the crimmigration mechanism comes into play. The dual role of the police, as enforcer of the criminal law but also as the institution that takes part in the arrest and deportation of illegal aliens, creates ambiguity in the eyes of asylum seekers in relation to its role, and causes aversion from it. Although interviews with NGO activists inform that the police are no longer arresting undocumented victims of GBV who come to complain, no protection is offered to them after the complaint is

¹¹For a perception, pointing at the way migration policy actors construct essentialized characteristics as motives to GBV among asylum seekers, see: Standke-Erdmann Madita, Pieper Milena, Rosenberger Sieglinde ‘Countering “their” violence: Framing gendered violence against women migrants in Austria’ in *Gender-Based Violence in Migration. Interdisciplinary, Feminist and Intersectional Approaches* (Freedman et al. 2022, forthcoming).

filed. In addition, not enough has been done to inform the community of immigrants and asylum seekers that victims of crime among them are no longer exposed to detention. This, we suspect, is with the intention of maintaining ambiguity regarding the exact policy. One of the interviewees, a lawyer who works for an NGO, described the matter using an analogy:

You know that in police TV shows, homicide officers come and want to hear something from some drug dealer and he doesn't want to talk. And then they say to him 'No, we're not drug enforcement, you can talk to us'. I don't know how much real separation there is between things, but ideally I'd like to think that a victim of an offense will not be silenced just because he lacks status, and will not have to worry about being deported immediately afterwards. But I don't know if it's realistic.

In some cases, illegal actions and even violence by police officers against asylum seekers have been documented, taking advantage of the asylum seekers' precarious status (*Department of Police Investigation v. Adir et al.* 2012; *Gadiev et al. v. State of Israel* 2016; *Pepo v. State of Israel* 2015). In the Nazarov case, the conduct of a police officer who entered the *hamara* in South Tel-Aviv was described as follows:

Watching all the security videos shows a situation that is the 'upside-down' of the optimal world, one in which the alleged suspects are the ones who behave in a quiet and civilised way, sitting and talking among themselves, whereas the policeman—the law enforcer—suddenly enters the club, behaves provocatively ... and shortly thereafter switches to severe violence and starts a fist fight; and all the while the suspects are just trying to protect their faces from his repeated blows. (*State of Israel v. Kiril Nazarov* 2019)

Similarly, in several cases police officers harassed and sexually assaulted migrant workers and victims of human trafficking (*State of Israel v. Said* 2005; *Sher Tov v. State of Israel* 2008; *John Doe* 2020). In our interviews, it came up only once: an interviewee told us that when she accompanied an asylum seeker to the police station for the purpose of testifying against a battering husband, the police officer sexually harassed the asylum seeker:

The interpreter later told me that the Ethiopian police officer who spoke broken Tigrinya with an asylum seeker who had come to complain, kind of

hit on her, told her: what do you need him for? How does he treat you? And she told me this later, I didn't understand what was going on in the conversation. I was in shock. After we left, the interpreter told me: Do you know what he said to her? I don't remember exactly the words, but I remember the experience, she says he dropped all sorts of hints: I'll treat you nicely. Half jokingly and half seriously. It's shocking, and the truth is that in retrospect we should have complained about him but we didn't. ... Only now I say why didn't I complain about him. Maybe rightly so, because look what happens when you complain.

The in-depth interviews also revealed the sense of discrimination of asylum seekers who turned to the police. An employee of an organisation that assists asylum seekers believed that the police focus on achieving 'industrial peace' and most importantly, protecting public order, while neglecting GBV. In an interview, an asylum seeker described a case of domestic violence, in which treatment was interrupted after the initial complaint, and her feeling that the complainant's identity affected the attitude of the police: 'They [the police officers] didn't take it seriously. I feel they don't take it as seriously as other things. If a white woman complains or a white child complains, I'm sure they'll take it very seriously. ... An hour later they came, they listened to the story, but they didn't go on checking'.

Prostitution as a Case Study

One of the outcomes of the difficulties described above is the emergence of prostitution among asylum seekers, and the attitude towards it. Prostitution itself is not criminalised in Israel, but the surrounding acts are prohibited. In the last two decades, the attitude towards prostitution has changed considerably, from a policy that was limited to the deportation of the victims of human trafficking in the 1990s, to legislation that prohibits trafficking and provides legal status for a limited time to victims, as well as assistance and rehabilitation services. Israel has one of the best shelters in the world for victims of human trafficking, and the country is ranked in the top group in the global trafficking index (Hacker and Cohen 2012). In addition, state-funded organisations and shelters have been established for Israeli women in prostitution, and recently the demand side of prostitution has been criminalised. Nevertheless, all these measures focus on trafficking in women from the former Soviet Union and on Israeli women

in prostitution. Prostitution among asylum seekers reflects perhaps even more intensely the plight of this group in Israel. Two patterns of prostitution deserve special attention because of the clear connection between them and LV. One is prostitution in return for a roof over one's head, which characterises mainly women who survived torture in Sinai. This includes, in addition to the obligation to have sex, other household chores, such as cleaning, doing laundry and cooking. A desirable yet imaginary provision by the state of housing or of the means of obtaining it could perhaps have reduced this type of prostitution, but there is no policy that allows asylum seekers in Israel to receive housing assistance today. The second pattern, also an example of the outcome of LV, is women engaging in prostitution in their own apartment. The special severity of this practice lies in its effect on children, who are exposed to the mother's occupation, or are required to leave home for long hours.

In both of these patterns of prostitution, the women's financial hardship is exacerbated by becoming single mothers. In some cases, the man has abandoned them as a result of the 'voluntary departure' policy, in which a departure grant was offered, without the state checking the identity of those who leave or of those who are left behind. An NGO volunteer explained the reality created following the new policy in this way:

Another phenomenon we are familiar with is that there was a lot of pressure to leave, take \$3,500 and leave, no matter if they are fathers of children or not, whether they leave with them or not. ... The man emptied the joint bank account, took the departure grant, and one day he's simply gone. Taken off.

The Deposit Law is a clear example of a policy that creates vulnerability to GBV. When the law came into force, it further weakened the women's earning capacity and contributed to their choosing prostitution, as did the many debts incurred by them because of the need to repay the debt for the ransom paid for their release, the need to redeem other relatives, or to support family members in countries of origin. If unable to obtain enough money to pay the debts, they may be required to engage in prostitution, as explained by an employee of a non-profit organisation:

A brother redeems his sister with money, she comes here, but they start threatening him to return the money, and suddenly they realise that the parents in Eritrea have sold everything and have no money, and then, in a

population where there aren't a lot of women, the debt rolls over to a potential spouse who marries her. Sometimes there is a great relationship—they've found each other against all odds, but sometimes—he's going to pimp her out. There are phenomena of brothers pimping their sisters, men their spouses.

A study from 2017 suggests that about 400 women asylum seekers were engaged in prostitution (Goor et al. 2017), but the NGOs were aware that there was under-reporting, as one interviewee explained: 'The issue of prostitution is complex, muted in the community. Clearly when a woman says she works in a bar, it's clear that this is what it means. She won't say it, just say that she works at a *hamara*'. Most of the customers are Eritrean men, and the second largest group is Ethiopian Jewish men. The law banning the consumption of prostitution has come into force only recently, but from the little known about its enforcement, the number of customers detected by the police is very small.

Employees of NGOs are well aware of the fact that trauma is an increased risk factor for prostitution, in the absence of welfare services that provide mental health care. This study identified five patterns of engaging in prostitution, including the two mentioned above: prostitution in the *hamara*, where sexual relations take place in the adjoining rooms; prostitution through pimps from the community, whose clients are mainly Israelis of Ethiopian descent; prostitution in brothels and discreet apartments run by Israeli pimps, in which the women are portrayed as Israeli Ethiopians; street prostitution of transgender women condemned by the immigrant community, who often are the object of violence and robbery by Eritrean men; and street prostitution of men, which exists only to a limited extent, but those who engage in it also suffer contempt, exclusion, and violence. In all these cases, economic distress and mental distress are the main forces driving women to prostitution. While these factors lead other women, in Israel as well as in other countries, to prostitution, the regulatory system regarding asylum seeker amplifies their influence, creating intersectional inequalities.

The package of solutions that Israel currently provides to victims of human trafficking and women in prostitution is characterised by a clear normative ranking: victims of trafficking from the former Soviet Union (that are not Jewish) and Israeli women (Jewish) can receive these benefits, but survivors of Sinai are usually not recognised as victims of human trafficking. Given that these are offences that did not occur within the

territorial jurisdiction of the state, no investigation is opened in the vast majority of cases. There is also no enforcement with regard to offences surrounding the prostitution of asylum seekers in Israel, and it is doubtful whether the law prohibiting the consumption of prostitution will be enforced in the *hamaras*. One of the leaders of the Eritrean community, who sought to establish cooperation between the police and the community in the fight against the phenomenon, did not receive an answer to these questions. Rather, he was offered to be recruited as a source of information. He claimed that the lack of response had to do with broader political contexts:

Because they have no families, those who have money take them in the bar, buy them with money, the police don't do anything about it, and they know all that happens, they see what they do and see beatings and see the drug addiction, drug sales, alcohol. The police know everything but they don't want to give the law like they give the law to citizens. We talk about this so that they hit hard on this, but the police as a police don't do these things. It's not their fault either, the police are also instructed, they were told to do so. Leave the asylum seekers alone to do so. If they take care of these things, the asylum seekers will be normal and will ask the state: What do you need to do for them?

CONCLUSION

The phenomenon of crimmigration and LV has long been noted by those who study immigration processes, pointing out to its harmful consequences to labour migrants and asylum seekers alike. In this study, we sought to draw attention at the increased vulnerability of women asylum seekers in Israel who suffer from multifaceted discrimination. Our findings highlight the toxic fusion of crimmigration and LV as manifested primarily at the point where these women need the state's intervention and protection from gender-based violence. Our interviews expose a grim portrayal of lack of trust and legal literacy which add to cultural insensitivity and unawareness of the law enforcement agents. All these lead to a lack of accessibility to justice, protection and support to this marginalised group. Many of the obstacles we pointed out in this chapter are in fact forms of institutional discrimination, whether by the law, or by the police.

The case study of women asylum seekers in prostitution underscores these observations, suggesting the need to further investigate additional

sub-groups who may be characterised by even more identity axes of precarity, including motherhood, post-traumatic experiences and states of origin.

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PART III

Understanding Policy Implications,
Foregrounding Women's Voices



Vulnerability and Resiliency: Immigrant Women, Social Networks and Family Violence

Catherine Holtmann

INTRODUCTION

Provincial governments in Atlantic Canada tout immigration as a population growth strategy in order to sustain the economy and rebuild communities in a region that has experienced an exodus of its young adult population (GNB 2019). However, immigrants are more than simply workers and investors. Many migrate to the region with their families seeking a better future for their children. But immigrant families are vulnerable to poverty, discrimination and lack of access to public social services in Canadian society due to intersecting structural inequalities of gender, ethnicity, class and immigrant status. Their vulnerability to structural inequalities is further exacerbated in situations of family violence. Immigrant women are more likely to be victimised than men in families are and, like non-immigrant Canadian women, are unlikely to disclose

C. Holtmann (✉)

University of New Brunswick, Fredericton, NB, Canada

e-mail: cathy.holtmann@unb.ca

situations of family violence or seek help from public service providers. Feminists theorise that family violence is rooted in gendered inequalities of power and control, but the forms that these inequalities take are subject to cultural influences such as religion. Immigrant women's cultural socialisation prior to arrival in Canada shapes their experiences of family violence which influence their recognition and tolerance of violence as well as their help-seeking (Liao 2006). Canadian approaches to family violence intervention have been developed in a particular cultural context and have been critiqued for their inadequate response to the needs of ethno-religiously diverse immigrant women who experience intersecting structural inequalities (Agnew 1998). Effective interventions with immigrant women victims of family violence must acknowledge intersecting structural barriers to accessing services as well as address cultural factors that influence their experiences of intimate partner violence (IPV) and actions in its aftermath. My research highlights the ethno-religious collectivist values and practices of immigrant women that can exacerbate vulnerability but also enhance resiliency. The beneficial aspects of collectivist values and practices for immigrant women are not well understood by public service providers trained to provide individualist interventions in cases of family violence.

This chapter is based on the analysis of qualitative research with immigrant women in the Atlantic region of Canada and describes how they harness collective reliance on formal and informal social networks to build resiliency in order to support and care for one another and their families. Given that many immigrant women rely on the institutions of the family, minority religious groups and cultural associations for social support, it is important to understand and integrate these networks into a community coordinated response to family violence. By working collaboratively with immigrant cultural and religious leaders to provide information and training concerning family violence, public service providers acknowledge and can integrate the strengths of collectivist practices of care.

This chapter explores the structural vulnerabilities as well as the collective agency of immigrant women as they cope with multiple inequalities and family violence while caring for one another. The content is based on the analysis of data from qualitative studies of immigrant women in the Atlantic region on the east coast of Canada. The analysis is grounded in vulnerability theory as well as intersectional feminist theories of gender-based violence. The findings concerning the important role of immigrant women's social support networks have implications for culturally sensitive

and integrative service provision in cases of family violence and recommendations for change are made.

THEORETICAL FRAMEWORK

Vulnerability theory conceptualises all human beings as vulnerable at different periods of the life course because of the reality of embodiment. According to socio-legal scholar Martha Fineman, ‘On a societal level, the reality of our susceptibility to bodily change over time necessitates the creation of relationships of care and caring upon which we are dependent as infants and children, as well as the social institutions and relationships upon which we are inevitably enmeshed as adults’ (2020, 55-56). The vulnerability and dependency of human beings are fundamental social realities and public responsibilities rather than individual problems. Institutions such as the family, religion, education, civil society and government are social relations that provide forms of intergenerational care for people experiencing vulnerability. While some of these institutions are understood as private rather than public, the state shapes relationships between individuals and institutions through policy and law.

Immigration is a life course transition and social process that involves periods of vulnerability and dependency. Taking the step of applying to immigrate to Canada involves opening oneself and one’s loved ones up to uncertainty about the future. This can result in strains on relationships among family and friends. The application process itself is complex, involves a great deal of paperwork and appointments, is lengthy and resource consuming, and its success depends on the decisions made by potential employers and government personnel. Even use of the term ‘success’ in the description of the application process is inaccurate because the entire pathway to citizenship is precarious. According to Goldring and Landolt (2011), ‘the regulatory and normative framework that organises citizenship and migrant legal status [is] a source of state control and of employer strategies of exploitation’ (326). The power differential between the Canadian government representatives, employers and immigrants is a significant source of immigrant vulnerability.

Immigrant women experience vulnerability when they move from a familiar social milieu to an unfamiliar one. Cultural resources and norms as well as strategies for action are context dependent (Swidler 1986), especially at the intersection of gender and ethnicity. Vulnerability may be an inevitable consequence of being a racialised woman immigrating to

Canada, but family violence is not. Family violence is a form of gender-based violence which occurs in all cultural and political contexts. Here it primarily refers to violence and abuse between spouses or intimate partners and includes the exposure of children to violence between their parents, which can be as harmful as child abuse, hence the term family violence. The term family violence also captures the influence of collectivist values of many immigrants. Collectivist values prioritise the group over the individual. Collectivism and individualism represent a continuum of influences within cultural contexts and religious immigrants tend towards collectivism (Ashbourne and Baobaid 2019). Family violence is gendered because it is rooted in the patriarchal structuring of gender relations which gives males more social power than females. Thus, in the majority of situations of violence in immigrant families, males are the perpetrators and females are the victims. According to the World Health Organization (2013), approximately 30% of women around the globe have experienced sexual and/or physical violence from an intimate partner or former partner in their lifetime. Since the outbreak of the COVID 19 pandemic in 2020, the United Nations (Mlambo-Ngcuka 2020) reports that violence against women has intensified due to public health directives advising families to isolate socially. The UN now refers to violence against women as a shadow pandemic whose visibility has been heightened as women are forced to isolate at home with violent partners and experience even greater barriers to social support. Canadian public service providers report increases in the number of calls for help in situations of IPV (Owen 2020) and leaders in cultural associations point to the spread of racism and xenophobia (OCASI 2020). Perpetrators of family violence exploit the existing vulnerabilities of immigrant women in Canada.

According to an intersectional feminist theory of family violence, the underlying structural cause of family violence is the use of power for coercive control. Structurally, males of all ethnicities and social classes have easier access to power through ideological privilege and material resources. Secular, cultural and religious institutions continue to reinforce male privilege, despite the gains of the feminist movement. From an intersectional perspective, while unequal power relations between women and men is an important factor in family violence, unequal ethnic and class power relations may be more of a priority when addressing immigrant women's safety in family violence interventions. The Canadian immigration process reinforces gender and ethnic inequality. Men tend to be the primary

applicants in the immigration process (Mosher 2009) and they are expected to be leaders in social institutions. They often have access to knowledge and resources that their wives and children lack (Chan 2020). Many immigrant women are isolated (Abraham 2000) and this may be compounded by their responsibilities for unpaid caring within the home (Holtmann 2018). Women survivors of family violence, immigrant and non-immigrant alike, are often stigmatised and shamed after disclosure of abuse (Saraswati 2020; Knickmeyer et al. 2010), turning the focus away from the man who perpetrated the violence and towards the woman who is assumed to have done something to provoke her husband's ire. Stereotypes influence many Canadians to believe that Muslim families are essentially violent (Selby, Barras, and Beaman 2018). An immigrant woman's disclosure of violence may also be framed by those who share her ethno-religious background and collectivist perspectives as violating her family's honour (Korteweg 2012). Heightened media attention on individual cases of violence in immigrant families helps to construct foreign cultures as violent (Beaman 2012). The social processes of stigmatising (Murray et al. 2015), stereotyping, victim blaming, shaming and othering reinforce the abuse perpetrated by an immigrant woman's husband, contributing to self-blame and further isolation of the victim while enhancing the perpetrator's misuse of power to control and harm his wife and children.

Vulnerability theory and intersectional feminist theory offer explanations of the key components necessary in the process of overcoming the multiple and intersecting vulnerabilities that immigrant women experience. According to Fineman, 'resilience is a product of social relationships and institutions [and is] found in the material, cultural, social and existential resources that allow individuals to respond to their vulnerability' (2020, 57). Resilience can arise out of the collective support and cultural resources that immigrant women harness for solving problems rather than solely through their individual level of education, religious beliefs, personal finances or willpower. Given that some social support services are inaccessible to immigrant women due to structural barriers, Fineman confirms that 'resilience gained through one institutional or relational arrangement can offset or mitigate disadvantages in others' (2020, 58). The feminist theoretical antidote to male power and control over women is equality. In family relationships, equality means safety and non-threatening behaviour, shared responsibilities for household labour and parenting, joint economic decision-making, mutuality in negotiating and resolving

conflict, respect for one another's opinions, emotional availability, honesty and accountability, and the right to engage with family, friends and activities outside of the relationship (DAIP 2011). Feminist theorising on the equality of women and men may, on the surface, seem like a particular challenge for religious immigrant women socialised in patriarchal, collectivist societies but the reality is that all Canadian women continue to live with sexist, racist, and classist structures in which women's subordination to men is normative. There is a range of patriarchal structures in different cultures (Hunnicutt 2009). Nevertheless, Mahmood (2006) draws attention to women's capacity for harnessing power for ethical action within relationships whether their actions be constitutive of patriarchal or egalitarian marriages, conservative or progressive religious groups, or immigrant or non-immigrant cultural organisations. Rather than arguing against a culturalist framing of the cause of gender-based violence experienced by immigrant women, as critiqued by Freedman, Sahraoui, and Tyszler in their chapter on gender-based violence among migrants in France, I draw attention to the differences in cultural perspectives of immigrants and suggest that ethno-religious practices of collective social support can augment the resiliency of immigrant survivors of family violence.

