

# UN.I.RE. – GENDER VIOLENCE IS ALSO A CULTURAL ISSUE!

Proceedings from the International Graduate Conference:  
Cultural Actions and Practices that Honor the Implementation  
of *The Council of Europe-Istanbul Convention*

Edited by Lisa Marchi



University of Trento  
Department of Humanities

This volume collects the proceedings of the International Graduate Conference *UN.I.RE. – Gender Violence Is Also a Cultural Issue!* (January 14-15, 2019), and includes the lecture given by Leela Gandhi for the Seminar *Etica della nonviolenza* (June 22, 2019). Both initiatives were held at the University of Trento as part of the Project UN.I.RE, coordinated by Marina Calloni, University of Milan-Bicocca, financed by the Italian Department of Equal Opportunities, and aimed at launching a national academic network and collecting data on actions and publications engaged by Italian universities to contrast and prevent GBV, and to encourage the implementation of *The Istanbul Convention*.

Trento is among the first 10 Units involved in UN.I.RE, is coordinated by Giovanna Covi, and focused explicitly on the cultural aspects of GBV. In her contribution to this volume, Covi frames culture as being always already within any aspect of violence against women and domestic violence. She argues that Gandhi's call for a cultural revolution that embraces nonviolence as an everyday praxis provides the necessary direction we must take, if we want to effectively prevent GBV, finally seeing the figures about this crime decrease, rather than resting on the progress recently made only in terms of protection and persecution.

The volume foregrounds the fundamental role played by Michele Nicoletti as President of the Assembly of the European Council in fostering the constitution of the national network and encouraging its expansion across European borders. It illustrates the argument presented by Simona Lanzoni as GREVIO Representative to emphasize the role universities must play to bring *The Istanbul Convention* to its full materialization. It underscores the need for socio-cultural actions in Lisa Marchi's illustration of the artistic performance *Kintsugi, cicatrici preziose* produced by the Trento Unit of UN.I.RE. It highlights the need for a holistic involvement of institutions and civil society to prevent stigmatizations of minority cultures, in the contribution by Renate Klein, Coordinator of the European Network on Gender and Violence.

One section on the intersection of asylum law, migration, and GBV, and one on specific case studies, collect contributions by the graduate students from different countries, universities, and disciplines.

UN.I.RE. – GENDER VIOLENCE  
IS ALSO A CULTURAL ISSUE!

Proceedings from the International Graduate  
Conference: Cultural Actions and Practices  
that Honor the Implementation of  
*The Council of Europe-Istanbul Convention*

Edited by Lisa Marchi



UNIVERSITÀ  
DI TRENTO

Department of  
Humanities

SCIENTIFIC COMMITTEE

Marina Calloni (Coordinator of the UN.I.RE. Network)

*University of Milano-Bicocca*

Giovanna Covi (Responsible for the Trento Unit)

*University of Trento*

Michele Nicoletti (Responsible for the Trento Unit)

*University of Trento*

Barbara Poggio (Center of Interdisciplinary Gender Studies)

*University of Trento*



The volume collects contributions given at the 2019 UN.I.RE-Trento Unit Conference and Seminar with the patronage of the Department of Humanities and the Center for Interdisciplinary Gender Studies of the University of Trento

Published with the endorsement of the Area dipartimentale di Filosofia, Storia e Beni culturali and of the Area dipartimentale di Studi Linguistici, Filologici e Letterari

© 2020 Università degli Studi di Trento - Dipartimento di Lettere e Filosofia  
via Tommaso Gar, 14 - 38122 Trento  
tel. 0461 281722  
e-mail: [editoria.lett@unitn.it](mailto:editoria.lett@unitn.it)

ISBN digital edition: 978-88-8443-883-6  
DOI digital edition: [http://dx.doi.org/10.15168/11572\\_264649](http://dx.doi.org/10.15168/11572_264649)  
Available in Open Access at <http://hdl.handle.net/11572/264649>

Edited by Ufficio Pubblicazioni Scientifiche - Università degli Studi di Trento

Cover image: courtesy of the artist Riccarda Chisté

## TABLE OF CONTENTS

<i>Introduction</i>	5
GIOVANNA COVI, <i>Culture Within</i>	17
LISA MARCHI, <i>Combating Gender-Based Violence through Art: The Performance Kintsugi, Precious Wounds</i>	37
LEELA GANDHI, <i>Reflections on Violence and Non-Violence from a Political, Cultural and Ethical Perspective</i>	47
RENATE KLEIN, <i>Addressing Violence Against Women in a Diverse World: Four Perspectives on Culture</i>	57
DANIELA BELLITI, <i>The Istanbul Convention as a Moral Norm</i>	79
AMANDINE LE BELLEC, <i>Protecting Lesbian, Bisexual and Trans Women Seeking Asylum in France: The Impact of French National Culture on Group-Specific Protection</i>	97
MAÍRA ROUBACH TOPALL, <i>Gender Issues in Female Migration</i>	117
PAOLA DEGANI - FRANCESCA CIMINO, <i>“It Happens to All Women”: Why It Has Become Imperative to Adopt an Intersectional Approach in Combating Violence against Women</i>	131
CRISTHIE MELLA AGUILERA, <i>When Culture Matters: Discourses Shaping Institutional Responses to Gender-Based Violence in Chile and Latin America</i>	159
DRAGANA PEJOVIĆ, <i>The Need for a Gender Approach to Contrast Violence Against Women More Efficiently</i>	175
KATRIN WIEDEN, <i>Locating Change: Queer/Feminist Constructions of Space</i>	191

ALICE LUCARINI, CATERINA SUITNER, RIANA BROWN, BRUNO GABRIEL SALVADOR CASARA, ERIC D. KNOWLES, <i>Gender Based Violence Toward Women and Sexual Harassment: Ideological and Socio-Cognitive Motives Behind Victim Blaming</i>	213
BRUNO GABRIEL SALVADOR CASARA, CATERINA SUITNER, ALICE LUCARINI, <i>Political Orientation and the Fre- quency of #MeToo Tweets in US States</i>	233
FEDERICA ANASTASIA, <i>The Custody of Children in Diffi- cult Separations: The Hard Task of Social Workers in Friuli-Venezia Giulia and Veneto</i>	247

## INTRODUCTION

Lisa Marchi, *University of Trento*

On January 14 and 15, 2019, the University of Trento hosted the International Graduate Conference *UN.I.RE. – Gender Violence Is Also a Cultural Issue!* with the aim to propel a fruitful discussion on the cultural activities and practices that honor the implementation of *The Council of Europe-Istanbul Convention on preventing and combating violence against women and domestic violence* (Istanbul, 2011). The Conference represents one of the actions put into place by the Trento Unit of UN.I.RE., locally coordinated by Giovanna Covi.

UN.I.RE. (UNiversità In REte contro la violenza) is a project financed by the Italian Department of Equal Opportunities and directed since 2018 by Marina Calloni. The project is aimed at constituting an academic network of all Italian universities interested in constrasting and preventing gender-based violence. At the moment the network is composed of 10 Italian universities/research centres, namely the Università di Milano-Bicocca, Università di Milano, Università Cattolica del Sacro Cuore, Università di Trento, Università di Trieste, Università di Padova, Università della Calabria, Università di Foggia, Fondazione IRCCS Ca' Granda – Milano, Osservatorio Interuniversitario sugli Studi di Genere – Roma.

The idea for the constitution of an academic network came from Prof. Michele Nicoletti – former member of the Italian Parliament and President of the Parliamentary Assembly of the Council of Europe in Strasbourg – and the discussions developed by the Scientific Committee (now part of UN.I.RE.) in charge of the “Award for the best Master and Ph.D. thesis” towards the

application of *The Istanbul Convention*. The Award, chaired by Nicoletti, was supported in 2015 and 2017 by the Chamber of deputies of the Italian Parliament in collaboration with the Presidency of the Council of Ministers; the Ministry of Foreign Affairs and International Cooperation; the Ministry for Education, University, Research; the Conference of the Rectors of Italian Universities and the Council of Europe.

