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Utilising the issue of 'Violence against migrant women' in order to restrict migration

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The practical experience of social workers is gaining importance in the public and political debate about violence against migrant women. On one hand, this can be seen as representing long-overdue appreciation for professional Social Work. On the other hand, social worker's experiences and knowledge can and has been misused for political aims – especially to stop or to limit migration. As such, Professional Social Workers need to be aware of this risk, as well as to “foster and engage in ethical debate with their colleagues and employers and take responsibility for making ethically informed decisions.”¹ Critical reflection on our practise is absolutely necessary to make these ethically informed decisions.

Examples of where our work can be misused or misguided may help to illuminate how it happens and the impact it has on particular social groups. In an extreme example, a German non-governmental organisation (NGO), Taskforce for Effective Prevention of Female Genital Mutilation (FGM) suggested to the German Parliament in 2007 that:

“the legal custody of children should be taken away from every African parent in Germany – to make sure, their daughters cannot be taken to other countries in order to undergo FGM!”²

Apparently the human rights abuses³ inherent within this demand were obvious to the government; this NGO's suggestion has not been taken up.

However, other NGO policy demands, which also have the potential to violate human rights, have been made in more nuanced ways and based on the misuse of particular cases, and have been successful. Demands to restrict migration, in particular, have been legitimated by the misuse of cases of violence against migrant women. The issues of “Forced Marriage” and “Trafficking” seem to affect predominantly migrant women, and have been used to restrict migration.

¹ International Federation of Social Workers (IFSW) & International Association of Schools of Social Work (IASSW). (2004). Ethics in Social Work, Statement of Principles, Adelaide, Australia, October 2004

² Task Force für effektive Prävention von Genitalverstümmelung, 2007, P. 8; <http://www.taskforcefgm.de/img/Fragebogen.pdf> (accessed on 13.3.08) Translation N.P.

³ The right to equal treatment, like mentioned in Art.2. of the Universal declaration of human rights (UDHR), Art.2.1. of the International Covenant on civil and political rights (ICCPR), Art.2.2. of the International Covenant on economic, social and cultural rights (ICESCR) and the International Convention against racial discrimination (ICERD) has been violated. And ICCPR explicitly mentions “Everyone shall be free to leave any country, including his own” (Art.12.2) and “no one shall be arbitrarily deprived of the right to enter his own country” (Art.12.4).

Forced marriage

Forced marriage is obviously a severe violation of the fundamental human rights of young men and women, and it needs to be addressed and prevented. In August 2007, the German government passed new regulations declared to be preventative measures against forced marriage.⁴ A presumed, but unverified statistic on the number of victims of forced marriage in Germany played a vital role in the passing of these regulations; public debate mentioned approximately 30,000 victims of forced marriage in Germany. This number was unchallenged until Gaby Strassburger highlighted a problem of determination: this number is equivalent to the number of all Turkish marriages in Germany!⁵ Academically-sound quantitative (numerical) figures on this issue are nonexistent. In order to garner support for the change in regulations, individual cases of victims of forced marriage were brought to public attention by professional Social Workers. The use of particular cases prompted a massive public debate on the issue of forced marriage, which was framed as a "widespread norm" in migrant communities. Interestingly, very conservative politicians who never before advocated for Women's Rights put this issue high on their agenda. The outcome was new and more restrictive regulations in immigration laws.

Now, men and women who want to migrate for marriage are required to be at least 18 years of age. From a human rights approach, this age limitation is problematic. People living in Germany are able to marry at 16 years of age, with parental consent; therefore, by restricting migration for marriage to 18 years or older, the principle of equal treatment is violated. Another legal change requires those migrating for the purpose of marriage to learn German in their country of origin, prior to applying. A visa will only be issued once these migrants pass an exam with the Goethe-Institute. This regulation discriminates against individuals from rural areas where German classes are not available and where the Goethe-Institute is some distance away from their home. These German classes and required tests are very expensive and therefore, not affordable for most women who want to migrate for marriage. In practise, the fiancée will pay for everything, which may increase the woman's vulnerability to exploitation. The entry visa for Germany makes them dependent on their spouse, and so on their husbands' good will.⁶