All immigrant women experience periods of vulnerability due to the material reality of embodiment and the disruptive process of immigrating to Canada as well as the precarious pathway to citizenship. Likewise, all immigrant women are embedded in networks of social relationships of unequal power. After briefly describing the qualitative studies from which data on Atlantic Canadian immigrant women were collected as well as providing some details about their experiences of intersecting structural inequalities, my analysis will illustrate how immigrant women use their social support networks to build resiliency and care for each other and their families.

The data is drawn from three qualitative studies of immigrant women (N=107) who, on average, had arrived in the provinces of New Brunswick and Prince Edward Island of the Atlantic region five years prior to participating in an interview or focus group.¹ The number of immigrant women who participated in focus groups was 52 and 55 women participated in

¹ All of the studies were approved by the University of New Brunswick Research Ethics Board. All participants consented to the use of their de-identified information for the basis of publications.

individual interviews. Only one of the studies purposely recruited immigrant women survivors of family violence (Holtmann and Rickards 2018). The studies took place between 2012 and 2016, the women come from 30 different countries of origin, and most identify as Christian or Muslim.

STRUCTURAL VULNERABILITIES

As mentioned, Canada's immigration policies can exacerbate inequalities of gender through the designations of primary and dependent applicants in families. Differences in immigrant status have implications for access to public services and employment. An example is from an Iranian woman who accompanied her husband who was doing graduate work as an international student. She had a temporary resident visa. When she needed to see a doctor about a thyroid problem, she was unable to access student health services, was ineligible to apply for a family doctor and could not afford private health insurance. Many immigrants come to the Atlantic region as temporary foreign workers and have the option to apply for permanent residency (PR) after arrival. A Korean woman explains how this lengthy process impacted her family:

Our temporary work permits had almost expired at the end of May 2012 but we couldn't decide until the end of April. We applied for the PR from the federal government and did not receive a response. We decided to go and we put all of our furniture in a friend's garage. We took the kids out of school and left quickly for Korea. My husband's employer didn't intend to extend the temporary work permit and we didn't have any way to stay. We wanted to stay longer. When we left Fredericton, we wanted to return back to Fredericton – that's why we stored our furniture. We waited for the permanent residency in Korea. If it came quickly maybe we would have come back to New Brunswick. We lived for two months in Korea before getting permanent residency. We tried to return back to Fredericton, but nobody offered my husband a job. In Korea through the internet and phone, my husband found a job in Ontario.

Even if immigrants have been working with temporary permits in government-prioritised occupations, there is no guarantee that their applications for permanent residency will be approved. Waiting for a decision can be stressful and, as the above quote illustrates, costly and disruptive to immigrant family life. A Filipina woman who participated in the research told me that her work permit had expired while waiting for the results of

her permanent residency application. She could not afford to return to the Philippines, so she took the risk of remaining in Canada as a person without legal status. She spent her time volunteering at a local church and hoped that she would not be deported.

Canada's immigration policy favours applications from people with higher education who can work in high skill occupations. However, due to the lack of recognition of foreign credentials among employers in Atlantic Canada, many immigrants experience lengthy periods of unemployment or feel compelled to work in low skill jobs for low pay. This results in a loss of socio-economic status and creates tension within immigrant families. An example comes from a Korean woman:

I came here first and I know the society and I have many friends here but after, when [my husband] came here he was new. I knew more than him and so whenever he has trouble or he has a difficult to do something ... He was a higher position in Korea but I think he feels there is nothing he can do well so expectations should be low but I expect him to do something for us because I was so stressed and yes, so the higher expectation and the low reality so that was stress to me and stress to him and also sometimes it could be the anger to myself and himself, sometimes goes to the kids, we expected them to do well for everything - that's the reason why we are here. But we can't help them, we can't get my kids to do something when we don't know the society... They do very well but sometimes it's conflict with the kids, especially my husband with my son. Yeah, there is still sometimes conflict because my son thinks his father is kind of easily get angry. I know that he never seen that before in Korea.

Atlantic Canada has relatively low levels of ethno-religious diversity in comparison with other parts of the country like Ontario, Quebec or British Columbia. Thus, most immigrants are a highly visible minority and those who wear religiously symbolic clothing like the hijab, are doubly visible. The research uncovered many examples of racism and religious discrimination in public spaces, at school and at work. A Muslim woman from Chad, for example, had little success finding a job and her husband, a programmer in a tech company, suggested that she not wear her headscarf to the next interview. She took his advice and got the job as a server in Tim Hortons—a position in line with her qualifications. She wore her headscarf underneath the cap of her uniform at work. Her new boss did ask why she wore a scarf and she explained that it was part of her religious practice. She was not asked to remove it.

Speaking English or French with a foreign accent, not being able to speak English or French fluently or having difficulty understanding what non-immigrants are saying are barriers experienced by many immigrants with whom I have spoken. A Pakistani woman with a master's in education explains:

I came to Canada, and I don't think I need that much English in my studies, in my school life and college life, sometimes you don't give right time, right attention. So just this reason. But when I came, I know English, of course, for sure, but usually in general life, not speak. We speak but not one hundred per cent just speak in English. I mean, in Pakistan, if you see news, if you see too many things, in all this English. But not general life, in general life you're used to in Urdu. Anyway, when I came here, of course for sure it's hard.

This woman struggled with speaking English in everyday life. She took some language training at her local multicultural association but has had few opportunities to improve her English since the birth of her daughter. Her situation was quite common amongst immigrant women with young children. The combination of lower socio-economic status and the lack of affordable childcare leaves many immigrant women isolated in their homes with few opportunities to practice their new language.

The intersecting structural barriers of immigrant status, socio-economic decline, racism, religious discrimination and difficulties in communication have implications for immigrant women in accessing public services and deepen their vulnerability. This has implications for situations of family violence. It is not that immigrant women are more likely to experience family violence than non-immigrant women in Canada are but it is true that their vulnerability is more acute. Additionally, many immigrant women have been socialised in collectivist cultures in which family violence is considered a private rather than a public social problem. Collectivist values discourage victims from disclosing their experiences and seeking safety with the help of public service providers. In some cultures, it is considered inappropriate to seek assistance from strangers outside of the family or community (Baskin 2010). Violence and abuse in the family may be unacknowledged or discussed only with relatives or close friends so as not to bring shame on the family or the wider community (Baobaid and Ashbourne 2017). Religiously conservative women feel it is their sacred duty to keep families together (Nason-Clark 1997). Collective pressure

not to disclose family violence may be even stronger amongst racialised and stereotyped ethno-religious minority groups in the Canadian social context that emphasises individualist responses to family violence.

Despite the fact that family violence is considered a social problem, the primary approaches to family violence intervention in Canada have been developed in a neoliberal socio-political context which treats individuals as autonomous and independent (Fineman 2020). Victims are imagined as having an independent choice to stay or leave violent relationships and perpetrators are imagined as choosing to act violently with little influence from the broader cultural context in which family violence occurs. Some examples of individualist interventions include mandated disclosure of suspected exposure of children to family violence by individual teachers, family disruption by child protection workers who remove children from a home deemed unsafe, domestic violence outreach workers encouraging women to leave a violent spouse and seek safety in a shelter, and police arresting perpetrators of violence and removing them from the home. These individualist interventions in family violence may provide safety to immigrant women and their children in the short-term but inevitably increase their vulnerability in Canadian society as they become disconnected from their networks of social support.

BUILDING RESILIENCY THROUGH NETWORKS OF CARE

My research with immigrant women shows that they strategically harness informal and formal social networks to support and care for one another and their families during the immigration process. Care is an important religious and cultural value that arises from their collectivist ideologies and practices. Collectivist perspectives prioritise the common good and the obligations of the group to care for vulnerable individuals, especially women and children. Immigrant religious values and practices of care explicitly acknowledge individual dependency on the collective. Many immigrants depend on the institutions of the family, minority religious groups or ethnic churches, cultural associations and immigrant entrepreneurs to sustain their wellbeing and mitigate their vulnerabilities to structural inequalities (Breton 1964). Immigrant women, in particular, ‘do gender’ through ensuring the physical, social, intellectual and emotional wellbeing of their families and communities. Through their care work, they contribute to the re-creation of the gendered and ethnic subcultures in which their families are embedded (Ebaugh and Chafetz 1999). Yet at

the same time, they may also be experiencing shifts in gender dynamics as a result of migrating to a new cultural context (Holtmann 2016). They are using familiar strategies of action while also developing new skills and self-perceptions. Thus understood, immigrant women's collectivist practices of care can be understood as evidence of how they build resiliency.

Before moving to examples of how immigrant women's networks of care contribute to resiliency, it is necessary to reiterate that care work, especially unpaid care work in Canadian families, is gendered—women are likely to spend more time and energy engaged in caring for others than men (Statistics Canada 2011). In families of faith, gender norms for care work are reinforced by patriarchal religious teachings on complementarity (Rinaldo 2019, Case 2016, Nason-Clark and Fisher-Townsend 2005). Religious teachings in Christianity and Islam construct women's roles for nurturing, caring and keeping the family together, as well as men's roles for leading, decision-making, providing, and protecting. For many religious immigrant women caring for others is a meaningful religious practice (Holtmann 2018). Care is expressed through everyday activities such as grocery shopping, cooking, doing laundry, arranging appointments, paying bills, helping children with homework, listening to problems, encouraging family members who are struggling, nursing the sick back to health, and connecting socially with neighbours. Religious women's practices of care for others also build virtues of patience, kindness, generosity, hospitality, compassion, self-sacrifice and forgiveness. Internalised gender norms have deep emotional power for all women.

However, in contemporary Canadian society “care” is no longer [exclusively] the work of the realm of the household’ (Tronto 2013, 2). Increasingly immigrant women are hired to do mundane care work in the homes of wealthy Canadian families. Religiously gendered values of care and collectivist pressures can squeeze religious immigrant women who experience family violence or exploitation by employers because some may be unable to recognise what they are experiencing as abusive and/or exploitative. In response to structural vulnerabilities as well as religious and economic pressures, they seek out or create social support networks.

An example of an informal social support network was shared by an Iranian woman who had, together with her husband, worked in Malaysia before immigrating to Atlantic Canada.

There are some Iranian friends here but I'm just very close to one of them because we have a background from Malaysia. We stayed together in

Malaysia already. They applied to come to Canada eight or nine years ago. Then we are in connection together and that's why we came to Saint John. They introduced Saint John to us. They said, 'We are living in Saint John and you can come and visit us and if you like, you can stay there'.

This caring friendship provided support during the immigration process. It was through their Iranian friends that this woman met other Iranian immigrants and found out about the local Persian cultural association. Because she is caring for her young son, she does not make the time to become more involved in the formal association. She explains, 'If the community invites us, the community of Iranians, definitely we go, but for others we just share with our very near friends, same as the family I told you from Malaysia, they came with us. That's all'. Friendship networks are an important avenue through which immigrant women care for and receive care from one another. Immigrant women who are already settled will often reach out to newcomers because they are familiar with the challenges associated with migration. They welcome new immigrant families by preparing meals, helping out with childcare, providing information about affordable housing and navigating the education system. Sometimes it is through friends that immigrant women come to know about more formal social support networks like those available through cultural associations or immigrant settlement agencies but not always. Much depends on the number of immigrants in the local area who share the same cultural and/or religious backgrounds. Larger ethno-cultural groups of immigrants have more resources to draw upon in the creation of formal social support networks.

Most of the Filipina immigrants in my research spoke about the support they get from a combination of informal and formal social networks related to employment, ethnicity and religion. A couple of Filipina women immigrated to Atlantic Canada because members of their family were already settled in the region. In other cases, immigration consultants or brokers are paid by potential employers and migrant workers to assist them in their global search for workers/work. For a hefty fee, immigration consultants connect Filipina migrants seeking work with Canadian employers and provide information concerning policies and processes. One Filipina research participant had been working in Kuwait for three years and in Taiwan for four years before coming to the Atlantic region to a job as a live-in caregiver for a family with three children. She wanted to come to Canada because she had heard through her networks that the working

conditions are better—less hours per week and higher pay per hour—than in a Taiwanese factory. She would also have the opportunity to apply for PR and citizenship so that one day she could assist other family members in joining her. After arrival, she met other Filipina workers through a church. She said, ‘As long as we have a church service, a church where we belong, we feel very comfortable and we are really very fast to adjust ourselves, that we are very welcome to any kind of country’. Working in Canada, she and her friends use social media like Facebook, to help fellow Filipina migrants whose work permits are expiring find other jobs (a strategy also used to raise funds in the chapter on the trafficking of sex workers in Norway). Shared housing and transportation amongst family and friendship networks help Filipina workers to maximise the remittances sent back home to care for their families.

These two examples show how engagement with informal and formal social support networks helps many immigrant women in the Atlantic region to build resiliency as they deal with structural barriers created by immigrant status, socio-economic inequality, racism, religious discrimination, and difficulties in communication. But not all immigrant women rely on networks of collective support. One Filipina research participant entered Canada through the Live-in Caregiver Program. She had a graduate degree in community development but after she married a Canadian-born man, could only find work in a call centre. She was not part of religious or cultural social networks which, in her view, was a negative aspect of her culture.

We call it a crab mentality. If you're successful people will pull you down. There's always competition ... where I come from. A lot of the Filipinos that have lived here have become successful in their own lives ... but a lot of them tend to impose on us. One of the traits in Filipinos is we're very steep in our respect value and so everyone that's older than us have to have a sign of respect. If you don't you will be shunned away from the entire community, that's how it is. But what they wanted to impose on me is the food they had, like when they invited us to a party, they forced me to tell my husband to eat the Filipino food. He has a medical condition and I will never impose on him to eat something. I mean would you want to eat something if I said, ‘Try this, try this.’ You would not like it, right? So I keep telling them we can't push him and they said, ‘He married a Filipino - he should [try the food]!’ But this is his home country. I am the foreigner here. Why would I impose that on him because he never once imposed his ideology or his food or anything on me?

This woman felt alienated from her Filipina immigrant peers and described herself as very lonely. She shared a story of being sexually harassed on the bus:

I was inside the bus like we were waiting for the driver to, the driver will usually go out and we're sitting there and the boy came up to me and he was saying do you want to see my organ like you know he said that in his language and at the time it was just him and me, you can tell that he was [masturbating] ... I was there and I was by myself and when he came over. I, for the life of me, I didn't know what, I jumped at him and I started screaming at him ... but afterwards I ended up crying. I called up my husband . . . my whole office when they found out it wasn't something major but they knew because I was so shaken when I went to work. They think I was targeted because I am foreign and I was small.

She turned to her husband and co-workers for emotional support in the aftermath of this incident, but minimised it by saying it was nothing major. Even though the man's actions were likely captured on video and her co-workers believed that the man had targeted her because of her vulnerabilities as a racialised woman, she chose not to file a formal complaint. This begs the question of whether her lack of social support and fear of further stigmatisation contributed to this decision.

Another example that shows how the lack of social support networks contributes to immigrant women's vulnerability comes from a South American Muslim immigrant woman.² She met her Canadian-born husband through a Muslim dating site. After they married, she came to Atlantic Canada on a visitor's visa and her husband sponsored her application for PR. Her husband was a leader in the local Muslim community. The mosque was rife with rivalries between members of different ethnic backgrounds, all activities were strictly gender segregated and the dominant language was Urdu, which she did not understand. She was lonely and homesick and connected to friends back home through the internet. A few months after arrival her husband began abusing her. The first time he grabbed and threw her across the kitchen. After the assault, she prayed. She did not know that this was abuse—she thought that he had a

² Even though the research participant had been divorced for years at the time of the interview, she asked that her country of origin not be used in publications because she feared retaliation from her ex-husband. She also did not consent to having the interview recorded, so there are no direct quotes from our conversation.

behaviour problem and prayed that he would change. She wanted to help solve his problem. The abuse escalated after the birth of their two children. When she finally told another Muslim woman, the woman advised her to better obey her husband so that the violence would stop. She befriended a Canadian-born woman in her neighbourhood. When she disclosed the abuse to this friend, she got information and advice about local family violence services. After a particularly brutal beating in front of the children, during which she thought she would die, she fled with her young sons to a transition house. This Muslim immigrant woman's informal Canadian social tie probably saved her life.

Filipina immigrants who engage with their ethno-religious social support networks are aware of women in their communities experiencing family violence. During a focus group discussion with her co-workers from a fish processing plant in rural New Brunswick village, a participant spoke about her sister who had worked with them.

[My sister] applied for PR and she got her family. But they already had problems in the Philippines. But we already told her that, 'You better leave him [her husband] there', for years before getting [her children]. But she did not listen to us and that's her family. And they are my niece and nephew too, so I wanted them to come over. She decided to start a new life here. But her husband is hard. She could not ... my sister had problems here too ... Her husband was just using her, and she wouldn't listen to our advice... Then they decided to move to [another city] which is really hard for us because she already had a stable job here... I can't even call her now because she doesn't have a cell phone now. She did it for her husband – to satisfy him – so that she wouldn't have any communication with the people around her, so she gave it all up... One time when they were still here, she called me around 11:00, she was crying, her husband is beating her and threatened that he will kill her... She said, 'I can't do it anymore. I can't handle it anymore!' I told her, 'You know what you have to do. You have to call the police so he will stop'. But she didn't do it, because when she called the police, her husband just turned the cell phone off ... he got her cell phone so that she can't call. So, I called my brother and told him about what happened. So my brother told me, 'You'd better call the police and ask them'. Because I am protecting myself too, I don't want to just go in there and ... so he told me to call the police. So, I did that. I asked them, 'Is it safe for me to go there and check for my sister what happened?' The police said, 'No, just stay home and we will go there and check what happened'. The police went there and they couldn't find the place because there are three houses and they didn't know which house. So, they couldn't hear someone crying so they left.