As Marina Calloni noted in the *Opening Remarks* on the first day of the conference, “the struggle against gender based violence is not only a legal or political battle but mainly a cultural fight.” This is why education and universities are on the frontline to change unfair conditions, combat domestic violence, monitor the implementation of European conventions, make effective national legislations, and avoid forms of discrimination based on gender and sexual orientation. To reach these goals, UN.I.RE. has involved an initial group of Italian universities and research centers with the aim to work towards a holistic and integrated approach that would be extended to Italian as well as to European universities. The five main objectives of UN.I.RE. can be summarized as follows: Strengthening existing activities; Developing new educational initiatives; Supporting scientific analyses; Increasing the collaboration with different stakeholders at the local level (institutions, experts, anti-violence centres, professionals, associations); Developing international collaboration, with super-national institutions and European Universities/research centres.

Michele Nicoletti, former President of the Assembly of the European Council and MP President of the Italian Parliamentary Delegation at the Assembly of the Council of Europe, in his introductory notes confirms that the UN.I.RE. network is part of a more ambitious project at the European level that aims at constituting a cross-border European academic network supported by the Council of Europe to fight gender-based violence through an integrated and holistic approach. As Nicoletti reminds us, *The Istanbul Convention* is one of the representative conventions of The Council of Europe, the oldest European institution that has been created



right after WWII to protect human rights, democracy, and the rule of law. And yet, as Nicoletti states, “institutions alone cannot do the work that is required to combat gender-based violence.” The involvement and hard work of citizens at all levels is necessary, since domestic violence, sexual assault, gender discriminations and abuse have sadly become part of our everyday life.

Joining Nicoletti’s heartfelt appeal, Giovanna Covi explains that addressing gender-based violence from a cultural perspective is both an urgent necessity and a deeply troubling and transforming operation. As she notes: “Rarely do we read about what to do to prevent or even to understand this violence. Seldom do we find a full articulation of the changes we need to make in our schools and universities, families and households, businesses and workplaces to prevent harassment, assault, and abuse from happening in the first place.” To counter these shortcomings, institutions such as the school and the university but also the everyday citizen need to reconceptualize love and the family as well as the workplace and the society at large to put a halt to gender-based violence both on a macro and micro level. As Covi underlines, we need “micro-practices” to counter “micro-inequalities.”

Simona Lanzoni (GREVIO – Group of Experts on Action against Violence against Women and Domestic Violence) retraces the development of *The Istanbul Convention* from the first recommendation adopted by the Committee on the Protection of Women Against Violence of the Ministers of the Council of Europe in 2002 to the adoption of the final convention in 2011. As Lanzoni contends, “[The Convention] represents a legally binding treaty to guide states in their efforts to end gender-based violence and their political commitment to the principles and values enshrined in the Convention.” Since its adoption and ratification, *The Istanbul Convention* has provided states with a unique legal framework based on four pillars: prevention; protection; prosecution; integrated policies. As a member of the independent expert body responsible for monitoring the implementation of the Council of Europe Convention, Lanzoni argues that universities

have a key-role in fighting gender-based violence but need to improve their efforts to combat gender discrimination, inequality, and abuse and to promote substantive equality between women and men, including by empowering women. Furthermore, universities need to incorporate gender studies within their curricula rather than considering this discipline as a topic for specialists. As Lanzoni notes, opposition to gender studies has increased within European countries in the past years by forces outside the academy and by right-wing populist parties who want to delegitimize this discipline. This is why the involvement of universities and the educational system at large is crucial for the prevention of gender-based acts of violence, as stated by articles 13 and 14 of *The Convention*.

This volume, collecting the proceedings of the International Graduate Conference *UN.I.RE. – Gender Violence Is Also a Cultural Issue!* held at the University of Trento, opens with Giovanna Covi's essay "Culture Within," a compelling reflection on the ways in which patriarchal culture still influences behaviours and linguistic expressions even in what we generally regard as modern democratic societies. Hence, for the author preventing gender-based violence can only work from within, by changing the patriarchal culture that repeatedly and in each specific case becomes responsible for and even justifies the violence committed against women. As Covi powerfully states: "It is compelling to understand that culture does not come after, nor before. Rather, culture is always already within." Deeply influenced by feminist and antiracist writers such as, among others, Adrienne Rich, Audre Lorde, James Baldwin, Toni Morrison, and Nikki Giovanni, but also by Leela Gandhi's philosophical conceptualization of non-violence as *ahimsa* or radical harmlessness, Covi invites readers to interrogate the culture within which GBV takes place—which is clearly our own culture as well—and to creatively and disobediently reconceptualize "the home and love in ways that are no longer hospitable to violence."

The performance *Kintsugi, Precious Wounds*, which Covi developed under the influence of Gandhi's articulation of non-violence as active no-saying and renunciation, can be counted among the initiatives that creatively help us reconceptualize the role of the woman survivor as active, confident, and bold. As Lisa Marchi notes in her contribution to the volume, the performance employs a plurality of artistic languages (poetry, music, dance, and the visual arts) to raise awareness on GBV, change common perceptions, and create new narratives, by mobilizing affects such as pride and regeneration and by emphasizing the trajectory of the woman survivor from submission and dependency to self-determination and empowerment. The essay draws on *The Istanbul Convention* and includes *Kintsugi, Precious Wounds* among the artistic initiatives conceived by and directed to the civil society with the aim to promote social and cultural change from within.

Leela Gandhi's essay, first delivered in the Italian Parliament in November 2015 on the first audition for the Prize for best M.A. and Ph.D. dissertation on *The Istanbul Convention* by initiative of the Italian Delegation of the Council of Europe under the presidency of Michele Nicoletti, is republished here in its revised form. Gandhi praises the Convention for acting as an official "ban on gender-based violence" but also, and perhaps most importantly so, for making an "explicit commitment to non-violence." By reminding readers that non-violence is not "a purely western inheritance" but rather an intricate global patrimony in which both secular and spiritual beliefs and claims coexist side by side, Gandhi underlines the creative, disobedient, and intercultural character of non-violence, which represents for her "a revolution in the ordinary." Because of the structural nature of GBV—Gandhi adds—men and women must engage continuously and in each single location in creative practices of non-violence, by voluntarily agreeing to "fall short of prevailing norms" of both masculinity and femininity to avoid harm.

Joining Gandhi in her praise of *The Istanbul Convention* as a step forward in the evolving history of democracy, Renate Klein

contends that addressing GBV in the world requires the hard work and involvement of both institutions and members of the civil society. The author agrees with the aforementioned contributors that gendered relationships free from violence and fear must be negotiated in our everyday life in innovative and complex ways, particularly by keeping in mind cultural specificities. According to Klein, “interventions in violence against women that have been successful elsewhere need to be adapted to the requirements of different cultural contexts.” Moreover, in order to challenge misogyny in each single location, appropriate cultural skills need to be acquired, since non-violence as a way of life requires constant effort, vigilance, and civic responsibility. Quoting Klein: “In discussions of violence against women, mainstream culture tends to remain invisible, whereas minority or foreign culture is hyper-visible. When judging other cultures, violence against women easily becomes a defining element, whereas in one’s own culture it is a regrettable exception from the rule.” Only through hard work and a holistic and integrated approach can freedom and equality of all genders be achieved. Klein’s contribution to this volume clearly emphasizes this belief.

Taking its cue from the Preamble of *The Istanbul Convention*, where violence against women is recognized as being “a manifestation of the historically unequal power relations between women and men, which have led to domination over, and discrimination against women by men,” Daniela Belliti’s contribution examines *The Convention* from a moral point of view and identifies the role of feminist thought in advocating the complementarity between the fields of law and morals. Belliti contends that good laws and prosecution are not enough to protect the survivors of gender-based violence, suggesting that both State authorities and educational institutions need to act on prevention—i.e., on actions aimed at the socio-cultural change of society—in order to uproot with efficacy GBV.

The necessity to adapt the rule of law to specific contexts, individual cases, and personal experiences is a red thread that runs

through the second section of this volume collecting the contributions by international graduate students. While being in clear dialogue with the articles mentioned above, the contributions by graduate students open new ways of inquiry and offer additional perspectives on the topic of GBV. In particular, essays have been clustered around two crucial topics: on the one hand, the intersection of asylum law, migration, and gender-based violence; on the other, a comparative analysis of gender-based violence through specific case studies, including Chile, Serbia, Germany, the U.S., and Italy.