The discrimination inherent in the regulations is also evidenced by the selective application of the law to individuals only from certain countries. Nationals from other EU countries, Australia, Canada, Israel, Japan, New Zealand, South Korea, and the United States of America are not required to learn German before they migrate for marriage. Also, migrants who want to marry nationals from these exempted

⁴ Other European Countries, such as the Netherlands and Denmark, have passed similar laws with very similar justifications. For a very strong critique on these regulations see: Human Rights Watch (2008). *The Netherlands: Discrimination in the Name of Integration. Migrants' Rights under the Integration Abroad Act.*

⁵ Strassburger, G. (2005). *Statement zum Sachverständigengespräch des Landtags Nordrhein-Westfalen zum Thema "Zwangsheirat"* am 15.2.2005, p. 2 (translation N.P.)

⁶ In Germany, for example, someone migrating for marriage is only eligible to obtain an independent visa when s/he has lived together with the German spouse for at least two years after the dependent visa has been issued. Many migrant women who experience domestic violence, therefore, do not have the courage to leave their violent husbands.

countries do not need to fulfil these requirements. The logic of these regulations is incomprehensible – they even discriminate against Germans in their own country.

These regulations can also be seen as regulations that violate the human rights of migrants. Again, the demands made by the regulations clearly are not compatible with the right to equal treatment, enshrined in the Universal Declaration of Human Rights (Art. 2), the International Covenant on Civil and Political Rights (Art.2.1, and Art.2.2), the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination. Besides the right to equal treatment, the International Covenant on Civil and Political Rights, under Article 23.1, assures that “the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”⁷

Trafficking

“Anti-trafficking measures shall not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked, and of migrants, internally displaced persons, refugees and asylum-seekers,” states the UNHCHR Recommended Principles and Guidelines on Human Rights and Trafficking.⁸

The fact the United Nations High Commissioner for Human Rights (UNHCHR) mentions these obligations gives reason to believe that States are attempting to misuse the issue of trafficking to justify restricting the rights of migrants.⁹ The most recent and obvious attempt at manipulation occurred prior to the World Cup football tournament held in Germany in 2006. Prior to the tournament rumours were circulating that over 40,000 women would be trafficked into Germany for the World Cup. Even though experts were certain that the exaggerated number had no logical basis or evidence to support it, some NGOs decided to use the number and further sensationalise the issue in order to generate media interest in their campaigns against trafficking during the World Cup. The EU Commissioner on Justice at the time, Franco Frattini, even stated: “We have to implement or re-implement temporary visas for all third-party countries that are possible states of origin in trafficking in women and children.”¹⁰ Frattini retracted this demand a few days later pointing out that he had never intended to “implement visas exclusively for women.” Still, his demand is a perfect example of how trafficking has been utilized in order to restrict migration.

A similar development took place a few years ago with the so-called “visa affair” in Germany. Conservative parties argued that less restrictive visa issuance and entry procedures, which had been initiated by the Social Democratic/Green coalition government, served to open the gates for increased trafficking cases. To our knowledge, only one trafficked woman has been found to have entered Germany with this type of visa, so the link to violence was not very obvious. To date, there is still no evidence that this policy has encouraged trafficking. However, some NGOs

⁷ See also Art.10.1.ICESCR, Art.12 & Art. 16.3 UNDHR

⁸ United Nations High Commissioner for Human Rights to the Economic and Social Council 2002: Recommended Principles and Guidelines on Human Rights and Trafficking, E/2002/68/ Add. 1, New York, July 2002, p.3.

⁹ see also GAATW 2007: Collateral Damage. BangkokAccording

¹⁰ to an article in Franfurter Neue Presse Online, www.rhein-main.net, last seen: March 8th, 2006

working in the field decided to support the Conservative argument, thereby encouraging a public scandal. As a result, the policy that enabled migrants to legally and safely migrate to Germany temporarily has been withdrawn and migration (especially of women) further controlled.

Collateral Damage created by social workers?

These are just three examples where the issue of violence against migrants has been misused in order to pass legislation aiming to stop or limit migration. In each of these cases, it is surprising to see that measures to support women have not been implemented. For example, the German government intended to create a law to prevent forced marriage, but forgot to pass measures that would actually support victims of forced marriage. The right to return to Germany for young people who were taken to their country of origin and could not return within the timeframe of their German visa is not in place. During the World Cup, if people seriously believed that more trafficked women would be entering the country; wouldn't it be logical to pass regulations in order to assist these women?