This story hints at the frustration that the Filipina immigrant workers felt about a peer who remained in a violent marriage. They had told her for years to leave her husband in the Philippines—a strategy of managing domestic violence used by several other immigrant women who participated in my research. The story also shows that the Filipinas sought safety during a potentially lethal incident of domestic violence from two networks of support—family and police. Initially, the victim tried to call the police. Then she called her sister who reached out to their brother for advice. Then the victim's sister called the police. The police's failure to help protect the victim and her children may have further frustrated the Filipino family and co-workers. However, it is also likely that the family's decision to move was influenced by the disclosure of violence. It is not a coincidence that the husband isolated his wife from her ethno-religious and local service provider social support networks by moving to another city, as well as forcing her to give up a stable source of income and cell phone. By doing so, he increased his wife's vulnerability and his control over her.

These examples of gender-based violence experienced by immigrant women in Atlantic Canada illustrate the complex findings of research on the role of a woman's social networks in the aftermath of gender-based violence. Krause's research (2006), based on national longitudinal data in the US, shows that social ties in religious congregations have a stronger, positive impact on older, racialised members' feelings of stress and self-rated health than secular social supports. Religious social ties include participation in formal worship, Bible study and prayer groups as well as frequency of private religious practices. Analysis of US data also shows that the frequency of participating in religious services decreases the likelihood of the perpetration of domestic violence for both men and women (Ellison et al. 1999). Regular contact among religious people who share beliefs and practices makes a difference in terms of personal wellbeing and the quality of relationships. But unfortunately, most religious women have never heard a religious leader condemn the problem of family violence (Nason-Clark 2006). Most religious groups have been slow to acknowledge the prevalence of family violence. This is unfortunate because research highlights the important role that social support from a religious group can play for a woman in crisis (Edgell et al. 2013; Merino 2014).

Religious leaders, who are educated about the prevalence and complexity of family violence and trained in best practices, especially when it comes to making referrals to public service providers, can help equip their congregations to respond appropriately and support survivors (Nason-Clark et al. 2018).

Religious social networks are important in the lives of many immigrants when they are experiencing structural vulnerabilities during the settlement process (Holtmann 2016). They provide the ‘material, cultural, social and existential resources’ that enable women to deal with their vulnerabilities and build resiliency (Fineman 2020). However, as shown in the examples above, social networks play a complex role for immigrant women who experience family or gender-based violence. A study by Katerndahl et al. (2013) showed that women living with family violence with secular social support networks reported a stronger sense of safety and emotional well-being than women without social support did. The study also found that women with inadequate social support were more likely to leave a violent relationship. Ethno-religious and cultural social support networks have the potential to help an abused immigrant woman cope with her family situation but, when the people in them are uninformed about the risks of a violent husband to her safety, the harmful impacts of witnessing violence on her children, and the social supports available in her community, they are not providing effective support. If immigrant women have never heard family violence condemned by a religious or cultural leader, they can also fail to help their peers understand that the responsibility for the violence and harm in the family lies with the perpetrator rather than the victim. If police are unwilling to consult with members of an immigrant woman’s social support network after an unsuccessful attempt to respond to a severe incident of domestic violence, they have missed an opportunity to learn how to better protect vulnerable members of immigrant families.

CONCLUSION

The analysis of data from immigrant women who have settled in provinces on Canada’s east coast highlights that they experience intersecting structural inequalities based on gender, immigration status, class, religion and ethnicity. Immigrant women experience precarity produced by Canadian immigration policies and processes. Many are designated as dependents of their husbands who are either the principal applicants for the immigrant family or whose citizenship status facilitates sponsorship. In both

scenarios, husbands' structural power over their wives is reinforced. The pathway to PR status and citizenship is long and uncertain and can result in periods of non-status. Finding employment commensurate with immigrants' level of education or work experience is difficult resulting in periods of un- and under-employment. As a consequence, immigrant men and women experience shifts in gendered social status compared to their country of origin. This can and does lead to conflict within families. Another impediment to employment, especially for Muslim women, is religious discrimination. Finally, although many immigrant women are well educated, their lack of fluency in English or French hinders them in finding a job or accessing social support services.

If, according to Fineman's vulnerability theory (2020), all people inevitably experience periods of vulnerability throughout the life course and women are primarily held responsible for caring for others during periods of vulnerability, the findings illustrate that intersecting structural inequalities increase immigrant women's overall vulnerability and dependency. Furthermore, family violence compounds immigrant women's vulnerabilities. This matrix of oppression (Hill Collins 2000) makes it exceedingly difficult for immigrant survivors of family violence to seek and receive help. Yet the findings also show that immigrant women are embedded in formal and informal social networks. Collective practices of care are important in supplying the resources necessary for building immigrant women's resiliency to structural inequalities, especially in the face of neoliberal social policies (Fineman 2020). However, in order to offer more effective support for survivors, immigrants need to be better informed about the crime of family violence and services available in Canada. The best way for this to happen is through a culturally integrative response to family violence that includes collaboration between public service providers and leaders of immigrant ethno-cultural and religious groups.

A culturally competent community response to violence in immigrant families should begin with building bridges of trust and communication between the leaders of existing immigrant social support networks and public family violence service providers. Members of different immigrant groups and social networks have unique migration and settlement experiences. Stereotypes and misunderstanding exist, and these can be dismantled over time through listening and dialogue. Communication is enhanced with access to professional interpreters who are familiar with the family violence field. Through conversations with immigrant leaders, service providers can become more familiar with the strengths of particular social

networks, the importance of collectivist practices of care, especially between immigrant women, and the vulnerabilities that structural inequalities create for specific groups. Once trust is developed, immigrant leaders and public service providers can work together to develop a communication and education strategy concerning family violence so that immigrants can learn about the different forms of family violence, the prevalence of family violence in Canada, strategies for family violence prevention, safety planning for victims, accountability for perpetrators, the public services available to immigrant families, and the law.

Public service providers need to learn more about immigrant experiences of intersecting structural vulnerabilities, including information about the social context of immigrants' countries of origin, as well as the distinct cultural and religious practices and values embraced by specific immigrant ethno-religious groups. These components are not the cause of family violence among immigrants but rather shape how it unfolds. There is no denying that patriarchal religious and cultural beliefs and practices contribute to women's vulnerability to family violence. This is made clear in the chapter on culturalist framings of GBV in France and the chapter on violence against women migrants in Austria. At the same time however, some ethno-religious resources can be harnessed to denounce family violence and support change. Culturally competent service provision will incorporate information from immigrant cultural and religious groups into practice while at the same time adhering to the policies and laws governing service provision. An appreciation for the collectivist values and practices of immigrant women requires that public service providers educated and trained to provide individualist interventions, also consider incorporating some collectivist practices of care, especially when it comes to early interventions in situations of family violence (Baobaid 2010). Collaborative engagement with the cultural resources of immigrant groups can make public services more accessible to immigrant families. Service providers also need to recognise the important role that immigrant social networks can play in responding to family violence and ensuring safety just as non-immigrant social networks have supported the safety and wellbeing of survivors (Katerndahl et al. 2013). Immigrants have ethno-religious resources that can be used to support the emotional, physical and spiritual healing of victims. Healthy immigrant families in cultural communities can provide stability for children while their parents are dealing with the aftermath of abuse. Religious leaders, when trained in best practices in responding to abuse, have the authority to condemn family violence on the basis

of religious teachings, lead the community in believing victim disclosures, ensuring the safety of the vulnerable, and holding perpetrators to account (Nason-Clark et al. 2018). In order to contribute to the resiliency of immigrant women and their children who have suffered from abuse, collaboration between public service providers and immigrant groups must be genuine, supporting immigrant collective agency in the process of change.

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Between the Law and a Hard Place—A Victim of Trafficking Meets the Norwegian Migration Regime

Yngvil Grøvdal and Margunn Bjørnholt

INTRODUCTION

Despite the fact that Norway recognises victims of trafficking as a group in need of special protection, trafficking victims have been found to have difficulty obtaining protection in Norway and in practice, few of them seem

Y. Grøvdal (✉)

Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS),
Oslo, Norway

e-mail: yngvil.grovdal2022@outlook.com

M. Bjørnholt

Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS),
Oslo, Norway

Department of Sociology, University of Bergen, Bergen, Norway

e-mail: margunn.bjornholt@nkvts.no

to be granted protection (Brunovskis 2019, Gundersrud 2020).¹ Our aim in this chapter is to elucidate the process leading to this paradox, by exploring the case of one victim of trafficking for sexual exploitation and her (or the) long struggle to obtain protection in Norway.

In the national Action Plan against Trafficking, the Norwegian government describes trafficking as the slavery of our time. The plan contains proposals on how to effectively reduce or eliminate the practice, while at the same time protecting the victims and their rights (Ministry of Justice and Public Security 2016, 4, 8). Moreover, Norway has signed and ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (hereinafter the Trafficking Protocol), a supplement to the UN Convention on Transnational Organised Crime, recognising trafficking as a global, criminal problem, as well as the Council of Europe Convention on Action against Trafficking in Human Beings (hereinafter the Trafficking Convention). In addition, the Norwegian authorities have committed themselves to protecting women against all forms of violence by ratifying the Istanbul convention.

The Norwegian authorities offer alleged victims of trafficking limited residency as (1) *a reflection period* of six months and (2) *a renewed temporary residence permit* valid for up to a year with the possibility of renewal. According to the Directorate of Immigration (hereinafter UDI), the aims with these residence permits are that victims of trafficking should break with the trafficker(s) as well as to facilitate criminal prosecution of traffickers. However, cooperation with the police for prosecution purposes is not a condition for the reflection period, while being willing to receive different forms of assistance during this time, is. Application for the renewed temporary residence permit, on the other hand, involves several conditions, relating predominantly to the criminal justice aspect. The victims of trafficking must have cut contact with the trafficking milieu and reported the trafficker(s) to the police. The case must be under investigation by the police or under trial in court, both requiring cooperation from the women. None of the abovementioned permits will give permanent residency, though. For that there is the *witness instruction*, *asylum* or, if

¹ The Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) has criticised Norway for not establishing a National Referral Mechanism to ensure better knowledge of the actual number of presumed victims of trafficking. At present, the statistics collected by The Coordinating Unit for Victims of Trafficking (KOM), are based solely on information provided voluntarily by Non-Governmental Organisations (NGOs) assisting victims in Norway (GRETA 2017, 7, 10).

protection is not otherwise obtained, *residency on humanitarian grounds*. The witness instruction may entail permanent residency and the aim with the instruction is to reduce fear of cooperating in the criminal prosecution of traffickers (GI-31/2010, 2). The instruction pertains to the Immigration Regulation § 8-4, and according to the first subsection, permanent residency *shall* be granted those having given testimony as victims of trafficking in a court of law, unless specific reasons speak against it (GI-31/2010, 4). Permanent residency *can* be obtained according to the Immigration Regulation § 8-4, second subsection, but is dependent on the discretionary powers of the immigration authorities. However, relatively few victims of trafficking obtain residency through the criminal justice track, and many end up changing track altogether, asking the authorities to reopen their asylum case, or seeking asylum if they had not done so beforehand (Brunovskis et al. 2010, 91; Gundersrud 2020, 37). According to the national Action Plan, the aim is to have as many victims of trafficking as possible return to their countries of origin (Ministry of Justice and Public Security 2016, 15).

A recent study of trafficking in the Norwegian context (Brunovskis 2019) concluded that on the one hand ‘rights to assistance for trafficked persons in Norway are presented in official documents as a cohesive set of special rights for one particular group’. On the other hand, Anette Brunovskis writes, ‘actual access in fact rests on other statuses, most notably migration status and the ability to document identity’ (2019, 3). Brunovskis concludes that special rights for particular groups do not fit well with a universal welfare state context like the Norwegian one and that ‘the “trafficking victim” category thus blinds to the greater importance, in practice, of general legislation in the fields of migration, welfare and health services’ (2019, 3).

This is neither unique for Norway, nor for victims of trafficking. In contrast, the negative and oppressive effects on groups that are constructed as vulnerable and who are targeted with special measures have been found to be a general aspect of policies based on this kind of disciplining logic, for different groups and across national contexts (Brown 2017; Brown et al. 2017; Harrison and Sanders 2006).

Moreover, the amalgam of protection with criminal justice that applies for trafficking victims may have negative or detrimental effects on the individuals in question as discussed by Brunovskis and May-Len Skilbrei, using Norway as an example (2016). One negative consequence is the extremely unequal distribution of protection in Norway. Some women have

information that the police consider useful, while others do not. In the latter case, their chance of protection is usually nil (*ibid.*, 20). Some women fear, or suffer, acts of vengeance when traffickers find out they have cooperated with the Norwegian authorities (*ibid.*, 21). Further, the combined effects of restrictive migration policies and crime prevention may effectively block possible trafficking victims' entry to the country.

One way of reducing trafficking is, namely, to refuse foreign women a visa if one suspects that they are potential victims of trafficking (Jahnsen and Skilbrei 2018, 268). According to a report from the National Criminal Investigation Service (KRIPOS), Norwegian police frequently prohibit admittance to foreign women if they lack economic assets, and / or the reason for their visit to Norway is unclear (KRIPOS 2017, 21-22). However, while turning some foreign women away at the border may prevent crime on Norwegian soil, this practice will not safeguard potential victims of trafficking and the freedom and integrity of the individual, which are among the goals stated in the abovementioned report. Fitzgerald (2016) similarly argues that in the UK, protecting presumed victims of trafficking often takes the form of denying them entry to the country. The *de facto* effect is that rather than protecting alleged vulnerable victims of trafficking, one protects the UK against undesirable individuals, and British men from the advances of foreign women selling sex (see Heber 2018 for a similar analysis in a Swedish context).

As for Norway's restrictive immigration policies, the signing of the Schengen agreement in 1996 and the Dublin Regulation in 2001—the year that Norway was operationally integrated in the Schengen cooperation—has had a considerable impact. Norway is also part of Eurodac, a system for fingerprinting persons to keep track of whether or not they have applied for asylum in another member state. Control of the outer borders increased in order to allow free movement for citizens belonging inside Schengen, a 'territory' consisting of most EU countries as well as Island, Lichtenstein, Switzerland and Norway.² The Dublin Regulation (currently Dublin III), establishes that asylum seekers may have their applications dealt with in one of the member States, usually the one where they first arrive. However, even though not obliged to do so, according to

²Schengen- og justissamarbeid—regjeringen.no

the Dublin regulation, any state may perform a *reality check*³ of an asylum case.

In Norway, the prevention of prostitution is also part of the picture. Despite the fact that selling sex is legal, buying sex is not. Accordingly, reducing the number of women, most importantly foreign women, who sell sex, can be regarded as a strategy to get rid of the sex-buying crime (Jahnsen and Skilbrei 2018, 267).

Some foreign women—in our case predominantly women from the global south with no permanent legal status in Norway—who sell sex, may have chosen, albeit from an often limited and unattractive list of choices, to leave their country of origin more or less permanently. These women might not necessarily consider themselves ‘victims’ (Brunovskis and Skilbrei 2018, 310, 314; Fouladvand and Ward 2019, 40; Serughetti 2018, 20). Still, categorisation of migrants is used to ‘separate between those deemed as deserving of protection and others to be deported’ (Serughetti 2018, 18), blinding us to structural problems and experiences that overlap and make such categorisation meaningless. While being trafficked is likely to be considered as tantamount to having been forced, threatened and / or deceived, into a life of selling sex, being ‘smuggled’ to Europe and sell sex there, would mostly be regarded as taking part in a voluntary action. Although their life situations may be similar in most ways, persons in the first category would probably be categorised as ‘worthy’, the other as ‘unworthy’, of protection in Europe.

Moreover, the category ‘trafficking victim’ has been criticised for representing an idealised picture of victims of trafficking which does not necessarily match the more ambiguous and complex life situations of persons who sell sex, some of whom may be exploited in trafficking (Heber 2018; Brunovskis 2019). Nevertheless, in a Nordic context, such an idealised picture seems to have been pivotal in prompting both politicians’ and activists’ engagement against trafficking. In the autumn of 2002, Swedish director Lukas Moodysson released the fictional film *Lilja 4ever*. The film script is based on the story of a 15 year old Lithuanian girl, betrayed and abandoned by people one would expect to love and care for her. Lured by

³ By *reality check*, we understand a concrete consideration of all practical aspects of the situation of each asylum seeker, among other things looking at available economic, social and health assistance schemes in the country where asylum has been granted. The question of a reality check is, as the reader will see, very relevant for the case we analyse, as the investigation of the case by the Norwegian authorities showed that the woman had obtained asylum in Hungary.

a boyfriend and the prospect of a job in Sweden, 'Lilja' was sold to a man who lived off forcing young girls to sell sex. She eventually died after throwing herself from a road bridge in the south of Sweden. Her gender, age and precarious situation, combined with the seemingly ruthless male trafficker, elicited strong feelings among politicians and activists. In Norway, criminologist Astrid Renland has claimed that the film was central to Odd Einar Dørum's, then Norwegian Minister of Justice, criminal justice prioritisations regarding trafficking (Renland 2015). 'Lilja' appeared as 'the ideal', and thereby credible, victim according to Norwegian criminologist Nils Christie's typology (Christie 1986). In Christie's words: 'By "ideal victim" I have (...) in mind a person or a category of individuals who—when hit by crime—most readily are given the complete and legitimate status of being a victim' (1986, 18). The film was frequently employed in campaigns against trafficking initiated by the Nordic Council of Ministers, and the Council used it extensively in seminars as well as in schools in the Nordic and Baltic countries (Ekberg 2002). Representatives of non-governmental organisations (NGO's) criticising the Norwegian immigration authorities of failing to protect victims of trafficking also made use of it (Austbø and Tjessem 2002).

In this chapter, we study how a woman, who seems to fit with the model victim that informed Norwegian policies and engagement against trafficking, was received by the Norwegian state. We discuss how we should understand the Norwegian response to this particular case in view of the comprehensive obligations that Norway has assumed to protect migrant women subject to gender-based violence, and victims of trafficking and violence in particular. Important to note, is that Norway is both seen, and presents itself internationally, as a champion of gender equality and human rights. Symptomatic of Norway's good reputation in this regard, is that the European Court of Human Rights actually refused to litigate the case we have analysed and studied in this chapter, with reference to Norway's high ranking as a protector of human rights.

In the following, we first introduce two theoretical approaches that act as a sensitising framework for our analysis, before describing the materials and methods we use to construct the case. Next, we briefly present the background story of exploitation and trafficking, before analysing in more detail the prolonged process of obtaining protection in Norway. Finally, we discuss how we should understand and assess the Norwegian state's response to this case.

HUMAN VULNERABILITY, CITIZENSHIP AND RIGHTS

To guide our analysis, we draw on two apparently oppositional theoretical approaches. They are on one hand, Martha Fineman's universalistic and critical vulnerability approach (2008, 2010, 2017, Reilly, Bjørnholt, and Tastsoglou, this volume) and on the other hand, Hannah Arendt's critique of the idea of human rights as inalienable—and inborn per se—and her focus on the political sphere and citizenship (1958, 1966).