### *Migration, Asylum Law, and Gender-Based Violence*

Despite ongoing debates on migration legislation and policies in Europe, the safety and protection of lesbian, bisexual, and transgender (LBT) women asylum-seekers in EU countries remains a critical issue. Amandine Le Bellec's essay addresses this important theme. As the author notes, if LGBT subjectivities often face high levels of violence in their home countries, they can also encounter abuses as asylum seekers in Europe. This is why *The Istanbul Convention* underlines the necessity of providing gender-sensitive asylum procedures, which however may often clash with national asylum laws. Through a document analysis of Parliamentary minutes and a series of interviews with people involved in SOGI asylum, Le Bellec shows that homophobia and misogyny are still permeating the asylum system in France. Her study further indicates that cultural factors, such as the importance of universalism in the French case and the resistance to transpose "gender-sensitivity" into French asylum law, can lead to the persistence of gender-specific violence in the same societies that value gender-sensitivity. As Le Bellec notes, "the strong cultural attachment to the principles of universalism and anti-communitarianism in France enter[s] into tension with the idea of establishing group-specific policies" often to the det-

riment of the protection of lesbian, bisexual, and trans women asylum seekers.

Reinforcing Le Bellec's claim, Máira Roubach Topall argues in her essay that French institutions, which are responsible for according asylum rights to migrant men and women, tend to be very reluctant to take into account the specific persecution of women, despite the high number of GBV victims among asylum seekers. As the author shows, many migrant women are exposed to gender-based violence in their countries of origin and/or on their way to Europe. In particular, the transgression of social standards in their home-country represents the root cause of acts of violence committed against them and the most common reason that forces them into migration. Still, French institutions according asylum rights are reluctant to recognize this fundamental aspect. Indeed, although articles 60 and 61 of *The Istanbul Convention* consider gender-based violence as a form of persecution that requires "complementary/subsidiary protection," French public authorities often refuse to recognize the situation of double vulnerability in which female claimants find themselves.

Shifting their attention from France to Italy, Paola Degani and Francesca Cimino explore the intersection between gender-based violence (GBV), human trafficking, and the sexual exploitation of migrant women. According to Degani and Cimino, professionals and operators working in the fields of human trafficking and international protection often fail to recognize the severity of GBV and its pivotal role in favouring the sexual exploitation of migrant women. This negligence contributes to doubly victimizing the survivors of GBV and to producing harmful effects. Accordingly, both scholars invoke a stronger collaboration between human rights experts, public authorities, and scholars working on gender-based violence, so that gender-responsive policies and practices can be implemented to ensure the adequate protection of women refugee claimants.

### *Case Studies*

All the authors included in this volume agree on the fact that responses to gender-based violence are not uniform and vary across Europe and beyond its borders. In this highly diversified and fragmentary scenario, *The Istanbul Convention* represents the first legally-binding and uniform framework on prevention, protection, and prosecution, which legally obliges states to fully address gender-based violence in all its forms and to take common measures to prevent it, protect survivors, and prosecute perpetrators.

Discussing responses to gender-based violence in Chile as reflecting more broadly the context of Latin America, Cristhie Mella Aguilera argues that, despite progress in legislation and the criminalization of femicide, gender awareness among the citizens of Chile is still at an early stage. Although Chile has joined international agreements to combat gender-based violence, such as the CEDAW and the Belem do Para Convention, State responses to gender discrimination, inequality, and abuse are still limited. According to the author, gendered normative cultural constructions such as Machismo and Marianismo together with the historical legacy of colonialism and Catholicism in the country have impacted negatively on the advancement of gender equality and on the fight against gender-based violence.

Focusing her attention on Serbia, Dragana Pejović maintains that despite the alarming number of women murdered in family/partner contexts in the last few years, one part of the expert community still contests the need for the adoption of the Law on Prevention of Domestic Violence and the introduction of new criminal offenses in the Criminal Code of the Republic of Serbia, which have the goal to prevent and protect women from violence. By defining the Law on Prevention of Domestic Violence as an “antifamilial law,” experts contribute to undermine the gravity of gender violence in the eyes of Serbian citizens and this at the expenses of the women involved. Contrary to this position, the

women's movement in Serbia has for years advocated the adoption of a law that would regulate action by competent authorities aimed at preventing domestic violence.

Hierarchies and binary thinking, which discriminate and promote violence among genders, persist not only in patriarchal societies but also in queer/feminist spaces, as Katrin Wieden argues in her essay. Imagined as *safe spaces* to counter discrimination and practice utopian ways of living together (Hayner), queer/feminist spaces in Berlin appear—in the eyes of the author at least—to reproduce heteronormative power hierarchies and exclude certain queer locations. This is why Wieden's contribution invites reflection on the following questions: "How does queer/feminist activism relate to/disengage from rape culture? Which power lines structure queer/feminist spaces? Which assumptions of sex/gender/sexual desire, society, and psychology underpin them?" Embracing an intersectional analysis, Wieden shows that in order to build sensitive/antidiscriminatory safe spaces, it is necessary to track down the powerlines of our living together and discuss how they are constantly re-enacted and why.

Moving from queer to virtual spaces, Alice Lucarini's contribution to this volume explores the #MeToo movement, which emerged in the US with the aim of spreading awareness on sexual harassment and sexual assault against women and of supporting the survivors of GBV. The movement began to spread virally on social media and became very popular but some people also started to question its credibility and the reliability of the women who reported sexual misconducts and assaults. Taking the #MeToo movement as her case study, Lucarini's essay focuses on two major issues that women face when they experience sexual harassment or assault. First, it considers the variety of obstacles women encounter when they want to denounce sexual misconducts; second, it analyzes the harsh reaction women are confronted with when they decide to report. The author takes into account ideological and socio-cognitive reasons to explain these two crucial aspects.



In a similar vein, Bruno Gabriel Salvador Casara's essay examines a series of U.S. public messages on Twitter ("tweets") discussing the topic of sexual assault and harassment against women via the #MeToo movement. As the author states: "The analysis of 1315 geo-localized tweets with the #MeToo hashtags and of 3020 geo-localized tweets from a random sample of U.S. tweets shows that the more a State is liberal, the more the number of #MeToo tweets we have, even when the frequency follows the general frequency of tweets by each single state." The overall goal of Casara's study is to demonstrate that political ideology and the promotion of women's rights are tightly linked and that the degree of personal sensitivity to GBV may vary according to one's political affiliation.

The volume closes with a study still underway, focusing on the potential biases that could affect social work practice in children's custody in separations with domestic violence (DV). The essay, written by Federica Anastasia, is part of a larger project conducted with Mariachiara Feresin and Patrizia Romito in the Italian regions of Friuli-Venezia Giulia and Veneto. According to Anastasia, professionals working in separations with domestic violence tend to ignore *The Istanbul Convention* and to undermine the role of domestic violence as a pattern of violent behaviours in a domestic setting, therefore applying mediation as a rule and forcing a two-parents model at the expense of the women and children involved. Results show that the perpetrators' patterns of power and control continue during such mediation processes. This leads the author to recommend a specific training for professionals acting in situations of separations with domestic violence in order to protect the safety of the women and children involved.

In accord with *The Istanbul Convention*, all the contributions included in this volume assert with force that prevention measures, such as training professionals, running awareness-raising campaigns, harmonizing national asylum laws to the articles of the Convention, and including issues such as gender equality and mutual respect in teaching materials and cultural initiatives,

require the active involvement of both public institutions and citizens. Members of the civil society, and specifically men and boys, need to engage on a daily basis in non-violent practices and behaviours both locally and globally, if we really want to eradicate gender stereotypes, harmful traditions, and discriminations against women and girls, replacing them instead with empowering words, practices, and policies.

To conclude, I wish to thank the members of the scientific committee of the conference, Marina Calloni, as UN.I.RE. national coordinator, Giovanna Covi and Michele Nicoletti, for the Trento Unit of UN.I.RE., and Barbara Poggio, as Coordinator of the University of Trento Center for Interdisciplinary Gender Studies, together with the reviewers Joan Anim-Addo, Goldsmiths-University of London, Tiziana Faitini, Ph.D. University of Trento, Ingeborg Mejer-O'Sickey, Binghamton University, and Cristiana Pagliarusco, Ph.D. University of Trento, whose careful comments were precious for editing the contributions collected in this volume. Finally my thanks go to Francesca Valentini and Fabio Serafini, from the Publishing activities support Office of the University of Trento, who led us with professional knowledge and kindness through the final stages of this publication.