In all three examples, the demands made by political parties and individuals in office were based on experiences that were gathered and made public by professional Social Workers. In all three cases, NGOs involved in supporting or exaggerating these claims received massive public and media interest in their work.

One could argue that making issues of social worker's clients public is a legitimate tool which has the potential, especially in some cases, to support "the transformation of private needs in public issues."¹¹ Transforming the private into public may be the only way to achieve individual solutions and long term improvements. Social workers are in a dilemma, however, when considering whether to make their clients' issues public. They must also consider and prevent a possible manipulation and mis-utilisation of their knowledge. They have to make sure that they analyse which information they share and how they do so.

Actions should be analysed according to the ethical principle of "do no harm" prior to making public disclosures of client situations, and considered according to whether they are appropriate. This could help prevent collateral damage, where human rights are violated (inadvertently) by social workers. Considering that professional Social Work is often described as a human rights profession, "social workers need to be constantly self-aware in respect of their own beliefs, attitudes and ground for action."¹² Obviously social workers can and should not remain silent about the issues they encounter in their professional work, but the context in which these issues will be discussed needs to be analysed in advance. As is demonstrated by the three examples provided above, this rarely if ever happens. By virtue of absence, it can be argued that the ethical guidelines of the profession are not being adhered to where female migrants are concerned.

¹¹ Staub –Bernasconi 1996 P. 10 (translation N.P.)

¹² United Nations: Human Rights and Social Work. A manual for Schools of Social Work and the Social Work Profession, New York & Geneva 1994, p. 8

Ethical responsibility of Social workers

“Ethical awareness is a fundamental part of the professional practice of social workers. Their ability and commitment to act ethically is an essential aspect of the quality of the service offered to those who use social work services. ... Some ethical challenges and problems facing social workers are specific to particular countries; others are common. By staying at the level of general principles, the joint International Federation of Social Workers (IFSW) and International Association of Schools of Social Work (IASSW) statement aims to encourage social workers across the world to reflect on the challenges and dilemmas that face them and make ethically informed decisions about how to act in each particular case.”¹³

In the field of trafficking, the dilemmas facing social workers worldwide are perhaps more obvious than in other fields, especially in Germany where contracts between police and NGOs oblige each party to cooperate according to their respective services. Social workers are tasked to provide psychological and social assistance. The police and other authorities are interested predominantly in successful prosecutions, which are (in theory) bolstered by having a cooperative or good witness. As such, social workers providing assistance may feel pressure to have their assistance contribute to the aims of enforcement. Creating a good witness at any and all costs is an objective that is not compatible with ethical standards governing the profession; hence a dilemma is created: “Social workers should maintain confidentiality regarding information about people who use their services. Exceptions to this may only be justified on the basis of a greater ethical requirement (such as the preservation of life).”

In theory, the guidelines are clear; however, in practice (especially with a cooperation contract), it can be very hard to comply. For a social worker in Germany, a severe conflict is created by the requirement that s/he testify in court when/if asked to do so. Social workers do not have the right to deny testimony. If a social worker is asked to testify in court, s/he has a dual obligation to tell the truth and to guarantee the confidentiality of her/his clients. Depending on the political background of the Social Worker, her/his knowledge of the ethical guidelines of the profession and perhaps even the employer's influence, the scope of action differs. The advantage of these ethical guidelines is that they are valid for all professional social workers and they provide an orientation framework towards clients, authorities and even employers.

Conclusion

From the analysis presented in this article, it is hopefully clear that social workers play an important role in supporting or opposing political directives. Their practical experiences and knowledge are gaining increasing importance in debates surrounding migration and violence against migrant women; however, many of these experiences have been misused for political aims, especially to stop or to limit migration. Professional social workers, therefore, need to be aware of this potential, and critically reflect on their practice to ensure that it is in accordance with the ethics

¹³International Federation of Social Workers (IFSW) & International Association of Schools of Social Work (IASSW): “Ethics in Social Work, Statement of Principles”, Adelaide, Australia, October 2004

of the profession. The dilemmas we encounter in our profession demand critical analysis of our work to ensure that we are neither violating clients' rights, nor supporting the institutions that do so.