Challenging the idea of vulnerability as pertaining only to some groups, in contrast to a presumed independent, liberal, and invulnerable subject, Fineman (2008, 2010, 2017) and others—emphasising the *human*, rather than the *rights part* of the human rights trope—argue that vulnerability is a universally shared human condition, legitimating the need for a responsive state. Despite starting with what may be seen as an essentialist assumption of human life, the implications of Fineman's theory are social, as she draws attention to the role of institutions in creating as well as modifying inequality, and to states' responsibilities to establish and monitor their institutions to make them work for all. This includes preventing institutions from becoming corrupted, as both people and institutions are vulnerable to decay and corruption. The role of institutions in maintaining inequality is Fineman's argument for a responsive state: 'The fact that societal institutions play a significant role in maintaining and extending inequality is the very reason that we need a more active state, one that is responsive to that reality' (Fineman 2008, 2). A vulnerability analysis, Fineman argues, starts with the state and its institutions:

A vulnerability analysis begins by first considering how the state has responded to, shaped, enabled, or curtailed its institutions. Has it acted toward those institutions in ways that are consistent with its obligation to support the implementation and maintenance of a vital and robust equality regime—a regime in which individuals have a true opportunity to develop the range of assets they need to give them resilience in the face of their vulnerabilities? (Fineman 2008, 20).

Although Fineman developed her vulnerability theory in an American context, it has been relevant and useful in a European (Truscan 2013) and a Nordic context (Bjørnholt 2013a), and has functioned as an analytical tool for studying gender equality policies (Bjørnholt 2013b), domestic violence (Bjørnholt 2019), and victims of trafficking (Gundersrud 2020).

Arendt (1958, 1966), in contrast, was sceptical about human rights, as she denied the political relevance of human existence in itself as a basis for rights. The problem with the idea of human rights, she argued, is that assumed inborn human dignity cannot be shown to exist in any politically meaningful way. On the contrary, rights are only conceivable in the context of a human being belonging to a political community, and are dependent on a public political realm. ‘Equality’, Arendt wrote, ‘in contrast to all that is involved in mere existence, is not given to us, but is the result of human organization ... We are not born equal; we become equal as members of a group on the strength of our decision to guarantee ourselves mutually equal rights’ (1966, 301). For Arendt, citizenship was the key to rights. As she saw it, abstract human rights ‘proved to be unenforceable—even in countries whose constitutions were based on them—whenever people appeared who were no longer citizens of any sovereign state’ (1966, 293).

We use these two theoretical lenses to ask whether the Norwegian state via its institutions, may be said to have acted responsively towards ‘Yasmin’⁴ as a fellow human being in a particularly vulnerable situation. We also address how the position of not belonging and lacking formal rights, in practice makes it hard to obtain the protection and support that each human being needs, given her situation.

METHOD, MATERIAL AND ANALYSIS

To explore the meeting between the Norwegian state and victims of trafficking, we have chosen to analyse one case that has figured in Norwegian media. Studying one case in detail is of particular interest and relevance when aiming to highlight how policies and institutional dynamics affect people in their real lives. It allows an analysis of how institutional logics may both facilitate and lead to harm, as well as modify and remedy consequences of harm (see Bjørnholt 2019 for an analysis of re-victimisation in this perspective), and is useful to explore how good intentions must often yield to other interests (see also Bjørnholt 2019, 94–95).

For this study, we have predominantly relied on existing visual and written materials—what some researchers call ‘secondary material’—in this instance meaning material that originally served other purposes than this

⁴A pseudonym she herself chose for a documentary from the Norwegian Broadcasting Corporation.

research project (Hughes and Tarrant 2019). We argue that such materials are particularly fit for the kind of analysis that we do here. By studying media reports, a TV documentary, court documents and material from social media, we get access to different voices from a number of actors with different positions and roles in the story, including that of the protagonist. Together, these materials provide a rich and multifaceted picture of the case. In addition to these more pragmatic considerations, there is an ethical consideration, as relying on pre-existing material may also lessen the pressure on research participants, an argument that we found particularly important in this instance, as it is clear from the materials that we have access to, that Yasmin had already gone through a lot.

The case came to our attention via the media, where it was the object of rather extensive coverage in the years 2014 through 2016. A documentary made by the Norwegian Broadcasting Corporation (NRK⁵) seems to have been pivotal in sparking interest in both national and local, as well as in social, media. The documentary takes the form of a critical comment on the Norwegian trafficking and immigration policies, and features interviews with employees from NGOs and women's shelters, as well as with the police and the immigration authorities.

Given that the case went to court, we also obtained rulings from the District Court, the Court of Appeal and the Supreme Court. The rulings provide insight into the manner in which the Norwegian authorities dealt with Yasmin's situation. The ruling by the Supreme Court is publicly available in an anonymised version, while the rulings by the District Court and the Court of Appeal were obtained from the respective court administrations.⁶ Although the case is known from the media, we have chosen to omit all references to the rulings in our text, even when citing them, for reasons of privacy protection.

Moreover, in order to broaden our understanding of certain aspects regarding the handling of the case by Norwegian authorities, we conducted two interviews with persons who have supported Yasmin in various ways. The former general manager of the women's shelter where Yasmin has lived for most of her time in Norway has been involved in her situation to this day, and she was pivotal in organising national and local support, including raising financial support for the court cases. A lawyer was interviewed in the capacity of representing Yasmin in the Supreme Court.

⁵ The Norwegian abbreviation of Norsk Rikskringkasting.

⁶ We anonymised these two rulings for this chapter.

In addition, we have studied various documents, reports and papers regarding legal- and other principles that are central to the handling of trafficking cases by Norwegian authorities. Documents studied also include the Trafficking Convention and protocol, as well as conventions on human rights and violence against women. These documents provide a general background for our analysis.

We have pieced Yasmin's case together, using the media coverage, the court rulings and the two interviews. By drawing on different sources, our material provides a multifaceted picture of the case. On the other hand, we must keep in mind that the different versions of Yasmin's story have been produced and shaped in particular contexts with their own specific logics. There is the legal system with the aim of establishing facts and separating truths from lies, with its tendency towards reductionism, leaving out what is not relevant for the legal proceedings. There is the media with its tendency to dramatize and simplify to engage the feelings of the audience. The helpers often follow a humanitarian logic where demonstrating suffering and injustice matters in mobilising sympathy and support. Finally, we need to take into consideration that the protagonist tells her story in these contexts with the hope of obtaining protection in Norway.

Nevertheless, the story is not very different from other stories that we as researchers may elicit with various methods, including research interviews. Regardless of the setting in which people talk about life and experiences; their stories 'draw selectively on lived experience' (Presser 2009, 178-179). Moreover, people tell stories according to cultural conventions of storytelling in their particular society and in relation to a particular public and context (Bruner 1986). Accordingly, life stories are not exact representations of reality. However, researchers have also criticised leaning too strongly on narrations and text, both from an ethical and an epistemological point of view. Roos writes, 'if we emphasise narrativity too much, we shall lose sight of the relationship between life and society. In the final analysis, what we as sociologists are interested in are the social implications of life stories. And these are not only narrative constructions' (1991, 101).

Although we do not claim to be presenting the full or 'true' story, the elements of the story that were prominent in the courts are important for our analysis of the Norwegian state's response, as it allows us to ask: Given what the state considers as established facts, how should we evaluate the response to this particular case?

YASMIN—AN IDEAL VICTIM OF TRAFFICKING?

Yasmin's story of abuse began when she was still a small child, recently orphaned. An unknown man picked her up in the refugee camp where she had lived with her mother, and this was the beginning of violence, exploitation and of her being sold as a prostitute in several countries, first in the Middle East, then in Europe. Yasmin talked about her fear when the trafficker raped her for the first time, before she had reached her teens. In addition to being kept captive and subject to sexual violence involved in forced prostitution, she was also subject to severe violence from the trafficker, such as being beaten, burnt with cigarettes and cut with knives. One of the times she tried to escape, the trafficker hit her with a car. She related getting pregnant five times, and that violence made her abort three times. The destiny of the two children she gave birth to was unknown to her, but the trafficker often threatened her that they would fare badly if she did not comply with his wishes. It is undisputed that Yasmin is traumatised both physically and mentally to such an extent that she needs daily support and care. Her story seems to depict someone who, in Christie's wording, would readily 'be given the complete and legitimate status of being a victim' (1986, 18). However, as we shall see, telling exactly what it means to be a victim of trafficking, does not seem completely straightforward.

Despite several efforts to escape, Yasmin did not succeed until the trafficker brought her to Norway in the summer of 2009. Here, by chance allegedly, she met someone who spoke her language and helped her contact the police. When she applied for asylum, relating her story of trafficking and sexual violence, the police opened a criminal case. Doing just that constitutes part of the international obligations of the Norwegian authorities to combat trafficking, having ratified the Trafficking Protocol. In July 2010, Yasmin was granted the reflection period, about which UDI writes on its website: '(...) valid for six months. It is not renewable. You can be granted such a residence permit to get away from the people who have exploited you and to get back on your feet. You will get help to report the people who exploited you to the police.'⁷ Yasmin reported her trafficker, but the police dismissed the case in November 2010, stating that they did not have sufficient evidence. When cooperating with the police does not lead to further temporary stays, or when a renewed temporary residence

⁷<https://www.udi.no/en/word-definitions/human-trafficking/>

permit granted for the duration of the police investigation is ending without the prospect of a court case, many women seek asylum or, as did Yasmin, ask to have an asylum case reopened (Brunovskis et al. 2010, 61-62).

The rejection of Yasmin's application for asylum came approximately two years later, in August 2012, the reason being that she had already gotten asylum in Hungary and was in fact a so-called 'Dubliner'. Consequently, the Norwegian state had no obligations towards her and the authorities in Hungary had confirmed that they would receive her.

Yasmin claimed to be unaware of having applied for asylum in Hungary where she had been hospitalised after being assaulted by her trafficker when trying to escape. Admittedly, she revealed to a nurse or doctor in the hospital that she was afraid and needed protection, and this led to transferal to a refugee reception centre, where her fingerprints were registered in Eurodac. By the time the Hungarian authorities granted asylum, however, the trafficker had already tracked her down, brought her to Sweden and subsequently to Norway.

STILL HOPE OF RESIDENCY IN NORWAY

The former general manager of the women's shelter where Yasmin has lived since 2009, stated that none of those who had come to know her through their professional roles, believed that she would survive, if returned to Hungary. UDI's rejection of her application was appealed to the Immigration Appeals Board (hereinafter, UNE⁸), the appellate body for immigration and citizenship cases. However, UNE dismissed both of the appeals made on behalf of Yasmin, the last one in February 2014.

While asylum cases rarely end in Norwegian courts (Humlen and Myhre 2014, 7-9), her supporters brought civil action against UNE on behalf of Yasmin, in 2014. The case was tried by the District court in August that year. Having the funds to go to court was largely due to 'The support group for Yasmin', established on Facebook in the aftermath of the documentary, where people also raised money for her.

The District court ruled in her favour in the central question of a *reality check* of her situation. The judge contended that Yasmin was a victim of trafficking, thereby belonging to 'a special, social group' in accordance

⁸The Norwegian abbreviation for Utlendingsnemnda.

with the Norwegian Immigration Act⁹ (hereinafter, the IA). According to the judge, being subject to physical, psychological or sexual violence because of one's gender and—in Yasmin's case—also being subject to forced prostitution, is tantamount to persecution (IA, Section 29, second paragraph, letter (a)). Given, inter alia, that the Hungarian refugee reception centre did not function as a safe refuge for Yasmin in 2009, the judge stated that 'the court assumes that Hungarian authorities did not succeed in preventing persecution according to section 29, third paragraph, letter (c), in this case'.

However, the ruling did not entail a closure; in fact, Yasmin's case ended in the Superior Court. In a Court of Appeal trial in June 2015, UNE demanded a reversal of the District Court ruling. According to UNE's legal representative, the evidence presented at the trial in the District Court had not been substantiated, nor had the District Court judge employed a correct understanding of the applied sections of the IA.

In the proceedings in the Supreme Court after losing in the Court of Appeal, Yasmin's legal representative contended that the Court of Appeal had failed to take into account her critical health situation and the fact that she had been subject to trafficking. Moreover, the same court had not considered the need for a special reassurance from the Hungarian authorities that her situation would not be at variance with article 3 in the *European Convention on Human Rights* (ECHR), which prohibits torture and inhuman treatment, should she be returned to Hungary.

The Dublin cooperation rests on the *presumption* that the first country of entry to Europe of an asylum seeker, will adhere to the duties that ensue from ratifying the Dublin Regulation and the ECHR by providing sufficient means of support. While acknowledging that a presumption may be refuted, the first voting Supreme Court judge concluded that the Court of Appeal had taken sufficient steps towards confirming the presumption in Yasmin's case. Admitting that her living conditions would be harder in Hungary than in Norway, the Court of Appeal had concluded that there was no question of a system failure in Hungary, and consequently it would be wrong to assume that her life in Hungary would be tantamount to torture or inhuman treatment. According to the Supreme Court ruling, it was of no interest whether Yasmin had been subject to trafficking or not. The central issue was the treatment she would receive in Hungary. Although the seriousness of Yasmin's health problems was not disputed,

⁹<https://lovdata.no/dokument/NLE/lov/2008-05-15-35>.

neither by the District Court nor by the Court of Appeal, the Supreme Court concluded as follows:

I also agree with the Court of Appeal that the threshold for breaching article 3 of the European Convention on human rights—compelling humanitarian circumstances in a ‘very exceptional case’—is not reached in the case of A¹⁰. A’s health situation is not life threatening in and of itself, and I understand from the Court of Appeal ruling that *at least some basic health services* would have been available to her in Hungary.

Testimonies by representatives from the largest Hungarian NGO working with Global South refugees in Hungary, and contact with the Hungarian Victim Support Service, showed that Hungary could not provide the type of support Yasmin needed. Moreover, foreigners from the Global South are rarely accommodated in the shelters for victims of trafficking in Hungary, and residence in such shelters is time-limited (GRETA 2015, 33-36). Additionally, at the time of the trial in the Supreme Court, the situation for migrants in Hungary had drastically worsened and Hungarian authorities were subject to extensive international criticism (Amnesty International 2015, 7¹¹).

The court, however, ruled in favour of the immigration authorities. While in the opinion of doctors, women’s shelter workers and lawyers who were familiar with her situation, Yasmin was in a particular and seemingly permanent vulnerable situation, which would put her at risk if returned to Hungary, the court emphasised that her health problems were not lethal as such. The need for special measures to protect her from inhuman treatment and future exploitation was not an issue.

Statements by the then leader of UNE in an interview with the NRK documentarist come to mind: ‘Identical cases must be treated in the same manner, and if we had accepted the ruling in her favour (from the District Court, authors’ commentary), it would have had consequences for *many, many* other cases’ (authors’ translation and italics). And: ‘What is fundamental in this case, is the question of whether a person who has already been granted asylum in Europe should be able to choose another country, go there and ask for asylum there as well’ (authors’ translation).

¹⁰The court’s ‘identification’ of Yasmin.

¹¹<https://www.amnesty.org/download/Documents/EUR2726142015ENGLISH.pdf>

The sober language of the court and the state authorities stands in contrast to the vivid engagement raised by the film 'Lilja' in all the Nordic countries some 15 years earlier, as well as to the contention by, inter alia, politicians, immigration authorities and the police, that trafficking victims are particularly vulnerable. However, in 2020, Gundersrud writes: 'this system is not adequately considering a victim of trafficking's needs for protection from harm, for example protection from the potential risk of a person being re-trafficked if returned' (2020, 52). Rather there seems to be a belief that risk and vulnerability are issues of the past once the women in question have escaped or severed contact with the traffickers. The consequences of the gender-based violence that several of the women are subjected to seem to matter less. With referral to the UNE leader cited above, it becomes obvious that actions on the part of the authorities have more, and other, goals than providing resilience to trafficking victims. As stated in the Court of Appeal ruling: 'It is obvious that, based on immigration regulatory considerations, clear restrictions must apply with regard to which reasons of reasonability can be considered sufficiently weighty to grant residence'.

For the majority of women subject to trafficking, it seems not to matter how particularly vulnerable they have become as long as they are not considered the responsibility of the Norwegian state. However, according to Yasmin's lawyer in the Supreme Court, who has a long experience with asylum cases and trafficking, both as a lawyer and as a researcher, the Trafficking Convention is above Norwegian law, and considerations regulating immigration are not part of international law. He claimed that by failing to acknowledge these facts, the Norwegian state does not honour its human rights obligations.

Both the lawyer and the former shelter manager stated that the immigration authorities must have realised quite early on, that Yasmin was too ill to be deported. However, instead of doing what appears inevitable in the aftermath of the Supreme Court proceedings, by granting her permanent residency on humanitarian grounds, she got several temporary permits until in January 2020. The lawyer's analysis of the reaction of the immigration authorities was that critical media coverage and the ensuing public support for Yasmin, might have strengthened the authorities' resolve not to 'give in', and certainly not to public pressure.

The insecurity of a temporary residence permit entails the repeated demand on the part of the authorities for new health certificates, leaving the impression that they are waiting for Yasmin's health to improve, in

order to return her to Hungary. Taking into account the growing trend in Europe, where ever more refugees and asylum seekers get temporary residency instead of asylum, thus finding themselves constantly at risk of being returned, what Anne Kari Drangslund (2021, 16) calls ‘the violence of waiting’, the impression is not farfetched. Consequently, Yasmin’s general situation is one of constant uncertainty. Moreover, she is still *de facto* stateless, and does not possess an ID card needed to make her a full member of the Norwegian society.

NOT OUR CITIZEN, NOT OUR PROBLEM

Yasmin’s case demonstrates that the rights claimed to be bestowed upon all of us in the capacity of being born as humans—the human rights established in declarations, conventions and national legislation—appear to be evasive for victims of trafficking, and asylum seekers. This supports Arendt’s argument that human rights are not inalienable, but primarily available to those who have formal rights belonging to a particular group and jurisdiction, in practice citizenship, and not through abstract rights derived from an assumed shared humanity. Nevertheless, it is relevant to assess how states respond to persons who seek protection, and hold states to account according to the moral and legal standards of the shared human condition that states have assumed. With regard to Norway, the reputation of being a champion of gender equality, women’s rights and human rights in general, oblige and create expectations.

By refusing to consider the realities of Yasmin’s situation in the asylum process and the ensuing legal proceedings, the Norwegian state seems not to have acted as could be expected of a responsive state (Fineman 2010); a state having assumed wide responsibilities for protecting women in vulnerable situations like hers. On the other hand, the fact that the authorities did not return Yasmin to Hungary—although predominantly a result of recognising that she was too ill to travel, and therefore could not be returned—may be regarded as an admission of her particularly vulnerable situation. However, the state’s piecemeal and reluctant response to her situation, providing only successive short term temporary residence permits on humanitarian grounds, kept Yasmin waiting for an uncertain future. This prolonged temporariness worsened, rather than remedied her health problems. Putting her life on hold also hampered her possibilities of accessing health services that could have ameliorated her life quality. One example is psychiatrists refusing to initiate treatment before knowing

whether Yasmin would be staying long enough to complete such treatment, claiming that not completing could put her at risk of becoming even more vulnerable than she already is.