## CULTURE WITHIN

Giovanna Covi, *University of Trento*

### *Abstract*

This paper expands on the conference theme to illustrate that culture is more than “also” a problem in the context of gender violence: culture is always already within any aspect of violence against women and domestic violence. It regards the present context, in which the number of feminicides is not decreasing but rather recurs with widespread persistence, despite the social, legal and medical measures recently taken. I argue that our failure to eliminate gender violence is presenting us with an urgent call for a cultural revolution, a deep transformation which entails acts of civil disobedience. I contend that Leela Gandhi’s thought provides the philosophical framing that enables such needed change. Her argument about the practice of nonviolence enables us to conceptualize and enact a culture within that may outmode gender violence. I further contend that this ethical practice is a poetics based on altruism and a discipline of universal love, which numerous writers and artists have indicated to show us how a nonviolent world is possible. I also draw from Judith Butler to insist on interdependence as the foundation of a practice of political and ethical nonviolence, and on Emmanuela Zurli and Bryan Stevenson to offer a definition of mercy based on infinite love rather than guilt and forgiveness. I offer examples from Toni Morrison, Adrienne Rich, James Baldwin, Nikki Giovanni, Eve Ensler and Nadia Fusini that embody nonviolent practices that show the way out of the barbarity of gender violence.

*The Picture of the Present*

Patriarchy has dominated the globe for millennia and is still in full power in too many parts of the world today and in partial power in the rest of it. The persistence of patriarchal traditions is widespread but it is still often disregarded as insignificant: for example, certain behaviours and linguistic expressions that are intrinsic to everyday micropractices are commonly treated as meaningless by the majority of the population. We may speculate that this disbelief has been fueled by the backlash that hit the feminist movement in the 1990s and later, and that has outrageously gone in some instances as far as representing male subjects as victims of feminism. This has also been evident in societies we call modern and democratic, despite the fact that sexist, racist and violent practices constantly clash with the progress that allegedly defines them. Its insistence permeates common habits in so many ways that the call for a cultural revolution is urgent, provided we do not want to be stuck within a milieu that is at the same time and contradictorily both refinedly civilized and brutally barbaric.

The picture of our present is one in which numerous countries today recognize that violence against women is a national crisis: for example, 21 of the 37 governments adhering to the OECD Gender Recommendation in 2019 listed violence against women as one of the three most urgent gender equality issues in their country.<sup>1</sup> A further example is provided by the data released by ISTAT on March 5, 2020 regarding homicides in Italy in 2018: while the number is decreasing for men (7 less than in 2017), the number of feminicides is increasing (10 more than the previous year) reaching a percentage of 38,6% (it was 11% in 1990). The highest risk for women is within the home: they are mainly killed by their partner or former partner (54,9%) or by relatives (24,8%), while for men the public space is more

---

<sup>1</sup> See the OECD data for 2019 released in 2020.

risky, since 37,7% are victim of an unknown killer and 33% of an unidentified killer.<sup>2</sup>

As a matter of fact, violence against women, domestic violence, and sexual assaults at work that currently occur daily in Italy, for example, leave too many people speechless, surprised, and incredulous. Frequently, when interviewed by the media, the neighbors of a criminal state that he was a “good man” and emphasize their own shocked astonishment, thus giving this crime an aura of mystery and exception that exempts us from engaging comprehension and social commitment. Mostly, the media cover sexual violence only after the act is committed. Repeatedly, they offer descriptions of the crime rather than analyses of its possible causes. They tell stories in which the assassin takes on the role of the protagonist whose life and profession are described in details. On the contrary, the woman is barely named, her professional identity is regularly silenced and she is merely identified as a partner, thus reducing her human identity to that of a dehumanized victim. Rarely, do the media interrogate what to do in order to prevent or even understand this form of violence. Even people who work in organizations and institutions that oppose gender violence tend to talk much more about how to respond to the assault and how to support survivors, rather than about how to prevent it. Our incapacity to address and understand the gender violence that is deep-seated in our quotidian reporting evidences that we are still embedded in a culture that is paradoxically both civilized and barbarous. It is compelling that we understand that culture does not come after, nor before. Rather, culture is always already within. Culture within demands our constant care within: social issues, medical problems, legal obstructions, educational questions, justice challenges. There is always culture requesting our full attention, culture that must be preserved, transmitted, changed, adapted, newly produced for any new occurrence in our lived lives.

---

<sup>2</sup> See the ISTAT report “Le vittime di omicidio” referred to 2018 and published in 2020.

### *Emergency Call for Cultural Change*

Our present both civilized and barbarous society is evidence that we are plunged in a seriously crippling crisis and must face cultural change without delay. Needless to say, a cultural crisis calls for the implementation of factual, material cultural measures, which must be researched, designed, tested. Simply invoking cultural change is not enough. A new culture must be produced and practiced by the majority of the people in order to become effective. Cultural change does not stick to society without active consent.

The problem is so pervasive and pressing that declaring gender violence to be “also” a cultural issue is an understatement. Rather, gender violence is mainly, if not even solely, a cultural problem. The title of our conference *Gender Violence Is Also a Cultural Issue!* is an underestimation that wanted to acknowledge all other aspects of gender violence that are always already intersected, in a Derridean co-implication of language and consciousness, by culture. As a problem that is always already within, culture is transversal to the legal, social and medical issues that are strictly related to its manifestations. Analyses of the achievements gained in the fight against gender violence in the legal, social and medical field, often conclude with the remark, “but gender violence is also a cultural issue” thus making the falling short of interventions that are merely technically or structurally explicit.

For example, traditionally sexual assaults have been widely represented as being a private issue and this has produced distrust and carelessness by police forces and yielded impunity for the criminals. Barbara Bradley Hatley in the August 2019 issue of *The Atlantic* clearly describes how this lame mental frame is what has made it possible, in the USA, to store away 11,341 untested rape kits, some dating back more than 30 years in the warehouse of the Detroit Police Department. She pointedly reports how Kym Worthy, Detroit county prosecutor, put an end to this institutional indifference in 2009. Subsequently, in 2015,

when the Obama administration launched the sexual assault kit initiative, the conservative estimate was that 200,000 kits were left untested in the country. Ceasing this enormous negligence by the police means addressing the deeper cultural problem of the systematic disbelief of women who say they've been raped by the criminal-justice system. When Worthy started testing the kits, her findings demonstrated that rapists are often serial rapists. Normally, police investigators investigate burglary, murder, almost any crime as a crime perpetrated by a repeat offender, except sexual violence. Sexual violence has been traditionally treated by criminal justice as a simple confrontation between a *he* and a *she*. Thanks to Worthy's work, there is now evidence that, when unknown to the offended woman, the offender of a sexual crime may also be one who belongs to the eighty percent of rapists that are well known by the offended women, someone they frequent, even a person they live with. Evidence shows this does not mean that such acquaintance-rapists are not also stranger-rapists. This awareness and the consequent suspension of the common disbelief has already yielded results: testing the DNA kits of domestic violence, recently brought Cleveland investigators to identify dozens of mystery stranger-rapists. Certainly, the sad question as to how many rapes could have been prevented, had the police believed the woman in the first place, tragically remains to be raised. Nevertheless, today we can state that a dent has been made in the systematic disbelief and skepticism about sexual violence of police, to show that rapists can finally be found and condemned.<sup>3</sup>

And this dent is the belated, yet still slow, beginning of a momentous cultural revolution. We are only starting to witness a wider awareness among legal and health professionals, social workers and psychologists and it has not been for long, for in-

---

<sup>3</sup> For more details on this issue in the USA context, see Barbara Bradley Hagerty's detailed and well-documented article on *The Atlantic*, "A Story of Disbelief."

stance, that emergency services in Italian hospitals have provided the necessary facilities, equipment and staff prepared to receive victims of domestic and sexual assault.<sup>4</sup> Not many emergency rooms in Italy may display as virtuous a practice as that of the Milan Polyclinic directed by Alessandra Kustermann, who in 1996 opened the first rape center within a hospital in the country. The synergy between the center and the clinic, a good example of the institutionalization of the militant feminist practice of providing shelters to the women and their children, has strengthened an experience that is long (almost 25 years old) and wide (on average 500 cases of sexual violence and 600 cases of domestic violence per year), and therefore of absolute importance. However, as Dr. Kustermann herself pointed out in the Senate deposition of June 20, 2017, even this positive practice is not enough, since it has not dealt with those who cause the violence.<sup>5</sup>

We seldom find a full articulation of the changes we need to make in our schools and universities, families and households, businesses and workplaces to prevent harassment, assault and abuse from happening in the first place. Cultural norms, media narratives, and stereotyped personal experience define cognitive frames that are widespread in our societies and shape a continuum of behaviours under which the signs that might otherwise warn us against gender violence and inhibit it are hidden. For example, in the face of the increased number of femicides and the decreased number of homicides in Italy, as quoted above, the following provocative bitter question arises with animosity: would the same indifference and alienation be displaced if another group of citizens—let’s say, for the sake of this provocation: hunters or jewelry shops owners, instead of women—had experienced an increase in the number of deaths by killing? Unfortunately, I doubt that this would be the case.