INSTITUTIONAL HARM

How should we assess the fact that the authorities have kept her in this state of insecurity for more than a decade? According to Arendt, state interests seem to precede the needs of individuals who are not citizens (1966, 299). Norwegian authorities—including politicians—can be seen to take more interest in protecting the Norwegian welfare state from being ‘exploited’ by migrants, in particular those from the Global south, than in the structures that make exploitation of human beings possible (see also Fouladvand and Ward 2019, 40). Such temporariness has several well-known harmful consequences; it gravely compromises people’s planning for the future and the building of social relations agency and voice that are necessary for human flourishing (Gerver 2019). Research also shows the severe effects of temporariness on people’s general health (Brekke et al. 2019, 88). While actions leading to different forms of migration, trafficking in humans included, largely originate from structural problems, the solutions seem to revolve around the individual migrant complying with what is offered. Fighting for a secure future requires means that most migrants do not possess. Taking Yasmin’s case to court would not have been possible without the financial aid of people who sympathised with her after learning about her story through the media.

Moreover, temporariness has become routine in the refugee systems in Europe in general (Brekke et al. 2019; Buxton 2020; Drangslund 2021). Buxton (2020) argues that besides harming those who are subject to it, prolonged temporariness constitutes an injustice by needlessly exacerbating original harms. However, temporariness is not inevitable, nor is it the only option:

Other countries¹² can and do offer more permanent status of forced migrants, with some offering permanent residence and the possibility of citizenship almost immediately. Temporary protection is therefore not the

¹² Buxton reminds us of a different approach than the European migration regime, adopted by some non-Western refugee-hosting countries. ‘For instance, Tanzania granted citizenship to over 160,000 refugees from Burundi in 2014 (UNHCR, 2014)’ (Buxton 2020, 3).

neutral policy option, but an active policy choice which prolongs the central harm of displacement for longer than is necessary (16).

Temporariness is thus a political choice and may illustrate how states not only fail to respond to vulnerability, but also more or less deliberately produce conditions that facilitate harm and injustice towards migrant victims of trafficking (Fouladvand and Ward 2019). Vis-a-vis victims of trafficking for prostitution, predominantly women, the restrictive immigration regime may be seen as a form of structural violence that compounds and exacerbates gendered harm (Canning 2017).

INSTITUTIONAL MALFUNCTIONING?

Finally, using Fineman's vulnerability analysis (2008), we ask whether the state's response in this particular case is the result of state institutions functioning according to their mandate and objectives, including the responsibilities that Norway has assumed towards victims of trafficking/asylum seekers and victims of GBV. Or, should the particulars of this case on the contrary partly be seen as resulting from institutional vulnerability involving the malfunctioning and corruption of (some of) these institutions?

In particular, we raise this question regarding UNE, the appellate body for asylum and residence cases in Norway. UNE was established with the expectations of both lawmakers and immigration authorities, that it would function as a court like organ, providing applicants with the possibility to present their cases before the board (Humlen and Myhre 2014, 7). However, UNE's practice turned out differently, and in a special report on immigration law from the Norwegian Bar Association, Arild Humlen and Jonas Myhre express concern about what UNE has become. In the majority of cases, UNE confirms the decisions of UDI. Few asylum seekers obtain the right to contradiction by presenting their appeals before the board, and even fewer asylum cases are tried in court (Humlen and Myhre 2014, 7–9). In 2013 UNE handled 12 509 appeals in cases of asylum. Only 4.5 per cent of the asylum seekers met with the board. The UNE leader decided in 46.5 per cent and the secretariat in 47 per cent of the appeals (Humlen and Myhre 2014, 20). The annual report from 2019¹³ showed a significant increase in cases being decided unilaterally by the

¹³ <https://www.une.no/globalassets/om-une/arsrapporter-etc/arsrapport-une-2019.pdf>.

leader of UNE during the years 2017, 2018 and 2019 respectively; that part reached 70 per cent in 2019 (UNE Annual Report, 54). In 2019, the board decided in 8 per cent of the appeals in asylum cases, and 1 per cent of the residency cases. It should however be mentioned that restrictive immigration policies resulting, *inter alia*, from the so-called refugee crisis in 2015, has led to a substantial reduction in the number of refugees and asylum seekers in Norway, reducing the number of appeals to UNE. Consequently, a (slightly) larger part of the total number of appeals was treated with the applicants' participation in 2019, than in 2013 (UNE Annual report 2019, 11). Recently, Norwegian politicians have accused UNE of confusing protection under the law with political signals, demanding that UNE be exchanged for an administrative tribunal firmly established in legal principles (Andersland et al. 2021). The Norwegian Bar Association on the other hand suggests a reform of UNE, transforming it into an organ providing real protection under the law by giving every asylum seeker the right to representation and contradiction (Humlen and Myhre 2014, 69 ff).

CONCLUSION

Using a vulnerability analysis, highlighting the role of institutions in both producing and redressing harm, we contend that the Norwegian state does not act as a responsive state towards women victims of trafficking who seek protection in Norway. By a legalistic and narrow interpretation of its human rights obligations, and a reluctant and piecemeal response even when apparently acknowledging that someone cannot be deported, Norwegian authorities unnecessarily contribute to prolonged suffering and exacerbate the consequences of the original harm. The successive temporary residence permits, and practices that underscores the temporariness and insecurity of the situation, hamper prospects of recovery, autonomy and human flourishing. Victims of trafficking for prostitution are predominantly women, and these practices may be seen as gendered institutional harm, partly as a deliberate result of policies that prioritise national immigration regulation over legally binding rights, and partly as the result of the corruption or malfunctioning of institutions originally established with the aim of correcting possible wrongs in the immigration system. This institutional callousness illustrates Arendt's argument that access to rights is in practice dependent on a legal status of belonging, in practice citizenship. By letting immigration regulations precede and

replace a reality check of the specific future prospects of a woman in a vulnerable situation by referring to what appears to be elusive and hypothetical rights in another country, Norway not only evades its HR obligations, but also contributes to the brutalisation of contemporary international migration regimes of which Norway is part.

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Gender-Based Violence as a Continuum in the Lives of Women Seeking Asylum: From Resistance to Patriarchy to Patterns of Institutional Violence in France

Nina Sahraoui and Jane Freedman

*If someone [back home] asks me about the situation in France I'm
going to say it's hard but people won't believe me.*

We met Checkina, a 28-year-old woman from the Democratic Republic of the Congo, in an accommodation Centre on the outskirts of Paris where she was temporarily housed for several months, awaiting an administrative decision on her asylum application. Checkina has experienced various forms

N. Sahraoui (✉)

Paris Centre for Sociological and Political Research, CNRS, Paris, France

e-mail: nina.sahraoui@cnrs.fr

J. Freedman

Université Paris 8 and Paris Centre for Sociological and Political Research
(CRESPPA), Paris, France

e-mail: Jane.freedman@cnrs.fr

of gender-related violence for over a decade, since her community was first attacked in the DRC, and throughout the years she lived in Mozambique as a UNHCR refugee. Having suffered war rapes in her country she fled as a young woman to reach a refugee camp in Mozambique. Attempting to rebuild her life there, she was exposed to daily racist incidents ranging from xenophobic insults to physical attacks on people residing in the camp, despised by the local population. The perceived insecurity was so pervasive that she always kept a machete under her bed. After a few years, the family structure in which she found herself entrapped her within patriarchal structures of power, her husband threatening to force their daughter to undergo Female Genital Mutilation (FGM). Her decision to flee again, almost ten years after she had left her country of origin, was tough: 'I left, it's not easy when you leave, it's a choice but a difficult one'. After taking this decision, Checkina managed not only to leave Mozambique but also to travel alone through several African countries, reaching Morocco and then Spain and finally France, where she found herself living on the streets for several weeks. She did not expect to face so many hardships after she arrived in a European country, hence her statement above. Her life experiences and migratory journey illustrate both the agency she displayed and the heavy constraints that weighed on her life circumstances.

This chapter offers a study of women seeking asylum in France to analyse the specific challenges to health and well-being that arise at the cross-road of migration and gender. We seek to foreground the voices and experiences of women asylum seekers to highlight the continuum of violence which they face and the precarity induced through the denial of access to services, and the continued enforced precarity they experience once they have arrived in France. Migrant women have unequal access to healthcare services and services for survivors of violence both across and within European countries (Hyde 2016; Kousoulis et al. 2016; Joseph et al. 2018) owing to different entitlements attached to precarious administrative statuses, and policies of planned neglect of migrant welfare (Canning 2019; Davies et al. 2017; Mayblin et al. 2020). For instance, not all European countries grant rights to access healthcare to undocumented pregnant women (Grotti et al. 2019), and when this access is enshrined in law, social barriers often limit actual use of medical services. Against the background of increasing cost limitations in health and social sectors, the role of medical humanitarian organisations in providing targeted health services for undocumented women appears to be growing in some contexts, for example, in borderlands where health-related resources are limited or scarce (Sahraoui 2020).

Our study is based on qualitative research carried out in the Paris region in 2019–2020 and particularly in a reception centre for asylum-seeking women and families which was set up at the request of the Paris City Council, and opened in January 2017 in the face of a public pressure to act to provide suitable accommodation for ‘vulnerable’ asylum seekers. The Centre, which is run by the NGO Emmaüs Solidarité and with support from the Samu Social who provide health services, houses around 400 asylum seekers for temporary stays until they are relocated to other reception centres across France. In theory the asylum seekers who are housed in the Centre should stay for a short period, for a few months only, but at the time of our research this situation was very variable with some staying only a month, and others having been there for up to two years, depending on the authorities decision to relocate them to another region, and the possibility in a small minority of cases for medical or social workers to oppose this relocation on health grounds. Whilst they are housed at the Centre, asylum seekers have access to support from a social worker and from health workers (primarily nurses) within the health centre run by the Samu Social. According to Emmaüs Solidarité, the Centre ‘has the objective of allying the treatment of urgent situations with the creation of a social accompaniment which takes into account all the components of an individual’s life (health, family, culture, employment ...) and gives them the keys to continue their trajectory outside of the Centre’. The Centre has been promoted by Emmaüs and by the Paris City Council as an example of ‘excellence’ in the reception of asylum seekers, offering a reception in ‘dignity’ according to Anne Hidalgo, the Mayor. We spent time observing health workers within the Centre and sitting in on the first interviews between nurses and newly arrived women asylum seekers. We also carried out interviews with the Director of the Centre, with various health workers (doctors, nurses, psychologists) and interpreters, and with women asylum seekers themselves to explore their stories and their experiences of seeking protection in France. We interviewed 14 women and have also spent time with them in other settings, such as workshops we organised in collaboration with the Centre or while accompanying women residing in the Centre to their medical appointments. All of the women interviewed for this research had made an asylum claim in France and were waiting for a first judgement on their claim. Many of them were pregnant or had been pregnant and given birth during their journey to France. Their experiences shed a wider lens on the experiences of pregnancy and childbirth during forced migration and the layers of complexity which this adds to women’s

experiences of discrimination and violence. Whilst in formal policies pregnant women are categorised as ‘vulnerable’ and eligible for special protection (Freedman 2019; Grotti et al. 2018), in practice this does not seem to be the case as our interviews revealed. Informed consent was obtained from participating women asylum seekers before interviews were carried out, and all interview data was recorded in a confidential and anonymous manner (all names are pseudonyms). In this chapter, we focus on the experiences recounted by five young women to demonstrate the continuum of gendered violence that characterises their trajectories, from the motives of their flight, to the risks faced en route, to the conditions encountered in France. We understand continuum here to refer to the fact that GBV occurs at all stages of the journey and that those who have experienced GBV in one context may be more likely to continue to experience it on their journeys, but it also refers to the continuum of forms of GBV which we argue are linked through deep systemic and structural inequalities. We explore both of these concepts as the chapter progresses. The chapter draws on the narratives shared by Checkina, a 28-year-old woman from the Republic of the Congo; three women from Côte d’Ivoire: Yasmine (24 years old), Sita (29 years old) and Mariam (19 years old); and Aissata who left Mali aged 26.

We analyse the experiences of the women asylum seekers we interviewed within a conceptual framework of a continuum of violence, and also of institutional neglect and necropolitical control (Mbembe 2003; Mayblin et al. 2020). If we are to understand gendered forms of violence as stemming from underlying political, economic, and social structures of inequality, then it is important to analyse women’s experiences of violence not as singular or detached incidences which relate only to the specific conditions which precipitated their migration and which motivate their asylum claims, but to explore the connections and continuum (Cockburn 2004, 2014; Kelly 1987) between these and the ways that they are rooted in common structures of inequality and discrimination. Understanding this continuum of violence may also help to shed light on how women who have already experienced violence before migration may be rendered more vulnerable to various forms of violence during flight and on arrival in their country of destination, in what can be seen as a vicious cycle of violence and victimisation (Krause 2015). This continuum of violence is created and sustained by political and institutional structures of ‘abandonment’ (Pinelli 2018) or ‘deliberate state indifference’ (Davies et al. 2017) in countries of destination, which means that women’s hopes of reaching safety and gaining protection on arrival in Europe are unrealisable. We

employ here Mbembe's concept of necropolitics as 'subjugation of life to the power of death' (Mbembe 2003, 39) and apply it to contemporary conditions of asylum to describe how asylum seekers are 'kept alive but in a state of injury' (Mbembe 2003, 21) in European States, including France. As Mayblin et al. (2020) describe in the case of the UK, EU States fulfil their legal obligations to asylum seekers to a bare minimum, keeping them alive (in most cases) but exposing them to everyday suffering which constitutes a 'slow violence' passing largely unseen to the general population (Davies and Isakjee 2019).

Arriving in France, therefore, any hopes that women seeking asylum have for reaching safety are thus annihilated by the conditions of reception, refusal of access to accommodation and services, which leaves them increasingly vulnerable to repeated incidences of physical aggression and sexual violence. This physical and sexual violence is interwoven with symbolic violence through the construction of racialised and gendered representations of asylum seekers which dominate in European societies. We talk about 'vulnerability' here not as any essential state. Women seeking asylum are not essentially vulnerable because of their identities (as women, as asylum seekers, as racialised individuals) but are rendered vulnerable by deliberate State policies and practices. Vulnerability here is thus understood as relating to 'vulnerable life situations' rather than 'vulnerable groups' (Virokannas et al. 2020).

GENDER VIOLENCE AS A CAUSE FOR MIGRATION: WOMEN'S RESISTANCE TO PATRIARCHY

For many years, women's migration was rendered largely invisible in both research and policy-making or was attached to male migration (with women represented as migrating as dependents), but more recently more research has emerged which examines and traces women's migratory choices and strategies. This shows a clear link between structures and systems of violence in their countries of origin and their decisions to migrate. There is increasing recognition of the gendered nature of violence during war and conflicts and the fact that women are particular targets of rape and sexual violence which may cause them to flee (Davies and True 2015; Hovil 2018). Other forms of gendered violence including (but not limited to) forced marriage, female genital mutilation (FGM), intimate partner violence (Razack 1995; Wagner 2009), violence and discrimination on the

grounds of gender identity or sexual orientation (Shuman and Bohmer 2014; Spijkerboer 2013) may also be a motive for women to choose to leave their country and seek protection elsewhere (Freedman 2015). Krause highlights the importance of understanding gender violence linked to migration as not just perpetrated acts of violence but also systematic discriminations and threats which are linked to gendered structures of domination (Krause 2015). Patterns of violence linked to migration thus can be seen to begin in countries of origin 'through experiences with unresponsive legal systems and institutional inequalities' (Menjívar and Walsh 2019). Pickering and Barry (2013) for example show how various gender-related forms of discrimination and a non-responsive legal system motivate Iranian women to leave their country to seek asylum in Australia. In studies on the arrival of asylum seekers and refugees in Europe, a process of 'feminisation' has been noted, whereby women make up a greater proportion of those arriving to seek international protection, and in particular more women are migrating independently, without a husband or other male partner. Further, more and more women are arriving to claim asylum on the basis of gender-related forms of persecution.

One element that is important to underline here is the fact that women who migrate to flee gender-based forms of violence are not powerless 'victims' of such violence, but are in fact displaying political agency in making this choice, and in undertaking journeys which they know will be difficult and dangerous. Recent developments in international and regional policies and guidelines which have outlined the need to identify 'vulnerable' asylum seekers and refugees and to offer them specific procedures and forms of protection have often functioned to essentialise women as a 'vulnerable group' and thus to contribute to already existing gendered representations of refugees which reinforce a dichotomy between women as 'victims' and men as 'threats'. We maintain here that vulnerability is socially constituted and that the fact that women are survivors of gender violence in no way renders them essentially vulnerable. Instead, vulnerabilities are created by migration and integration policies and by economic, political and social systems of inequality. That the women in our study have at moments found themselves in positions of vulnerability should not therefore be opposed to their agency as deciding, strategizing and managing their migratory trajectories.

The women asylum seekers in our study had experienced various forms of sexual and gender-based violence which were at the origin of their decisions to migrate, including sexual violence and rape in conflict, sexual

violence from members of their family, forced marriage, FGM and persecution as a result of sexual orientation. In many cases, women experience several different forms of violence which are linked by patriarchal structures of violence. They recounted their reasons for leaving their homes in terms of these experiences of violence.

Checkina, mentioned above, first fled her home when she was 19 years old when the conflict and fighting in the country reached her community. During attacks on her village, women were imprisoned and kept together in one location so that they could be raped by men from armed groups. As she explains:

I have been through a lot. They're going to put you in a place to rape you. We were able to escape to Mozambique.

Checkina managed to flee to Mozambique where she was hoping to rebuild her life. In spite of having obtained refugee status from the UNHCR, she lived for eight years in very difficult material conditions and in fear because of the widespread racism she was confronted with. She eventually married a man from Mali and had two children with him, but the conditions of life in Mozambique were not secure for her or her children, and she constantly feared new incidents of violence. She was also subject to violence from her husband, as we will describe later.

As well as sexual violence and rape committed by combatants during armed conflicts, women are also exposed to sexual violence in family settings and within their own communities. This was the case of Yasmine, a 24 year old woman from Cote d'Ivoire. Yasmine fled her country when she was 20 years old after her uncle raped and abused her on a regular basis:

He [her uncle] did many things to me. He raped me. After my father died, he did many things.

Later during the interview, while she recounted the violence that she experienced whilst working in the field with her uncle, she showed the physical scars of the violence that she had experienced. She also recounted that he had forced her to undergo FGM:

He took the machete to hit me. (...) I can't forget the cutting [FGM] and the rapes, and the worst is that it's my own uncle. He is the one who gave

me to the old women who performed the cutting, I can't forget. I never want to see him again.

As well as escaping FGM themselves, the women may also have migrated to protect their daughters or sisters from the threat of FGM. This was the case of Checkina, mentioned earlier, who after having fled the DRC settled in Mozambique and married a Malian man with whom she had two children, a boy and a girl. Her husband was adamant that he was going to send their daughter to his Malian family for her to undergo the procedure of 'cutting', that is, FGM. Having undergone FGM herself at the age of eight, she described how this had resulted in serious illness and had prevented her from returning to school for two years until the age of ten. She was therefore fiercely opposed to her daughter being returned to Mali to undergo FGM.