---

<sup>4</sup> See the 2020 GREVIO report on the implementation of *The Istanbul Convention* in Italy.

<sup>5</sup> See Alessandra Kustermann’s Senate deposition of June 17, 2017.



This sad deduction comes from the memory that until recently, it was customary to silence gender violence under the explanation “these things happen!” and invite the assaulted woman to silently forget. Until recently, the act of male violence against a woman was consistently defined with the word “raptus,”—that is, as an inexplicable mental illness that is set apart from the commonly accepted, thus leaving our conventional behavioural continuum undisturbed, the majority of our society unimplicated, and its silent consensus unnoticed. It comes therefore as no surprise that the number of feminicides in this context is not decreasing.

### *Cultural Change is Civil Disobedience*

This is why addressing gender violence from a cultural perspective is both an urgent necessity and a deeply troubling and profoundly transforming operation. Ideological opposition to it should be expected and is already fully in place. Witness the suspension of educational programs in the Province of Trento by the newly elected (2018) conservative government—those who read Italian may want to have a look, for example, at the “incriminated” material that Lisa Marchi and I have produced for and with the schools in this Province for four years with the aim to educate about gender violence.<sup>6</sup>

That the network UN.I.RE. inaugurated its actions in 2019 with a factual reflection upon this cultural issue is a matter of great satisfaction, encouragement, and pride. The lectures by prominent scholars and the papers by graduate students that were delivered in Trento and are collected in this volume undoubtedly confirm this positive feeling. We are proud to open this volume with Leela Gandhi’s keynote address, which provides the philo-

---

<sup>6</sup> The material produced over the 4 years of this teaching practice under the title *Per una cittadinanza condivisa* is published by the Commissione Pari Opportunità of the Province of Trento.

sophical framing of the conceptualization of gender violence as a cultural issue—an issue that is always already within the problem of violence. Gandhi’s speech hits the heart of the matter and aptly underscores the idea of culture within which I am proposing as imperative. The original version of her address was delivered in Parliament in November 2015, on the occasion of the first edition of the Prize for best M.A. thesis and PhD dissertation on the Istanbul Convention by initiative of the Italian Delegation at the Council of Europe under the presidency of Michele Nicoletti. It was published in its Italian translation by the Chamber of Deputies, Rome, 2016 in *Libere dalla paura. Libere dalla violenza*. A subsequent version of her address was delivered in Trento on the occasion of our second UN.I.RE. action in June 2019: a seminar for anti-violence operators in centers and shelters in this Province and is printed here in the original language. Gandhi’s reflections upon gender violence and the practice of nonviolence provide the frame for conceptualizing and enacting culture within.

Tackling culture practically compels us to face what we commonly find hard to confront: everyday micropractices that silence, diminish, and ridicule women and female identities that are commonly considered insignificant (many people, for instance, deem the care of language usage to be merely a matter of aesthetic choice, and scorn invitations to avoid the masculine form as universal on the grounds that it does not sound good), attitudes that assume female difference to be an inferiority (many people, for example, still talk about parenting as mothering and identify the head of the household only with the father), behaviors that set LGBTQ experiences completely apart from heterosexual lives, or even worse ignore them and discriminate against them (it is still rare to encounter the articulation of violence against women and girls in terms of violence against feminine and feminized identities, such as those of children, LGBTQ people, minorities). The patriarchal system is far from being completely uprooted and its legacy is still fertilizing the soil on which gender violence grows. Ignoring these micropractices makes femicide appear so

surprising and abnormal when it happens; blindness to the range of micro-inequalities that persist in our everyday makes us unsee what nourishes the explosion of violence, and thus makes us incapable of preventing it. On the contrary, paying critical attention to these micropractices entails a cultural change of macroscopic proportions that radically turns our cognitive paradigm. For example, it allows us to see the perpetrator of sexual violence as a common man, and understand that we all need to decontaminate the culture within that fertilizes the terrain upon which men may grow into monsters and women may believe they love them. Gender violence is neither a problem of women nor a problem of perpetrators. Gender violence is a problem of our whole society, a problem of our still weak and imperfect democracy. Domestic violence is a problem inside our homes—it has to do with how we conceptualize the family. Male violence against women is a problem inside our minds—it has to do with how we conceptualize love. No one is exempt from reconceptualizing the home and love in ways that are no longer hospitable to violence.

This cultural work is a form of activism that entails performing acts of civil disobedience, such as teaching women to say no and being proud of it, depicting the women who suffer this violence as heroines and models to admire, rather than as victims to commiserate, considering what it is in our current conception of men and masculinities that makes it possible for a man to turn into a monster. Addressing this problem from a cultural perspective entails nourishing an outrageously mind-changing discourse.

Leela Gandhi's address provides the philosophical and political foundations for turning pain into power. This move entails the will to act against the given patriarchal culture within and actively work for the production of a culture within that includes everybody on the basis of just, equal opportunities. The alternative to violence, Gandhi potently argues, is not "non violence," not a mere absence of violence, but rather "nonviolence"—a wanted quotidian "practice of becoming less," of "*ahimsa*" conceived as the ethical limitations of goodness, of the highly transgressive

will, particularly in modern societies, of wanting to become less rather than more, of resisting by “saying no to power,” ultimately of constantly engaging civil disobedience.<sup>7</sup>

### *Nonviolent Poetics*

Undertaking the task of practicing revolutionary nonviolence through civil disobedience resistance, as so effectively illustrated by Leela Gandhi, is exciting, both challenging and hopeful. Comfort that the task can be embraced may be found in numerous poetic discourses that for more than one generation feminist writers have offered to us by now. Poetry broke the silence about gender violence long before society did. The force of revolutionary poetry—of telling the truth slantly, as Emily Dickinson recommends, of showing things otherwise, as Adrienne Rich suggests<sup>8</sup>—must meet the force of democratic politics—of pursuing negotiations that hold society together in the name of solidarity and justice—in order to create the culture within, based on altruism and a discipline of universal love, that makes a nonviolent world possible.<sup>9</sup>

---

<sup>7</sup> In addition to the “Lectio Magistralis” delivered in Rome in November 2015 and published in Italian translation in *Libere dalla violenza, libere dalla paura*, and to the address presented in Trento included in English in this volume, numerous other essays and books by Leela Gandhi offer a thorough critical examination of the concept of nonviolence presented here as crucial. It is essential to mention at least the early essay “Concerning Violence: The Limits and Circulations of Gandhian ‘Ahimsa’ or Passive Resistance” and the more recent elaboration of the concept in the field of global ethics, “Utonal Life: A Genealogy for Global Ethics,” in addition to her books, offering fundamental implications of the application of the concept of nonviolence to historiography and the practice of radical democracy, *Affective Communities* and *The Common Cause*.

<sup>8</sup> See Emily Dickinson’s “Tell All the Truth But Tell It Slant—(1263)” and Adrienne Rich’s essay “What If—?”

<sup>9</sup> Leela Gandhi, “Concerning Violence: The Limits of Circulation of Gandhian ‘Ahimsa’ or Passive Resistance,” *Cultural Critique* 35 (1996) (Winter, 1996-1997), pp. 105-147.

Briefly, allow me to draw from the writers that have kept me good company over many years, to show, as Audre Lorde puts it, that poetry is a vital necessity for women who want to change the world.<sup>10</sup> This is why, since 2015, due to my involvement in the Committee for the national Prize for best M.A. thesis and PhD dissertation on *The Istanbul Convention*, I have deemed it my responsibility to engage poetics by experiencing it as a form of cultural civil disobedience. This stance gave birth to the idea of the performance *Kintsugi, Precious Wounds* that Lisa Marchi illustrates in details in this collection. The performance came into being because of our unwavering conviction that culture must be acted in order to be effective, that confining culture to a merely aesthetic role in the face of gender violence is participating in the crime. Culture offers weapons to fight against this crime when it is treated as being always already within—within our changing lived lives that compel us, all the time, to produce a renovated culture within.

Indispensable as a first example of effectively casting the discourse on domestic violence outside of the paradigm that produces it, is Toni Morrison's *The Bluest Eye*, a novel published in 1970. The young protagonist, Pecola, suffers privately and publicly: sexual violence by her father with the complicity of her mother, and racist violence by a social canon of beauty that excludes her blackness, equating it to ugliness and evil. Domestic violence indeed, Morrison so early on has clarified, depends on the relationship between the personal and the political.<sup>11</sup> The young narrator's memorable first words, "Quiet as it's kept" perfectly encapsulate the idea of shame and secrecy associated with domestic violence, the plot and the title of the novel show its

---

<sup>10</sup> Audre Lorde presents this argument in "Poetry Is Not a Luxury."

<sup>11</sup> Heather Duenne Humann's *Domestic Abuse in the Novels of African American Women* (2014) provides a thorough discussion of the wide and changing concept of domestic violence through analyses of fiction by African American women writers.

association with other forms of violence, such as racism and classism. Morrison never turns her negative characters into monsters; she never simplifies, but rather carefully shows how they are produced by the unjust society they live in and its culture within—segregated USA in the 1940s in this case. Morrison shows the sickness of segregated culture and how it permeates all minds, so that not only the dysfunctional family but the entire community are implicated in the horrendous crime. As she will make even clearer in her 1987 novel *Beloved*, “definitions belong to the definers, not the defined” (190).

Hence, when domestic violence occurs in our community we should not be satisfied with the incrimination of the perpetrator, the rapist or the killer, but interrogate the collective context that made his crime possible. To fully understand the problem, Morrison told us fifty years ago, we need to consider the perpetrator as a common man, one of us, not as a monster, as an exception. To fully understand the problem, we need to change the paradigm. As James Baldwin forcefully had argued, in 1949, what is needed is a shifting of the paradigm: we need to stop considering racism “the Negro problem” and see that instead it is America’s problem; we need to understand that saying no to racism is not enough, that we also must give a different meaning to our no.<sup>12</sup> Racism is as persistently prevalent as gender abuse. Saying no to gender and domestic violence is equally not enough. Of course, saying no, breaking the silence—as the movement *One Billion Rising* effectively insists—is the first step. But the immediately next step is defining a frame of reference that no longer makes it necessary for women to break the silence in order to save their lives, defining a cultural ground in which no-saying is valued as positive, in which negativity is considered valuable. This, as Gandhi shows, will allow us to draw the fundamental difference between not being violent and being nonviolent. Moving beyond

---

<sup>12</sup> James Baldwin insisted on this need for a paradigmatical change throughout his works, beginning with his essay “Everybody’s Protest Novel.”

no-saying and redefining the value of the no is precisely what allows Morrison to insert a most profound philosophical redefinition of love in the last chapter of her novel *The Bluest Eye* that is so full of devastating non-love. “Love,” she tells us, “is never any better than the lover”—it is an action not an idea. It is as stupid and as intelligent as the lovers involved. Morrison casts love in the relationship; she takes it down the metaphysical sphere of the romantic picture:

Love is never any better than the lover. Wicked people love wickedly, violent people love violently, weak people love weakly, stupid people love stupidly, but the love of a free man is never safe. There is no gift for the beloved. The lover alone possesses his gift of love. The loved one is shorn, neutralized, frozen in the glare of the lover’s inward eye. (206)

Love should not exist in the abstract, should not be cast with an absolute value outside the context in which it is performed. Otherwise, it may lead us to believe in romantic love—Morrison forwarns us that, together with “physical beauty,” it is “probably the most destructive” idea “in the history of human thought” (122). Otherwise, it may lead us to accept that perversely and paradoxically love may entail violence, may imprison the beloved, may be equal to possessive mating.<sup>13</sup> Gender violence is neither a problem of women nor a problem of perpetrators. Gender violence is a problem of the culture within our whole society, a problem of our still weak and imperfect democracy. Domestic violence is a problem inside our homes—it has to do with how

---

<sup>13</sup> Morrison describes Pecola’s mother in these words: “Along with the idea of romantic love, she was introduced to another—physical beauty. Probably the most destructive ideas in the history of human thought. Both originated in envy, thrived in insecurity, and ended in disillusion. In equating physical beauty with virtue, she stripped her mind, bound it, and collected self-contempt by the heap. She forgot lust and simple caring for. She regarded love as possessive mating, and romance as the goal of the spirit. It would be for her a well-spring from which she would draw the most destructive emotions, deceiving the lover and seeking to imprison the beloved, curtailing freedom in every way” (122).

we conceptualize the family. Male violence against women is a problem inside our minds—it has to do with how we conceptualize love. No one is exempt from reconceptualizing the home and love in ways that are no longer hospitable to violence, as Toni Morrison has well emphasized.

Three years after *The Bluest Eye*, in 1973, Adrienne Rich published the collection of poems *Diving into the Wreck*, which contains the poem “Rape,” beginning with these lines:

There is a cop who is both prowler and father  
 He comes from your block, grew up with your brothers  
 and later telling us:  
 You hardly know him but you have to get to know him  
 and afterwards repeating with a difference:  
 You hardly know him but he thinks he knows you:  
 he has taken down your worst moment  
 on a machine and filed it in a file.

The “you” in the lines that slowly unfold the scene makes all of us experience what it is like for a woman to spell out the sickening details of rape to a male cop, who translates it into technical data, who is incapable of regarding the culture within rape that made rape possible and of envisioning the culture within nonviolence that would make it impossible.

This vision cannot be completed without returning—schematically and simplistically—to the thought of Leela Gandhi, beginning in 1996 with the essay “Concerning Violence” and growing in her subsequent publications. Her thinking helps us envision bodily encounters that operate under principles of nonviolence by illustrating the principle of self-ruination, of becoming less, that allows relations among singularities in the quest for inclusiveness through affects, that is ruled by a politics of friendship, that is performed under conditions of equality. Gandhi shows us how to envision relations that are no longer cast as Self and Other. Gandhi offers a principle of radical democracy that casts that impossible but necessary great fiction of modernity—the people—as a fragmented, temporary, yet powerful constituency. Gandhi’s heu-



ristic epistemology entails anarchism, disobedience, no-saying, imperfection, and the staging of nonviolent militancy. She insists that nonviolent practices are always an imperfect, non-normative work in progress, and adamantly asserts that sometimes nonviolence is not even pacifist because sometimes nonviolence must be civil disobedience in order to follow its ethical commitment to revolutionary ordinariness. This is why radical democracy is nourished by men who renounce their own masculinity and by women who cultivate their own no-saying. This is a vision in which the patriarchal assumption that her no-saying means “yes” no longer holds.

Another feminist philosopher, Judith Butler, offers her theory about agential vulnerability that is important to consider in order to factually counter violence culturally. Schematically and simplistically, Butler suggests that a politics of vulnerability is a practice of contestation that does not rely on identitarian assimilation; it opens up a space that is irreducibly corporeal, where bodies appear to other bodies to act in concert by virtue of their ethical responsiveness, rather than any aprioristic recognition of their individual existence.<sup>14</sup> More recently than Gandhi, Butler started working on nonviolence. Her lectures since 2014 have now been collected in *The Force of Nonviolence* (2020). They emphasize nonviolence as both ethical and political, argue for interdependency as a basis for socio-political equality, and call for a new imaginary in which the I cannot be thought without the you, and their being bound together by the desire to live nourishes collective action, solidarity, and a politics of equality in which no life can be considered dispensable, in which the bond between the I and the you becomes an obligation not to destroy each other, the understanding that self-preservation entails preserving the life of others, entails embracing the ethics of nonviolence.