He wanted to take our girl to Mali for cutting, I said no because I had experienced genital cutting, we couldn't agree, it gave me the courage to leave. I took my daughter and left her with a friend in Maputo, the capital city. I made the journey to Morocco.

She left Mozambique for her daughter's sake but was aware of the risks of the journey; and reluctant to expose her daughter to other forms of risk or violence, Checkina preferred to leave her with a friend rather than taking her along on her long journey to Europe. This personal choice illustrates one of the many difficult decisions that women fleeing violence face. Although we should not essentialise their role as mothers, in practice, women are more often the primary carers for children and/or elderly relatives and this enters into their decisions on when and how to migrate to seek protection.

Yasmine, in Côte d'Ivoire, found herself in a similar position, having suffered from female genital mutilation herself at the age of ten; her uncle was now threatening to have the cutting done for her two sisters, aged six and ten. She explains that she was prepared to put up with her uncle's physical violence against her, but that the turning point was the threat he posed to her sisters.

I put up with it [referring to the beating with the machete] but he said he was going to take my two sisters to be cut [FGM] so I ran away.

After all she had endured, the beatings and the rapes, the threat of having her two sisters undergo female genital mutilation was the final straw which triggered Yasmine's decision to flee. Also in Côte d'Ivoire, Sita and her husband had always opposed 'the cutting' but the family of her husband forced one of her daughters, aged eight, to undergo FGM while she was away for the day at the market and her husband was abroad for work. Her daughter did not survive the mutilation, which caused heavy bleeding. She left with her younger daughter, aged four, to protect her from her husband's family.

Forced marriage constituted another form of gendered violence bringing women to flee their families and their countries. Mariam fled from Côte d'Ivoire at the age of seventeen. She left to avoid a forced marriage which her step-father was trying to impose on her. Her step-father (her mother's second husband) treated her as an outcast within the family, forbade her from going to school and expected her to comply with all the decisions he made about her life and her future. She was required to sell plastic bags filled with water in the market and on the streets to make money for the family, working every day of the week apart from Sunday. When she became aware that her step-father intended to marry her to a friend of his who was much older than her, she decided that she had no alternative but to flee:

I didn't know my father. My mother was his second wife [to the father in law]. All his children went to school except me. He wanted to give me in forced marriage to an old man, I didn't want to. I explained to my uncle, we left together, without telling my mother. My uncle was about 30 years old.

Another cause of flight which emerged from our research was persecution and family violence related to a woman's sexual orientation. This was the case for Aissata, a 26-year old from Mali, whose family would not accept her lesbianism. As she explained:

I had problems with the family, I decided to leave. At first I didn't want to, I have an 8 year old child, the father didn't recognise him. A friend told me to leave. I had problems with my father, I come from an important Muslim family, he became aware that I was a lesbian. My father didn't accept it because of religion. You have to banish the person, you have to kill the person. You are not considered human. You have to flee the country. I first went to another part of Mali to flee, to seek help. But my father had called the family to warn them. My mother had died. I hid at my friend's house,

soldiers were looking for me because my father is in the military. I had to go out in disguise.

These women's experiences and reasons for deciding to leave their countries illustrate the range of gendered forms of violence behind forced migration, and the structures of gendered inequalities and patriarchal domination which underlie and reproduce this violence.

GENDER VIOLENCE ALONG THE MIGRATION TRAIL: THE GENDERED IMPLICATIONS OF THE 'SECURITISATION OF EUROPEAN BORDERS'

In recent years, the continual increase in the restrictions on migration and the increase in control of borders have made migrants' journeys to Europe increasingly difficult, long, dangerous and expensive. This exacerbates the varying forms of violence to which migrants are exposed, including specific forms of violence which affect women. Whilst men are more likely to be detained (Krystalli et al. 2018), for example, women are more often victims of sexual and gender-based forms of violence (Freedman 2016; Tyszler 2018), demonstrating the physical impacts of border securitisation on women's gendered and racialised bodies (Sahraoui 2020). Sexual and gender-based violence is perpetrated by police and security guards at borders, by smugglers or traffickers, by fellow migrants or by local populations. In many cases, women are forced to engage in transactional sexual relationships to pay for their passage, or to ensure economic survival during their migratory journeys. The dangers of the journey may also mean that they decide to join male partners, or larger groups led by men, in search of protection, but these couples or groups may also contain relationships of domination and violence. Journeys to Europe often last for several months to several years and include periods of forced immobilisation and waiting for possible opportunities, and the necessary resources to attempt border crossings and the next stages of a journey.

The Director of the Samu Social Health Centre within the Centre told us that the majority of the women arriving had experienced sexual violence on their journeys, and the women we met spoke about their experiences which attest to the various forms of violence which are omnipresent on migration routes. The constant exposure to violence and the challenging material conditions on the migration trails to Europe put women's lives in

danger in tangible ways; many women we interviewed had seen other migrants die. The necropolitical implications of European securitisation of borders produce traumatic experiences for those seeking refuge with premature death being a constant risk. Border crossings and their surroundings crystallise the lethal consequences of the increasing militarisation of borders, in the nearby forests where migrants attempt to survive for months as well as during the days or weeks of desert and sea crossings.

After fleeing a forced marriage in Côte d'Ivoire, Mariam was stuck in Morocco for several months. Joining the informal camps hidden in the forests around the Eastern Moroccan-Spanish border (in the region of the city of Nador on the Moroccan side and the Spanish enclave of Melilla), Mariam lived in the forest for ten months after she arrived in the midst of winter. She talked about her experiences of being pressured to engage in transactional sexual relations and of sexual violence:

There were many of us, Malians, Ivorians, Senegalese and Guineans. If you don't have the means... 'I want to go out with you', if you don't want to, you'll go hungry. There were other people in the forest who had some money. It was dangerous. I was raped after my uncle died, before I met my friend [with whom she continued the journey].

Sita who left Côte d'Ivoire with her young daughter was also stuck in the same forests for months. She remembered vividly how another woman in the camp was freezing, her baby was crying and she could not breast-feed anymore, as she had no milk left because of exhaustion. Sita had to run away when the police came and later she did not find the woman and her baby when she came back to the camp. She did not know what happened to them, whether they had survived the dreadful conditions.

Desert and sea crossings represent particular instances of violence in that migrants are regularly exposed to death. There are no reliable statistics on migrant deaths on all routes to Europe, but the International Organisation for Migration (IOM) Missing Migrants Project estimates that 24,386 migrants have died in the Mediterranean since 2014 and 2,062 have died in 2021, indicating the high levels of mortality on these routes. Women are proportionally more likely than men are to die whilst attempting to cross borders due to a range of gendered social structures and practices interacting with state imposed forms of control and securitisation (Pickering and Cochrane 2013). Women also face particular forms of violence and trauma on the routes. As well as a heightened risk of sexual

and gender-based forms of violence (Freedman 2016), they may also face traumatic experiences such as giving birth on migration routes or during sea crossings to Europe, as was the case for Yasmine.

Yasmine's journey from Cote d'Ivoire to France lasted for a total of four years. In fact, like for many refugees, she did not aim at arriving in France initially. When she was forced to flee from her home, she thought of travelling to Morocco. But once she arrived there, the uncle from whom she was fleeing somehow learned where she was and threatened her over the phone. Yasmine was scared that her uncle had this information, even knowing which city in Morocco she was staying in. She was worried that he would come and find her or send someone else to do so. She was in a state of such panic that even though she was pregnant and nearing her due date, she decided to embark on a boat from the South of Morocco to the Spanish Canary Islands with her youngest sister, aged 6, leaving the oldest sister, aged 10 with her partner in Morocco. She had met her partner whilst in Morocco and described their relationship in caring terms, grateful for the support and safety he provided her. However, the journey on the boat was dreadful, with three hundred persons crammed on a small dinghy. Yasmine's young sister did not survive:

My 6-year-old sister died in the water.

As for Yasmine, she gave birth on the boat:

On the fifth day on the boat I gave birth. Three women helped me.

The traumatic events described by Yasmine obviously caused her severe distress, but like many other women, she could not easily access adequate medical or support services after her arrival in France.

Mariam's journey was traumatic too. She was about five months pregnant when she embarked on a boat to cross from Morocco to Spain. The journey lasted about 24 hours, and as Mariam explains:

We were in a small boat, it was pierced so we asked for help, the Red Cross came. On the water it was difficult, we thought we were going to die, the waves were moving us, everyone in the boat was crying and vomiting.

These stories of trauma are unfortunately shared by a large majority of the refugees who arrive in France and in other European countries. But as

the experiences of the women we met reveal, the services for asylum seekers on arrival in a destination country are too often inadequate, and rather than accessing protection they will be subjected to the ‘slow violence’ (Mayblin et al. 2020) of European asylum systems.

GENDER VIOLENCE UPON ARRIVAL IN FRANCE: SURVIVING INVISIBILITY AND INSTITUTIONAL ABANDONMENT

Having arrived in France, refugees might expect to find protection from the multiple forms of violence experienced in their countries of origin and on their migratory journeys. However, our research revealed the continuum of violence also extending into ‘reception’ countries such as France, where failure to provide adequate accommodation and access to services can be understood as deliberate indifference, forms of institutional ‘abandonment’ (Pinelli 2018) or ‘degradation by design’ (Canning 2019), which create and reinforce gendered vulnerabilities to violence, and can be considered as forms of violence in themselves.

There is a lack of research and literature available on the question of gender-based forms of violence against refugees after their arrival in France, which is indicative of the dominant political discourses on gender and migration, which tend to reinforce the ‘othering’ of migrant and refugee women (Grove and Zwi 2006), and portray gender-based violence as a problem which they experience in their countries of origin or on migratory routes, rather than after arrival in France. This failure to consider gender-based violence and the needs of refugee women on arrival in France also helps to explain the lack of services and facilities which are available to them.

One of the only studies on migrant women’s experiences of gender-based forms of violence after arrival in France (Pannetier et al. 2020) showed that women who had fled their country because of violence they experienced there, were also statistically more likely to experience sexual or gender-based forms of violence after their arrival in France. This confirms the idea of a ‘continuum’ of violence, based not only on the fact of geographical continuation of violence at all stages of the migration journey, but also on a causal link between having experienced violence in a country of origin and being more vulnerable to violence after arrival in France. The reasons for this continuum, as shown by our research, can be

found in the reception conditions which create and reinforce situations of risk for these women.

Recent changes in legislation on immigration and asylum in 2018 were meant in theory to simplify and speed up procedures for claiming asylum, but in practice the system remains complex for asylum seekers, and there are many delays and obstacles which mean that displaced persons may spend a long time waiting to try and get appointments at first reception centres or police prefectures in order to even register a claim. These delays put them in situations where they lack housing and any economic support. In the Paris region because of the large number of displaced persons, the government has put in place a specific system whereby to get an appointment at a first reception centre they must call a phone number managed by the OFII (French office for immigration and integration). However, this number is difficult to reach, and asylum seekers spend days or weeks trying to get through to get an appointment. The dematerialisation of the appointment scheduling system means that asylum seekers are pushed into a limbo of waiting to get an appointment to register their claim, a period during which they have no access to accommodation or support. In the Paris region, it still takes months before one can file an asylum claim. The long queues which used to exist in front of police prefectures have now transformed into invisible phone lines with long waiting times to get an appointment at a first reception centre. Once an asylum seeker has managed to get an interview in the Police Prefecture, they will be fingerprinted (to check Eurodac, a European biometric database). If their fingerprints are found in Eurodac in another EU Member State, they will be put into Dublin procedures to return them to their first country of entry into the EU. Asylum claims are examined first by the OFPRA (*Office français pour les réfugiés et les apatrides*), the French agency for the protection of refugees and stateless persons. If a claim is rejected, the asylum seeker can make an appeal to the CNDA (*Cour nationale du droit d'asile*). The 1951 Convention is interpreted restrictively by the French refugee status determination apparatus. In 2020, refugee protection was given to only 9.8% of applicants by the OFPRA. After appeal at the CNDA, 24.4% of applicants obtained refugee protection. In other words, over 75% of asylum applications are rejected.

A major issue is the lack of places in accommodation structures for asylum seekers in France, even for those asylum seekers who do manage to register and make a claim. France received around 138,000 first time asylum applications in 2019, and around 81,000 in 2020 (a figure which was

reduced because of the Covid-19 pandemic and the added difficulties of arriving in Europe when borders were largely closed to third country nationals). However, only about half of these asylum applicants are able to access some kind of official accommodation. La Cimade, one of the main NGOs working with asylum seekers and refugees, states in its annual report on the reception conditions for asylum seekers, that only two fifths of asylum seekers get a place in any kind of accommodation centre (La Cimade 2019). This means that around 70,000 people are trying to find accommodation for the 7.40 euros a day which they are officially allocated as an asylum seeker, whilst around another 30,000 people have no accommodation and receive no financial benefits at all. Within this system, social actors are supposed to prioritise families, single women and women with children for allocation of accommodation, but due to the huge shortage of places, many still find themselves sleeping on the streets, engendering a high risk of physical and sexual violence. A psychiatrist working at the reception Centre recounted the story, for example, of one woman who had consulted him, who had been raped whilst sleeping at the Gare du Nord railway station, and had arrived at the Centre pregnant and HIV positive.

During our study, we found that even pregnant women asylum seekers or women with young children had experienced homelessness and had slept on the streets. This included women who were waiting for an appointment to register to seek asylum as well as those already registered as asylum seekers and waiting for a decision. Mariam recounted that she was about six months pregnant by the time she arrived in France, but that because of a lack of accommodation, she was forced to sleep rough on the streets of Paris. She eventually got help and accommodation from an NGO working with asylum seekers after she had visited a hospital. Sita, even though she was accompanied by a young child, her four-year old daughter, found herself in the streets with her daughter going hungry. After several days, the crying child drew the attention of a man who helped them out by accompanying them to an NGO that provided them with a bed for a few days in a sports facility arranged for emergency accommodation. Checkina also spent about three weeks sleeping in the street in the middle of winter, having arrived in Paris in January. She repeatedly attempted to call the 115 emergency phone number for the homeless, but found that she could not get through because the line was constantly engaged. When she finally managed to get through to someone, she tried to explain that she was a refugee (referring to her refugee status in Mozambique). She was feeling very unwell and crying and expressed her

desperation on the phone, but the woman on the other end of the line only told her 'go back to your country'. Finally, she managed to find some support through a hospital emergency department. She went to the hospital because of the intense headaches she was experiencing; and in the emergency department, they provided her with some information on NGOs who then helped her to find shelter for the night. In the end, she was admitted to an emergency temporary accommodation centre. This was only a temporary solution but at least it offered her some stability for the weeks ahead.

Many women who are forced to sleep in the streets also get no financial support or help from the French State, and thus have no means to buy food or other basic necessities. Thus, many have to resort to begging to survive. When Aissata arrived in Paris from Mali, after months of hiding from her father, she did not have anywhere to go and could not get a place in an accommodation centre, and so found herself living in the street. As she recounts:

I didn't know where to go. I slept in the metro stations. I called 115 [the emergency number to find a place in a night shelter] but I couldn't afford to pay for transport [to reach the night shelter]. It wasn't easy to get around, no papers. I managed to eat once a day.

This story is an example of the extreme poverty faced by asylum seekers without access to any form of income, but it also testifies to the inadequacy of the systems for providing emergency accommodation. Several of our key informants working in NGOs supporting asylum seekers also pointed to this problem of women regularly being asked to cross the Parisian region (often with young children in tow) to access a night or two of temporary shelter before having to move again. For those who cannot even afford the metro fares this is a serious barrier to accessing accommodation. Furthermore, the temporary accommodation which is offered by the 115 service is often in run-down hotels, which themselves pose a risk to the women's health (Poncet et al. 2019; Vandentorren et al. 2016).

Aissata found herself very isolated. She did not know anyone else in Paris and was completely alone in the streets. So she sought out discrete spots to sleep where she could be slightly more hidden and protected from the omnipresent violence of the streets. But still she felt in permanent danger. She explained that she tried to find places to sit where she could pretend that she was waiting for someone (such as in a station), so that she

was not perceived as someone who was living in the street, as this would heighten the risks of physical aggression or sexual violence. Because of these conditions, she was not able to sleep properly, but could only sleep for very short periods. She felt tired and ill all the time.

Women who spend a long time sleeping in the street and who have no access to any form of financial support often resort to exchanging sex for accommodation or food. The woman running the Samu Social Health Centre told us that this was a real problem, but that it was very difficult for women to talk about it, as they were ashamed and often believed that it was their fault that this had happened. She added that many women have experienced so much violence, including sexual violence, that they tend to 'normalise' or 'interiorise' this and will not talk about it spontaneously to the health workers. There are also many women who arrive pregnant, but according to this Director, these are often 'endured' rather than 'desired' pregnancies, even if women rarely seek a termination.

The lack of accommodation for asylum seekers in France might be seen as an 'accidental' outcome of the large numbers of new arrivals, and the difficulties that the French State has experienced in creating new places in accommodation centres for these people. However, it could also be interpreted as part of a more deliberate strategy of neglect which has been put in place to create a hostile and 'dissuasive' climate for asylum seekers (Slama 2018). The various dispositives put in place by the French State to provide more accommodation for asylum seekers can be viewed as purely declarative if we take into account the reality of their implementation which comes up in practice against a constant 'saturation of national housing schemes for asylum seekers' (Basilien-Gainche and Slama 2014). This planned neglect has gendered impacts in that it exposes women to sexual and gender-based forms of violence after their arrival in France and creates barriers to their accessing health care such as adequate ante or post-natal care.

The asylum-seeking women we met were 'advantaged' in relation to others in that, they had eventually been allocated a place in a Centre which catered specifically for these 'vulnerable' women and their families. However, as mentioned earlier, their stay in the Centre could often be very short, as the French asylum system foresees the transfer of asylum seekers from this temporary accommodation to more long-term accommodation in other regions, and often in smaller and quite remote towns. The transfer is often another psychological blow for women who have just been able to find a safer place to live, and to access healthcare and some

psychological support. The nurses working in the Centre talked about the difficulties of these transfers, and the fact that it was almost impossible to ensure a continuity of medical care after the women left. The nurses would create a dossier and write letters for each woman prior to transfer, but from their experience, these did not really facilitate access to equivalent care in their new accommodation, and often the specialised care that was necessary for them was only available in Paris. A psychiatrist working at the Centre also explained that he had ‘huge doubts’ about the level of care and follow-up that the women would receive once they had been relocated outside of Paris.

Another barrier to the health and well-being of women asylum seekers can be found in the stressful, difficult and often incomprehensible procedures for making an asylum claim. The complications of the process mean that asylum seekers are plunged into ‘long months of labyrinthine procedures’ (Courty et al. 2018). For the women we interviewed, many of whom did not speak French, this process was daunting and the source of additional stress.