---

<sup>14</sup> Judith Butler began engaging the concept of vulnerability in 2004 in her work *Prekarious Life*, and returned to reconsider the concept in relation to resistance in her publications in 2015 and 2016.

I suggest that overcoming the paradigm of the Self and the Other that has been so friendly to gender violence, may be fostered by another epistemic turn, the conceptual revision of the definition of *mercy*. Emanuela Zurli offers a thorough discussion of translation of the Biblical invocation to God, *Kyrie eleyson*. Zurli argues that, rather than “God have pity on us” as in the translations from Aramaic to Greek and Latin, the original means rather “God love us tenderly, motherly”—not as forgiveness, grace or pity, but gratuitously, like a mother.

African American Literature, beginning with Phillis Wheatly’s “’Twas Mercy...” up to Toni Morrison’s *A Mercy*, has made it clear that *mercy* refers to the intimate exchange that both the giver and the receiver need, an exchange that is so well expressed through African American rhetoric, with its double-speaking that plays constantly with sovereignty and relationality. *Mercy* thus conceived—imperfectly but equally, surprising but effective—imbues Bryan Stevenson’s compelling question in his *Just Mercy* (2014) referred to capital punishment: instead of asking, “Do they deserve to die?” we should ask, “Do we deserve to kill?” We should become less, let the minor voice of mercy speak, not to give grace but to give us all life and equal grievance.

We cannot conclude ignoring the work of Eve Ensler, whose militant art against gender violence has spread globally. Since 1996, her *Vagina Monologues*, translated into 48 languages and performed in 140 countries, have empowered women by addressing directly their sexuality and the social stigma surrounding rape and abuse. Since 2012, her *One Billion Rising*, a social campaign to end rape and sexual violence against women, has mobilized people in 30 countries around the world and raised consciousness as well as shelters for abused women and their children. In 2019, Eve Ensler published *The Apology* (2019), an excruciating memoir written in the form of a letter fictionally produced by her long dead, abusive father who never wrote to his abused daughter, who never apologized. She states that the letter she had to imagine is her attempt to endow her father “with the will and the words to

cross the border” to hear him, “speak the language of apology, so that [she] can finally be free.” She says that this painful operation was necessary for her, because “it is in our imagination that we can dream across boundaries, deepen the narrative, and design alternative outcomes.” Ensler in these agonizing pages is ultimately telling us that she needs her abuser to acknowledge his own vulnerability, to become human, to stop being the monster that has haunted her all her life.

To conclude, I want to draw attention to an Italian short philosophical novel, camouflaged as detective fiction, Nadia Fusini’s *María* (2019). It raises the question: how do we counter violence if not with other violence, when knowing that violence is fed by our own weakness? The novel shows that the paradigm must be changed: that it is not richness that is the opposite of poverty, but injustice, and that María, whom we meet confessing her crime in the police office, eventually has the right to exit the scene of the crime. María’s is the story of the many women who have fallen in love with the wrong man. Her husband compels her to assist in his crime, which she does because of her mistaken idea of love. Her crime ultimately is having fallen in love with evil—a common condition characterizing domestic violence. Her husband kidnaps her, imprisons her, and rapes her: her falling in love gradually becomes the awareness that her knowledge of love is only given by her knowledge of what love is not. She admits having confused love with fear and having taken too long to finally utter her “no.” María mercilessly dissects her experience of violence to let us understand how the bond between herself and her husband was only the violence. María wonders whether reporting her violent husband is an act of justice, and states that she is more interested in mercy than in justice. In making this statement, before exiting the scene, María finally ponders the double-speaking that her desire entails, the contradictory relationship between mercy and justice and lets us see that embracing the just mercy invoked by Stevenson is surprisingly, albeit imperfectly, the most effective means we have to tackle the double-bind that domestic violence presents us with.

Among many others, these artistic actions of nonviolent poetics are what our still partially barbarous society desperately needs in order to become fully civilized. As African-American poet Nikki Giovanni plainly puts it, in her potent poem entitled “Woman,” this move towards full civilization entails letting a woman be a woman and a man a man. The woman in the poem is obviously stuck within a partially barbarous society and her seeking of a relationship with a man is sparkled with numerous unsuccessful attempts. For example, she is trying “to be a book” but sadly realizes that “he wouldn’t read” her book. Nevertheless, she does finally succeed in making things “right” and in the closing lines she offers the vision of a civilization in which women are not dependent on men, a possibility that can only be realized when a woman becomes her own woman, when she “decided to be a woman / and though he still refused / to be a man / she decided it was all / right.”

### *Works Cited*

- Baldwin, James. “Everybody’s Protest Novel.” *Partisan Review*, June 16, 1949. Rpt. in *Notes of a Native Son*. Beacon, 1955, 13-23.
- Butler, Judith. *Precarious Life*. Verso, 2004.
- . *Notes Toward a Performative Theory of Assembly*. Harvard UP, 2015.
- . *Senses of the Subject*. Fordham UP, 2015.
- . “Rethinking Vulnerability and Resistance.” *Vulnerability in Resistance*. Eds. Judith Butler, Zeynep Gambetti, and Leticia Sabsay. Duke UP, 2016. 12-27.
- . *The Force of Nonviolence*. Verso, 2020.
- Covi, Giovanna and Lisa Marchi. *Per una cittadinanza condivisa, volumes 1-4*. Publications of the Consiglio della Provincia di Trento-Commissione Pari Opportunità. [https://www.consiglio.provincia.tn.it/presso-il-consiglio/pari\\_opportunita/Pages/pubblicazioni.aspx](https://www.consiglio.provincia.tn.it/presso-il-consiglio/pari_opportunita/Pages/pubblicazioni.aspx)
- Dickinson. Emily. “Tell All the Truth But Tell It Slant—(1263).”

- The Poems of Emily Dickinson: Reading Edition*. The Belknap Press of Harvard University Press, 1998.
- Enslar, Eve. *The Apology*. Bloomsbury, 2019.
- Fusini, Nadia. *María*. Einaudi, 2019.
- Gandhi, Leela. "Concerning Violence: The Limits and Circulations of Gandhian 'Ahimsa' or Passive Resistance." *Cultural Critique*, 35 (Winter, 1996-1997): 105-147.
- . *Affective Communities: Anticolonial Thought, Fin-de-Siècle Radicalism, and the Politics of Friendship*. Duke UP, 2006.
- . *The Common Cause: Postcolonial Ethics and the Practice of Democracy, 1900-1955*. Chicago UP, 2014.
- . "Lectio Magistralis." *Libere dalla paura libere dalla violenza*. Ed. Delegazione italiana presso il Consiglio d'Europa, [Italian] Camera dei Deputati, Roma, 2016. 15-21.
- . "Utonal Life: A Genealogy for Global Ethics." *Cosmopolitanisms*. Ed. Bruce Robbins and Paolo Horta. New York UP, 2017.
- Giovanni, Nikki. "Woman" (1978). *Selected Poems of Nikki Giovanni*. William Morrow & Co., 1996.
- GREVIO 2020 report on the implementation of the Istanbul Convention in Italy. <https://www.coe.int/en/web/istanbul-convention/-/grevio-publishes-its-report-on-italy>.
- Hagerty, Barbara Bradley. "A Story of Disbelief." *The Atlantic*, August 2019. <https://www.theatlantic.com/magazine/archive/2019/08/an-epidemic-of-disbelief/592807/>. Accessed 06 June 2019.
- Humann, Heather Duenne. *Domestic Abuse in the Novels of African American Women*. McFarland, 2014.
- ISTAT report "Le vittime di omicidio." <https://www.istat.it/it/archivio/239321>. Accessed March 10, 2020.
- Kustermann, Alessandra. Senate deposition, June 17, 2017. [https://www.senato.it/application/xmanager/projects/leg17/file/repository/commissioni/femminicidio/stenografici/RESOCONTO\\_STENOGRAFICO\\_N.\\_7\\_del\\_20.6.2017.pdf](https://www.senato.it/application/xmanager/projects/leg17/file/repository/commissioni/femminicidio/stenografici/RESOCONTO_STENOGRAFICO_N._7_del_20.6.2017.pdf)
- Lorde, Audre. "Poetry is Not a Luxury" *Sister Outsider: Essays and Speeches*. The Crossing Press, 1984.