Checkina for instance, who had already been granted refugee status by the UNHCR in Mozambique, hoped that when she arrived in France this status would be recognised in some way and that she would be able to regularise her status in France more easily as a result. However, she found on arrival that this was not the case, and that she would have to start a whole new procedure to gain refugee status in France.

Similarly, Yasmine was unaware of how the French asylum system worked. Contrary to dominant discourses which portray all asylum seekers as desperate to reach the European Union and having strategic knowledge about the intricacies of asylum systems in various EU Member States, Yasmine was not planning to come to France when she left the Côte d’Ivoire but hoped to stay in Morocco. It was only after her uncle traced her and threatened her that she was forced to move on and come to France. Like many of the other women we met, she knew very little about how to claim asylum in Europe, and did not make a claim when she first arrived. It was only after she had been to a Child and Maternity Health Centre that she found out that she could make an asylum claim. Yet, even once she had some information about it, the process was far from simple:

I didn’t know about the asylum application, but at the PMI [Child and Maternity Health Centre] they told me about it. They gave me the number. I called for several days, nobody answered. Then an association sent a mes-

sage for me. I got an appointment, they took my fingerprints, and I need to submit my file within 21 days.

Experiencing difficulty in getting a first appointment to register as an asylum seeker is common. A reform of the asylum system in 2015, which was promoted by the government as a means of reducing the time taken to assess asylum claims and speeding up the system, created a system of pre-registration through a ‘guichet unique’ (one-stop centre). Asylum seekers in the Parisian region access this through a phone line to get a first appointment. The lack of sufficient personnel to staff these phone lines means waiting times can be very long. And thus, the government has pushed the waiting time for decisions on asylum claims back to this period of ‘pre-registration’, a period when asylum seekers are not eligible for any benefits. This creates another level of stress and confusion for these asylum seekers, as the women we met testified.

Other women told us about the stresses caused by the way in which their asylum application was processed and considered. The asylum application dossier has to be filled up in French, and so many of the women rely on social workers or volunteers in NGOs to help them (Mahroug and Bouagga 2020). The narrative provided by the asylum seeker of their personal experience of persecution is a key part of their dossier but due to the difficulties (linguistic, psychological, physical) of producing this narrative in a written form within the given time limit, it is frequently a joint production between the asylum seeker and various others who try to ‘help’ them (Mekdjian 2016). They have only 21 days after the registration of their claim to complete and submit their dossier adding a huge time pressure. Aissata explained to us that she saw no future in France without gaining refugee protection and a legal status that would allow her to ‘feel free and study’. Yet she felt rushed when she had to submit her application. And looking back at how her story was told in her application, she felt that it did not do justice to what she actually would have wanted to share:

My story was a little transformed by the person who wrote it. I am waiting for the interview to explain, I’m awaiting a date. I had 21 days to write the story. [NGO name] helped me with the story [writing it down]. I was confused in my head. I explained, the person wrote in his own way without re-reading before sending it, he did it on the spot and has sent it. It was a bit fast.

The problems of telling their story in a format demanded by the French refugee status determination procedure clearly place a huge psychological burden on asylum seekers and have a negative impact on their well-being. In a psychoanalytical examination of the impacts of the asylum procedure, Pestre notes the violence of the procedure which has not only psychological but also physical implications on the asylum seeker's health (Pestre 2008). Psychologists have foregrounded the fact that administrative decisions of rejection have life-shattering effects in that the state's refusal to grant asylum tells them not only that they cannot legally stay in France but also that they were not believed, that the hardships they lived through were somehow not 'real' enough (Pestre 2008; Saglio-Yatzimirsky 2018).

CONCLUSION

Our study revealed the continuum of violence experienced by women which runs from their being forced to leave their countries, through their migratory journeys and to the institutional neglect and abandonment which characterises their arrival in France and which exposes them to further forms of violence rather than the protection which they hoped for. Further, the institutional violence produced by bureaucratic procedures blind to this continuum of violence exacerbates the trauma experienced by women seeking asylum. While a certain reckoning of the specificities of gender violence was achieved by the creation of an internal group of experts at the French Office for the Protection of Refugees and Stateless Persons (OFPRA) in 2013, the suspicion that guides many institutional actors in the asylum system (Fassin and d'Halluin 2005) and the limited juridical recognition of gender as ground for persecution lead to low levels of formal protection for these women (Freedman 2008). In 2019, only 23.7% of those having filed an asylum claim were granted some form of protection (OFPRA 2020) and there are no specific statistics available for gender-related claims. While many asylum-seeking women have been confronted with gender violence, often including sexual violence, as this chapter demonstrated, the implications of these hardships fail to be taken into account by the inadequate reception system they encounter once in France. The Centre in which we conducted our study, where psychological and psychiatric care was available in addition to primary care, is very much unique in the constellation of existing reception centres and was heralded as an example of 'best practice'. Yet even for the women

temporarily accommodated in this centre, chances for a continuity of care were low given the policy of geographical dispersion to other reception centres throughout France. As Canning (2019) has argued with regard to other EU Member States, we can see here a ‘degradation by design’, not just a failure to protect but a reinforcement and exacerbation of these women’s situations of vulnerability through the French government’s active neglect of asylum seekers’ welfare. The French example is not unique and sheds lights more broadly on the ways that the securitisation of migration to Europe and the ‘slow violence’ (Mayblin et al. 2020) exercised by EU States on asylum seekers, have created a situation of racialised and gendered violence exercised on those who seek protection.

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Conclusion

Evangelia Tastsoglou, Nina Sahraoui, and Jane Freedman

In our introductory chapter we explained that in this volume we present research and analysis from our project on gender-based violence in the context of migration. The research is drawn from seven participant countries, seven case studies. Our principal aim in this book has been to uncover and interrogate the complex, interacting, causal factors behind gender-based violence (GBV) in diverse migration contexts and stages. We ask questions such as:

- How do legal and policy frameworks, actions (and omissions) of international organizations, states and state agents at various levels

E. Tastsoglou (✉)

Department of Sociology, Saint Mary's University, Halifax, NS, Canada

e-mail: evie.tastsoglou@smu.ca

N. Sahraoui

Paris Centre for Sociological and Political Research, CNRS, Paris, France

e-mail: nina.sahraoui@cnrs.fr

J. Freedman

Université Paris 8 and Paris Centre for Sociological and Political Research (CRESPPA), Paris, France

e-mail: Jane.FREEDMAN@cnrs.fr

contribute to risks of GBV or to reducing/preventing these risks in a migration context?

- How do national media and political discourses contribute to increasing or preventing risks to GBV through their particular framings of GBV in the context of migration?
- What services are available for migrant survivors of GBV in diverse national contexts?
- What is the role of human agency, that is the agency of individuals and communities in addressing and possibly preventing this major violation of human rights?
- How can we theorize the vulnerability to and experiences of GBV by migrant and refugee women in a way that takes into account their multiple identities and social divisions impacting them while not resulting in essentialism and political fragmentation?

Gender-based violence has attracted significant attention within the international human rights community over the past decades (Reilly 2019) as well as across the field of humanitarian intervention (Ticktin 2011). Yet, how GBV is understood, framed and acted upon remains a contested field. Intersectional approaches within European policies around gender-based violence remain, for instance, to be included in policy-making processes in order to achieve more inclusive results (Lombardo and Agustín 2016). In addition, despite the advocacy of civil society organizations representing migrant women, there is no explicit mention of sexual and reproductive healthcare services in the two UN-sponsored Migration and Refugee Compacts signed in 2018 (Hennebry and Petrozziello 2019).

Combining theory discussion and elaboration, policy-making analysis and ethnographic insights into GBV in migration contexts, this volume offers a renewed understanding of GBV by examining in an interdisciplinary way its social and political dimensions. It achieves three important contributions to the literature: a) The volume relates micro, meso and macro level of analysis by foregrounding a conceptualisation of GBV that addresses both interpersonal as well as structural causes of GBV; b) Building upon an international network of researchers, the volume offers a pioneering comparison of how GBV policy frames and migration management intersect, which enables bringing to the fore the specific inequalities these intersections produce for migrant women; c) Drawing upon several disciplines, the authors engage in co-writing a critical engagement with dominant theories in the field (precarity, vulnerability,

intersectionality) and propose an original understanding of how these concepts speak to each other from a feminist perspective.

Bringing together sociologists, anthropologists and legal scholars conducting research in seven countries (Canada, France, Austria, Israel, Ireland, Turkey and Norway), this volume not only compares GBV-related policy frames internationally, but it also questions the gendered workings of migration regimes. The volume therefore goes beyond literature on GBV that merely accounts for migrant women as a particularly vulnerable group. The volume sheds light on the complex, and at times contradictory, implications of these two fields of policy. Indeed, these intersections tend to be overlooked by policymakers, when they are not instrumentalised within culturalist accounts (Roggeband and Verloo 2007; Razack 2004). To provide a concrete example, article 59 of the Istanbul Convention states that victims of violence against women shall be granted ‘an autonomous residence permit irrespective of the duration of the marriage or the relationship’ (Council of Europe 2011). Yet, national legislations vary greatly as to the protection offered to victims of domestic violence whose migration status depends on a male sponsor. Women’s rights’ and migrants’ rights’ organisations in several countries struggle to make visible the legal abandonment of women trapped in these situations (Borges Jelinic 2019).

All the contributions to the volume engage with the central theme of gender-based violence in migration, specific precarious and vulnerable states that enable GBV to arise as well as how these vulnerable and precarious states, in turn, are reinforced by GBV. The chapters share in common a broad feminist perspective as well as intersectional analyses to understanding GBV in the context of migration at the macro, meso and micro levels. In addition, there is a shared understanding of migration among contributors, ‘as a complex, multi-causal, multi-stage, non-linear (and often non-conclusive) temporal – spatial continuum/process, including a spectrum of forms (from the freely decided economic or family migration to forced migration and asylum seeking) and producing a multitude of categories of migrants with differential legal/citizenship statuses and associated rights’. (Freedman, Sahraoui and Tastsoglou in this volume). Adopting feminist and intersectional perspectives on GBV in migration ‘suggests a focus on gender inequality and intersectionality in terms of experiences and multi-scalar causal processes, at different ‘moments’ of the migration process’ (ibid). In this brief *Conclusion*, we discuss the key contributions of each chapter, in particular how they engage with the key

theoretical concepts and ideas that inspired this volume. In the process we will be identifying broad similarities and points of convergence and divergence.

Our introductory chapter to the key ideas and structure of the volume is followed by a theoretical chapter by Margunn Bjørnholt, Niamh Reilly and Evangelia Tastsoglou which critically examines three influential concepts in mainstream policy and academic discourse and especially in feminist and gender theorising that are GBV-relevant, namely vulnerability, precarity and intersectionality. Each concept has the potential to illuminate different, interrelated dimensions of the nexus of gender-based violence in migration. Each concept enables a unique glimpse into the complex operation of unequal power relations that produce gender-based violence in migration. Leaving aside the scholarly debates on the three concepts, Fineman's vulnerability theory emphasises the human condition as one of 'universal and continuous vulnerability' and points to the direction of institutional actors' responses and responsibilities, yet it downplays difference. The precarity approach, broadly speaking, focuses on processes which transform precariousness into socially-constructed and differentially-experienced precarity. An intersectionality approach, at large, recognizes that different women experience gender-based disadvantage or oppression differently and that social (legal, institutional, policy or practice – based) inequalities resulting in gender oppression can be understood only as mutually interacting macro processes. Using the concepts in a mutually interrogative way, this chapter proposes an '*expanded, critical and heuristic vulnerability approach*,' which integrates key insights of '*situated intersectionality*' suggesting research agendas in specific social/historical migration contexts, along with the *precarity* perspective's foregrounding and detailed analysis of structural and discursively produced forms and processes of oppression. The authors argue that the proposed approach has great potential to enrich empirical research on and interpretative analysis of GBV in migration.

The four chapters of the second part of the volume, 'Policy Intersections: Combating Gender-Based Violence and Managing Migration', focus on policy frameworks, analysing the ways in which various migration and asylum policies in different national contexts act to create situations of risk for GBV for migrant women, and the ways in which GBV in the context of migration is understood and framed in political and media discourses. Case studies from Austria, Canada, France and Israel demonstrate the ways in which legal/policy, political and media discourses and framings of

migrant ‘others’ and of ‘cultural’ forms of violence linked to migration and various expressions of gender inequalities result in a failure to protect migrant and refugee women, whilst also, in some cases, stigmatising migrant men as natural ‘perpetrators’ of GBV. Such gaps and omissions constitute both structural and symbolic violence, leading to situations of increased precariousness or vulnerability for migrant women.

Chapter 3 by Madita Standke-Erdmann, Milena Pieper and Sieglinde Rosenberger critically examines the framing of GBV within political and media discourses in Austria. The chapter investigates how political actors and the media frame gendered violence against migrant women by analysing discursive interlinkages between migration policies and policies countering gendered violence. Drawing upon the concept of gender-nationalism and based on media and public policy material, the authors shed light on how the framing of the violence of ‘the others’ becomes intelligible by identifying cultural peculiarities that give rise to a phenomenon assumed foreign to the host society. This culturalization of gender-based violence frames GBV as a problem of the racialized ‘other’, concealing the systemic conditions that perpetuate it, and pointing to individualised policy solutions. GBV then becomes both depoliticised (i.e., a matter of culture or an individual matter) as well as politically instrumentalised as it feeds into gender-nationalist narratives that advocate and justify restrictions and sanctions in migration policy.

Chapter 4 by Evangelia Tastsoglou, Chantelle Falconer, Mia Sisic, Myrna Dawson and Lori Wilkinson focuses on the Canadian legal and policy protection frameworks at the crossroads of gender-based violence and immigration. The Canadian case study demonstrates the lack of, and need for, an intersectional understanding of GBV in the Canadian legal and policy protection framework of migrant and refugee women who are GBV survivors. Drawing upon a critical analysis of selected, seminal legal and policy documents, the authors synthesize the existing GBV protection afforded to immigrants and refugees. Furthermore, drawing upon qualitative interviews of the experiences and perspectives of forty-three ‘key informants’, whose professional roles include putting into practice the pertinent laws and policies to support migrant and refugee women, the authors interrogate such protection and identify critical ‘fault lines’ in the specific protections afforded to migrant and refugee women, including those with precarious or no legal status. Overall, ‘fault lines’ include gaps within and between policies, problems in policy implementation, or unintended consequences of protection policies. Specific ‘fault lines’ are

constituted by: GBV understandings that render women seeking protection from persecution ineligible; inaccessible protection policies; gaps in intersectoral collaborations when it comes to providing support to migrant and refugee women who are GBV survivors; lack of an explicit definition of GBV in the law and a national GBV strategy (including one for migrants and refugees); and a narrow underlying conception of both GBV and human rights, leaving out structural factors that increase vulnerability and risk as well as protections from such factors. The underlying current through the specific ‘fault lines’ is the absence of an intersectional understanding of GBV and human rights which negatively impacts migrant women’s access to legal and social protection.

Along similar lines to Chap. 3, based on a critical analysis of the political discourse on GBV and migration in France, Chapter 5 demonstrates how the French media and political discourses around GBV and migration are also strongly imbued with culturalist framings. Jane Freedman, Nina Sahraoui and Elsa Tyszler demonstrate that GBV within state-sponsored reports, notably by the French inter-ministerial mission for the protection of women victims of violence, tends to be equated with forced marriage, female genital mutilation (FGM) and trafficking, which results in the stigmatisation of migrants and leaves systemic causes of violence unaddressed (such as, a heightened risk of sexual violence while living in the streets in the context of a structural lack of accommodation for asylum seekers). For example, there have been recent proposals to introduce measures for the immediate deportation of foreign men guilty of GBV, feeding into the perception that GBV is, first and foremost, a foreign import. Freedman, Sahraoui and Tyszler argue that these culturalist framings of GBV result in a neglect of the deeper structural and systemic causes of violence and that they contribute to the circulation of racist, Islamophobic and anti-migration rhetoric within the French political space.

Nomi Levenkron, Hadar Dancig-Rosenberg and Ruth Halperin-Kaddari develop in Chap. 6 a theoretical framework based on intersectionality, crimmigration and legal violence literature in order to understand gender-based violence and police responses to it in Israel. The authors draw on primary and secondary materials (e.g., minutes of parliamentary sessions, NGO reports, court rulings, press articles, Ministerial reports) as well as on thirty-eight in-depth interviews with public servants, civil society service providers and activists, and asylum seekers, to uncover and analyse the ways the Israeli police deal with GBV against asylum seekers. Through their intersectional lens, Levenkron, Dancig-Rosenberg and

Halperin-Kaddari identify patterns of institutional discrimination that limit the accessibility to justice, protection and support to GBV migrant survivors in their interface with Israeli police, the key player in the enforcement system bridging the gap between the law in the books and the law in action. The three authors demonstrate thereby the implications of the ‘toxic fusion’ of crimmigration with legal violence for women asylum seekers.

The four chapters of this part of the book are connected by a common analytical focus, at the macro and meso levels, on state laws and policies as well as political and media discourses pertaining to gender-based violence in migration and asylum-seeking. In addition, the Israeli case study addresses the meso-level by foregrounding police practices as the key law enforcement agency in the field of GBV determining how the law is implemented. All four chapters demonstrate the effects of (i) intersectional positionalities in aggravating the protection plight of marginalised migrants and refugees who are GBV survivors (Chapter 6, the Israeli case study); or (ii) an absence of intersectional legal and policy analysis in terms of limiting protections (Chapter 4, the Canadian case study), or (iii) the absence of a materialist, structural and intersectional analysis on producing a culturalist framing of GBV resulting, in turn, in stigmatization and racialization of migrants and refugees, individualised ‘solutions’ and blindness to systemic causes of GBV, and, ultimately, fuelling anti-immigration discourses and measures (Chaps. 3 and 5, the Austrian and French case studies).

The final part of this volume, ‘Understanding Policy Implications, Foregrounding Women’s Voices’ explores migrant and refugee women’s experiences of violence and resistance to violence with three chapters which discuss the ways in which women face violence and their responses to this violence. Chapters look at the potential of informal social networks to work productively to help women who experience family violence in the context of migration in Canada, what the experiences of trafficking victims in Norway suggest for the protection (or lack thereof) afforded to them by the state implementing national and international laws and regulations, and the continuum of forms of violence experienced by migrating women seeking asylum in France.

Chapter 7, by Cathy Holtmann, demonstrates that while immigrant women in Canada are no more likely to face family violence than non-migrant women, they are less likely to seek formal support. Qualitative research with immigrant women (N=107) shows how they strategically

harness social networks to support and care for one another and their families. Care is an important ethno-religious value grounded in collectivist identities and practices. Immigrant women depend on the institutions of the family, minority religious groups and cultural associations to build resiliency through care. This chapter uncovers that the individualistic approach to gendered family violence carried out by social actors in Canada, while providing safety in the short term, risks increasing migrant women's vulnerability, notably through greater isolation. Holtmann argues that meaningful engagement, a 'culturally integrative approach', with migrant communities is needed to render public services more accessible and family violence interventions more effective. If it is important to understand the intersectional inequalities impacting the GBV experiences of immigrant women, Holtmann argues ultimately that it is equally important to deploy an intersectional approach that takes into account collectivist ethnic (and possibly feminist) cultural values of care in devising effective engagements with communities to address gendered violence.

Drawing on the analysis of the case of a 'model trafficking victim' with a long trajectory in the Norwegian legal system as well as media reporting of this case, Yngvil Grøvdal and Margunn Bjørnholt in Chap. 8 find that the Norwegian state fails to protect women victims of trafficking who seek protection owing to piecemeal responses that produce structural violence. The authors deploy a vulnerability analysis, highlighting the role of institutions in both producing and redressing harm. Although Grøvdal and Bjørnholt start from the micro level of analysis, i.e. the experiences of the trafficked woman, their purpose is to illustrate macro level exclusionary and intersectional processes at work (e.g. gender and legal status/citizenship) which have directly contributed to inflicting institutional harm (through prolonged temporariness and piecemeal and reluctant responses) on this woman. In ways that echo Chap. 4 (Tastsoglou et al. in this volume), Chapter 8, focusing on the specific form of GBV that trafficking constitutes, concludes that the state response reveals an inherent structural violence at the intersection of international and national criminal-, migration-, and human rights laws and regulations, and policies aimed at limiting immigration. By doing so, the authors argue, the Norwegian state evades its Human Rights obligations, as well as contributes to 'the brutalisation of contemporary international migration regimes'.

Finally, in Chap. 9, Nina Sahraoui and Jane Freedman focus on the continuum of gendered violence that characterizes the experiences of the migration journey undertaken by five young women from West African

countries seeking asylum upon arrival in France. The authors foreground the voices of women asylum seekers to shed light on the continuum of violence which they face, from the motives of flight, to the risks faced en route, to the destitute conditions upon arrival to France, induced through the denial of access to services, and continued enforced precarity. The authors take the idea of the continuum to apply to both, forms of violence constituting a continuum, but also stages of the migration journey entailing different constraints and risks for the women. Sahraoui and Freedman highlight the importance of understanding women's migration caused by GBV as a political act of resistance to patriarchal structures through which these women demonstrate their agency. The material precarity they face constitutes, however, constraints that weigh on their experiences, and leads to heightened risks of GBV, even upon arrival to 'safe' European settings where, in addition to material deprivation, the blindness of bureaucratic procedures to this continuum of violence produces an institutional violence that exacerbates the GBV trauma on the survivors.

These three chapters, taken together, starting from the experiences and voices of migrant/refugee GBV survivors, address policy implications at various stages of the migration journey. Their analyses are macro analyses of laws' and policies' gaps, half-measures and failings, identified through the experiences and voices of survivors. At the same time, the reader understands the agency of the women, manifested in their building resilience through care systems practised by social networks of migrants, ethnic/faith organizations and allies; the agency of the women who, despite obstacles, continue in their pursuit of a fair treatment through the court system, helped along the way by citizens - allies; and, finally, the agency of the women who make the decision to flee their home countries and fight to build better lives in destinations far away.

At a time when gender equality, and particularly campaigns against GBV, benefit from a particularly hopeful political momentum internationally post #metoo, it is sobering to examine the ways in which migration policies and the instrumentalization of migrants, refugees and asylum seekers means that this political momentum often fails to reach migrant and refugee women. Additionally, the realities of the 'hidden pandemic within the pandemic' of Covid-19 have raised the risks of GBV for all women (Mittal and Singh 2020), but specifically those in situations of marginalisation, precarity or vulnerability. A few early studies have already pointed out that the pandemic has exacerbated the structural violence faced by forced migrant women survivors of SGBV, as states abandoned

them and services were closed down (Phillimore et al. 2021). This volume is then a timely contribution in the way in which it brings uniquely to the fore the complexity of understanding and combating GBV in migration contexts.

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INDEX¹

A

Abuse, 19, 43, 44, 62, 88, 103, 142,
166, 167, 171, 176, 177, 181,
182, 197
Accommodation, 9, 22, 94, 127–129,
213, 215, 223–228, 240
Accommodation centres,
211, 225–227
Agency
choice, 8, 46, 49, 216
collective agency, 46, 47, 164, 182
Anti-Muslim discourse, 125
Arendt, Hannah, 193, 194, 202,
203, 205
Asylum
directives (EU), 7
policy, 21, 65, 127, 238
seeker, 9, 22, 31, 101, 102, 127,
129–131, 135–154, 190, 191n3,
199, 202, 204, 205, 212–216,
224–231, 240, 241, 243

Atlantic Canada, 163, 170, 173, 174,
176, 178
Austria, 21, 60–79, 148n11,
181, 237–239

B

Borders, 3, 7, 35, 36, 47, 49, 50, 65,
126, 127, 129–131, 138, 139,
190, 220–223
control, 7, 32
Burkini, 116, 120
Burqa, 126
Butler, Judith, 17, 18, 20, 30, 32–35,
41, 43, 44

C

Canada, 21, 22, 86, 87, 89–91,
94–106, 164–166, 168–172, 174,
175, 179–181, 237, 238, 241, 242

¹ Note: Page numbers followed by ‘n’ refer to notes.

Canada-US Safe Third Country Agreement, 101
 Canadian Human Rights Act, 87, 95
Canadian Charter of Rights and Freedoms, 95–97, 101, 105
 Care, 19, 33, 34, 41, 73n13, 127, 129, 141, 148, 152, 153, 164, 165, 168, 172–181, 191, 197, 227, 228, 230, 231, 242, 243
 Christian, 169
 Citizenship, 15, 30, 34, 35, 41, 46, 50, 66, 90, 121, 165, 168, 175, 179, 180, 193–194, 198, 202, 203, 203n12, 205, 237, 242
 Class, 11–14, 17, 34, 36, 39, 74, 88, 104, 163, 166, 179
 Continuum of violence, 22, 23, 106, 212, 214, 223, 230, 243
 Crime prevention, 138, 190
 Criminal Code of Canada (CCC), 87, 90–95, 101, 102
 Criminal justice, 90–95, 188, 189, 192
 Crimmigration, 135–154, 240, 241
 Cultural Framing of Violence, 113–131
 Culturalism, 119
 Culturalist understandings of GBV “Zero Tolerance for Barbaric Cultural Practices Act,” 101
 Culturally sensitive, 92, 95, 138, 164
 Culture, 4, 8, 10, 11, 60, 61, 63, 69, 70, 72, 74–77, 92, 95, 114, 119, 120, 167, 168, 171, 175, 213, 239

D
 Domestic violence, 6, 7, 10, 37, 60, 62, 68n7, 74, 91, 93, 97, 100, 102, 103, 124, 130, 142–144, 147, 150, 172, 178, 179, 193, 237
 The Dublin Regulation, 190, 191, 199

E
 Embodiment/embodied, 13, 33, 35, 43, 131, 165, 168
 Equality, 4, 8, 38, 41, 43, 48, 61, 78, 95–97, 114–121, 125, 126, 143, 167, 168, 192–194, 202, 243
 Essentialism, 4, 14, 36–41, 43, 48, 50, 236
 essentialising, 10, 38, 39
 Ethnicity, 13, 14, 39, 119, 163, 165, 166, 174, 179
 Eurodac, 190, 198, 224
 Europe, 61, 63, 70, 89, 120, 124, 191, 197, 199, 200, 202, 203, 214, 216, 218, 220–222, 225, 228, 231
 The European Court of Human Rights, 31, 192
 European Union (EU), 7, 9, 19, 32, 120, 123, 190, 224

F
 Family violence, 22, 90, 91, 102, 163–182, 219, 241, 242
 Far-right, 65, 77, 114, 115, 120, 125
 Female genital mutilation (FGM), 6, 11, 22, 48, 66, 68n7, 72, 73, 114, 117–119, 122–127, 212, 215, 217–219, 240
 Femicide, 68n7, 106
 Feminist theory, 13, 164, 166, 167
 Femotionalism, 114
 Fineman, Martha, 19, 30–33, 35, 38–45, 47–49, 165, 167, 172, 179, 180, 193, 202, 204, 238
 Forced marriage, 6, 8, 15, 22, 60, 63, 66, 68n7, 69, 72, 75, 101, 114, 117, 119, 122–127, 215, 217, 219, 221, 240
 Framing, 21, 22, 37, 60–79, 113–131, 148n11, 168, 181, 236, 238–241

France, 16, 21–23, 113–131, 168,
181, 211–231, 238, 240,
241, 243
Front National, 125

G

Gender
gap, 87, 100
identity, 5, 14, 88, 90, 94, 96,
100, 216
nationalism, 119
Gender-based violence (GBV)
anti-violence agenda, 62, 66, 74,
77, 78, 89
anti-violence sector, 106
controlling behaviour, 101
domestic violence/conjugal
violence, 6, 7, 10, 37, 60, 62,
68n7, 74, 91, 93, 95, 97, 100,
102, 103, 124, 130, 142–144,
147, 150, 172, 178, 179,
193, 237
emotional violence, 91
financial violence, 90
genocidal violence, 86
harassment, 90, 96
hate-motivated violence/hate crime,
68n7, 94, 95
hierarchy of violence, 105
interpersonal violence, 89, 90, 236
online/technology-facilitated
violence, 90
persecution, 6, 7, 87, 89, 99–101,
131, 148, 199, 216, 217, 229,
230, 240
physical violence, 9, 101, 166, 218
psychological violence, 74
sexual violence, 15, 20, 22, 66, 123,
125–129, 142, 197, 199,
215–217, 220, 221, 225, 227,
230, 240

structural violence, 10, 23, 48, 89,
106, 113–131, 139, 204,
242, 243

Gendered institutional harm, 205
Gender-nationalism, 61, 76, 78, 239

H

Headscarf, 115–117, 170
Health, 4, 9, 10, 34, 43, 66, 73n12,
127, 128, 136, 139, 141, 152,
166, 169, 173, 178, 189, 191n3,
199–203, 212, 213,
226–228, 230
Healthcare services, 212, 236
Hijab, 120, 170
Humanitarian, 7, 20, 130, 196,
200–202, 236
Humanitarian organisations, 212
Human rights, 4, 5, 21, 22, 37,
41–44, 46, 60, 62, 87, 89, 91,
95–99, 106, 135, 142, 192–194,
196, 200–202, 205, 236,
240, 242

I

Ideal victim, 192, 197–198
Identity politics, 21, 36–41, 45, 47–48
Immigrant, 22, 60, 76, 85, 86, 89, 92,
93, 95, 97–99, 101–104, 106,
115, 121, 142–147, 149, 152,
163–182, 239, 241, 242
newcomer, 92, 99, 102, 106, 174
Immigration, 8–10, 22, 32, 35, 70,
85–106, 119, 122, 126, 127,
136–139, 153, 163, 165–167,
169, 170, 172, 174, 179, 189,
190, 192, 195, 198, 200, 201,
204, 205, 224, 239, 242
Immigration and Refugee Board
(IRB), 99, 100, 105, 106

Immigration and Refugee Protection Act (IRPA), 87, 99–104

Indigenous

colonisation, 86

people, 86, 90

women and girls, 86, 90, 91

Inequality

embedded difference, 44

structural inequality, 44, 89, 163, 164, 168, 172, 179–181, 214

Institutions

institutional violence, 23, 129, 139, 211–231, 243

legal institutions, 42

social institutions, 41–43, 165, 167

International Conventions

Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, 104

Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, 105

Convention of the Rights of the Child, 104

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 62, 77, 104, 105

Convention on the Rights of All Migrant Workers and Their Families, 105

Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (“Convention of Belém do Pará”), 105

International Convention for the Protection of All Persons from Enforced Disappearance, 105

International Covenant on Economic, Social and Cultural Rights (ICESCR), 97, 104

UN Convention and Protocol Relating to the Status of Refugees, 87

UNSC Resolutions on GBV, 104

International human rights (IHR), 87, 97, 99, 102, 104–106, 236

Intersectionality

intersectional analysis, 94–95, 241

intersectional understanding, 22, 87, 103–104, 239, 240

intersections, 13, 14, 35, 60n1, 76, 146, 165, 236, 237, 242

situated intersectionality, 14, 15, 20, 38–40, 47–50, 238

theory, 39, 40, 45, 135

Intersectoral collaboration, 94, 102–103, 106

Intervention, 15, 46, 49, 72, 75, 89, 102, 153, 164, 166, 172, 181, 236, 242

Ireland, 237

Israel, 21, 135–154, 237, 238, 240

The Istanbul Convention, 77, 89, 188, 237

It’s Time: Canada’s Strategy to Address and Prevent GBV, 87

L

Legal violence (LV), 136, 137, 139, 141, 146, 151, 153, 240, 241

Lilja 4ever, 191

M

Macron, Emmanuel, 119n1, 120

Media, 3, 4, 21, 22, 60–63, 66–68, 71, 74, 75, 88, 115, 118, 119, 125, 128, 131, 145, 148, 167, 175, 194–196, 201, 203, 236, 238–242

Mental health, 10, 152
 Migrant women, 8–11, 16, 17, 21, 22,
 61–63, 67–69, 74, 78, 113–131,
 192, 212, 223, 236–240,
 242, 243
 Migration policies
 immigration policies, 119, 122,
 126, 136–138, 169, 170, 179,
 190, 195, 205
 immigration regulation, 189, 205
 Muslim, 76, 94, 114–117, 120, 125,
 167, 169, 176, 177, 219
 women, 76, 115–118, 120, 126,
 170, 177, 180

N

National strategy, 87, 91–92
 Necropolitics, 215
 Norway
 The Directorate of
 Immigration, 188
 the Immigration Appeals
 Board, 198
 Norwegian migration
 regime, 187–206
 UDI, 188, 197, 204
 UNE, 198–201, 204, 205

O

OFPPA, 123, 123n2, 131, 224, 230
 Otherness, 92, 123

P

Paris, 20, 115, 125, 127–131, 211,
 213, 224–226, 228
 Patriarchy, 88, 116, 117,
 119, 211–231
 Police, 7, 9, 22, 37, 89, 90, 92, 94,
 129–131, 136–139, 139n2,

142–150, 144n7, 152, 153, 172,
 177–179, 188, 190, 195, 197,
 198, 201, 220, 221, 224,
 240, 241
 Positioning
 Precariousness, 16–21, 30, 33–36, 39,
 42–44, 238, 239
 Precarity, 9, 16–21, 23, 29–50, 154,
 179, 212, 236, 238, 243
 Pregnancy, 20, 128, 129, 213, 227
 Prostitution, 8, 124, 130, 137,
 141–143, 146, 150–153, 191,
 197, 199, 204, 205
 Protection, 6–9, 18, 20, 22, 23, 32,
 45, 47, 49, 62, 63, 66, 73,
 76–78, 86, 87, 89, 91, 93,
 96–106, 114, 119, 122–124,
 126, 127, 130, 131, 137, 138,
 141, 148, 153, 172, 187–192,
 194–196, 198, 201–203, 205,
 213, 214, 216, 218, 220, 223,
 224, 229–231, 237, 239–242
 Protection against violence, 66
 Public service providers, 164, 166,
 171, 179–182

R

Racism
 anti-racist strategy, 95
 racialized constructions, 87
 stereotypical constructions, 100
 Rassemblement National, 125
 Reality check, 191, 191n3, 198, 206
 Refugee, 4, 6–10, 14, 19, 21, 22, 31,
 35, 48, 49, 85–87, 89, 90, 92,
 93, 95, 98–106, 115, 123,
 126–131, 140, 141, 197–200,
 202, 203, 203n12, 205, 212,
 216, 217, 222–225, 228, 230,
 236, 239–241, 243
 refugee claimant, 88, 99, 101

Relational autonomy, 46
 Religion, 40, 69, 94, 96, 119, 164,
 165, 174, 179, 219
 Republic, 115–118
 Republicanism, 121
 Resilience, 33, 38, 40, 41, 48–50,
 167, 193, 201, 243
 Resiliency, 163–182, 242
 Responsive state, 38, 42, 193,
 202, 205

S

Sarkozy, Nicolas, 126
 The Schengen Agreement, 190
 Schiappa, Marlène, 114, 118, 121,
 125, 126
 Secularism, 115, 120, 121
 Securitisation, 7, 35, 120, 124,
 220–223, 231
 Settlement
 Canadian Refugee and
 Humanitarian Resettlement
 Program, 87
 sector, 94, 106
 strategy, 106
 Sexual exploitation, 8, 15, 119,
 122, 188
 Slow violence, 10, 215, 223, 231
 Social movements, 13, 50
 Social support networks, 164,
 168, 173–180
 State responsibility
 benevolent state, 44
 responsive state, 41
 Stereotyping, 43, 167
 Structural inequalities, 44, 89, 163,
 164, 168, 172, 179–181, 214
 Supreme Court, 97, 99, 105, 145,
 195, 199–201
 Survivors of violence, 10, 212

T

Temporariness, 202–205, 242
 Trafficking
 The Council of Europe Convention
 on Action against Trafficking in
 Human Beings, 188
 The Council of Europe Group of
 Experts on Action against
 Trafficking in Human Beings
 (GRETA), 188n1, 200
 The National Action Plan Against
 Trafficking, 188
 The Protocol to Prevent, Suppress
 and Punish Trafficking in
 Persons, 188
 trafficker, 188, 190, 192, 197, 201
 The Trafficking Convention, 188,
 196, 201
 The Trafficking Protocol, 188, 197
 victims of, 8, 19, 22, 23, 32, 122,
 124, 152, 187–194, 188n1,
 200–202, 204, 205,
 241, 242

U

The UN Convention on Transnational
 Organised Crime, 188
 United Nations (UN), 37, 62, 97, 166
 United Nations High Commissioner
 for Refugees (UNHCR), 5,
 87–89, 100, 123n2, 203n12,
 212, 217, 228

V

Veil, 117
 Victims, 5, 8–10, 19, 22, 23, 32, 49,
 66, 68, 70–72, 74–76, 88, 91–94,
 102, 114–119, 122–124, 126,
 127, 131, 135, 137–139,

143–150, 152, 164, 166, 167,
171, 172, 178, 179, 181, 182,
188, 188n1, 191–194, 197, 198,
200, 201, 204, 216, 220,
237, 240
Voices, 13, 68, 71, 76, 116, 118, 195,
203, 212, 243
Vulnerability
analysis, 38, 41, 43, 47–50, 193,
204, 205, 242
ontological vulnerability, 35, 42
theory, 42–47, 164, 165, 167, 180,
193, 238
universal vulnerability, 33, 35,
38, 40, 42

vulnerable groups, 31, 32, 44, 45,
50, 106, 215, 216, 237
vulnerable life situations, 38,
45–49, 215
vulnerable situation, 21, 49, 194,
200, 202, 206
vulnerable victims, 119, 122, 190

W

Women of colour, 31

X

Xenophobia, 37, 92, 101, 119, 166