Morrison, Toni. *The Bluest Eye*. Holt, 1970.

—. *Beloved*. Knopf, 1987.

OECD report. <https://www.oecd.org/gender/ending-violence-against-women-2020.htm>. Accessed 17 February 2020.

Rich, Adrienne. "Rape" *Diving Into the Wreck*. Norton, 1973.

—. "What If—?" *What Is Found There. Notebooks on Poetry and Politics*. Norton, 1993. 235-250.

Stevenson, Bryan. *Just Mercy*. Spiegel & Grau, 2015.

Zurli, Emmanuela. "Kyrie eleison. L'invocazione biblica a Dio, che ci ama come una madre." *Rassegna di Teologia* 51 (2010): 215-232.

COMBATING GENDER-BASED VIOLENCE THROUGH ART:  
THE PERFORMANCE *KINTSUGI, PRECIOUS WOUNDS*

Lisa Marchi, *University of Trento*

*Abstract*

The essay investigates the role of arts and artistic performances in combating gender-based violence. It argues that artistic projects, such as the performance *Kintsugi, Precious Wounds*, contribute to raise awareness, change perceptions, and create new narratives, by mobilizing affects such as pride and regeneration and by emphasizing the woman's trajectory from submission and dependency to self-determination and empowerment. The paper draws on *The Istanbul Convention* and includes *Kintsugi, Precious Wounds* among the initiatives conceived by and directed at the civil society with the intention to promote social and cultural change.

Feminists and feminist movements have been using art to fight gender-based violence, inequality, and discrimination for decades. Artistic performances, in particular, have contributed to incite discussions and create new narratives on these urgent topics. As Myra Abdallah notes: "Eager to defend their rights, women have resorted to an array of tools and platforms—protests, literature, newspapers, television and many more, including the use of art to raise awareness of gender-based violence and promote women's rights" ("Fighting Gender-Based Violence Through Art"). One case in point is the Fearless Collective's *Reclaiming Public Spaces* project, which has emphasized the involvement of the

local community in three Pakistani cities and has developed three murals collectively to raise awareness on gender-based violence.<sup>1</sup>

This paper shifts our attention from the global to the local level to describe the performance *Kintsugi, Precious Wounds* that has closed the UN.I.RE. conference *Gender Violence Is Also a Cultural Issue!* The performance, based on an idea that Giovanna Covi developed under the influence of Leela Gandhi's articulation of nonviolence as active no-saying, renunciation, and civil disobedience, employs a plurality of artistic languages (poetry, music, dance, and painting) to fight gender-based stereotypes and prejudices and to raise awareness, change perceptions, and develop new narratives on the topic of gender-based violence. In particular, *Kintsugi* offers an alternative representation of the woman who has experienced violence, emphasizing her ability to change and undergo personal development as well as her capacity to transform her identity into an empowered personality.

The performance takes its inspiration from the traditional Japanese art of *Kintsugi*, in which broken ceramics is repaired by using liquid gold to join the fragments and enhance their breaks, value, and beauty (Lesser, "Kintsugi"). Through this delicate and refined act of reconstruction, anger and regret leave the place to regeneration and pride. These were also the dominant affects mobilized by the artists on stage. As every ceramic piece is unique, so each single fictional woman in the performance has her own personal story, her wounds, and her own experience of resilience to tell. Even when it appears impossible to put the shards back together, the art of *Kintsugi* shows that even after it is broken, an object may become more beautiful than before if it is regarded as valuable and treated with care.

With the use of emotionally impactful literary, musical, and visual art works, the artists on stage have sought the direct par-

---

<sup>1</sup> See on this regard, the website of the United States Institute of Peace <https://www.usip.org/publications/2016/05/pakistan-women-combat-gender-violence-through-art>



icipation and affective involvement of the audience, so that the persons watching the performance could no longer comfortably keep their role as mere spectators. The choreography curated by Rosa Tapia has enhanced this goal. From the outset, Rosa Edith Tapia Peña (dance), Lisa Marchi (poetry), and Riccarda Chisté (painting) have opened to the public the usually sealed-off space of the home and offered glimpses into the harmful experience of three individual women, who have been subjected to a violent intimate relation. Crucial in this sense, has been the group's emphasis on the woman's trajectory from submission and dependency to self-determination and empowerment.

The performance *Kintsugi* opens with Eric Satie's *Gnossienne n. 1*, a musical composition in free time and highly experimental with form. This piano miniature, characterized by a slow rhythm and a strong affective impact on the listener, introduces the audience to the first woman protagonist: the quiet and resigned Penelope.



*Photo by Silvia Dezulian, all rights reserved*

This woman is just one of the “barefoot souls” portrayed by poet Maram al-Massri in her trilingual collection *Anime Scalze* (*Barefoot Souls*) published in 2011. A Syrian poet born in Lattakia, Al-Massri moved to Paris in 1982. In her poetry, structural

and intimate partner violence intersect, thereby showing that social discrimination and social control against women as well as a patriarchal family create a toxic context that facilitates and justifies (gender-based) violence. Penelope is just one of the women portrayed in the text, whose personal details (name of the mother and the father, age, and profession) are disclosed by the author, in the attempt to show that gender-based violence “happens in every country, across the full spectrum of society, and in a myriad of locations” (European Commission, “Special Eurobarometer 449”).

The representation of Penelope as a “damaged good,” imprisoned by her own chimera, and whose life is now reduced to a mere act of waiting, is accompanied by a melody in a minor mode that is remarkably simple, yet elegant, mysterious, and vaguely drowsy. The graceful note articulations of Satie’s composition function as a counterpoint to the variation in tone, when the poet abandons Penelope’s description and introduces an external voice who incites her into action: “Go out, Penelope / suffer, love, sing, dance, satiate yourself” (77),<sup>2</sup> an encouragement that however remains ineffective.



*Photo by Silvia Dezulian, all rights reserved*

---

<sup>2</sup> This and the following translations into English from the original French, Arabic, and Italian are mine.

The dancer sits on a chair, keeping her movements at a minimum, the painter observes the scene, prepares her working tools, and reflects on the ways in which a woman's experience can be translated and communicated to others, possibly incorporated into a piece of art.

As the music changes, the audience encounters two other women, Tamara and Josette. The first one is standing in a bare room, repeating the offensive words that her partner has directed against her; the second one is walking slowly and reluctantly towards her home, while hoping to lose her memory and forget the way that takes her home: "Ten years... She sees herself / walking backwards / as she moves / towards her home / following a habitual mechanism. Ten years... / Josette hopes / to lose her memory / and forget the road that takes her / home" (105). The trajectories of the poet and the dancer intersect on stage; the frantic movements of the latter complement the violent and disconsolate words of the former.



*Photo by Silvia Dezulian, all rights reserved*

The fictional characters of Tamara and Josette expose the domestic space as an imprisoning web rather than a protective and intimate space; the male figure is equally put on trial for the use of abusive words, such as the following: "You are a zero / you are a sand sack / you are a ball that I drag / You are unable to live without me / Not even the cleaning lady you could do" (117). These hateful words clearly have a destructive effect on Tamara's personality and

self-esteem, as suggested by the closing line: “I’ve heard you say this for a long time / until I believed it” (117). The music that accompanies this part is Armand Amar’s “Paddy Fields,” a piece belonging to the soundtrack of the documentary *Human*, which explores through the filmic medium the harsh and beautiful aspects of humanity. “Paddy Fields,” in particular, evokes arable lands where the rice grows and its musical protagonist is a solo cello played by Grégoire Korniluk. *Human* is a hymn to the fragility of human life on Earth, expressed through a music that is influenced by different musical and ethnic backgrounds. Similarly, the dance performed on stage by Rosa at this point of the performance is simultaneously a painful lamentation for the victims of violence as well as a proud celebration of the women who have abandoned an abusive relation. Rosa’s movements initially desperate, frenetic, and wild come towards the end of the music to a standstill. Silence falls on the scene; in this precise moment, when the woman on stage undergoes a sudden metamorphosis, the painter begins to sketch with a series of quick, rough brushstrokes her portrait and her transition from a broken ‘shard’ to a precious ‘whole.’



*Photo by Silvia Dezulian, all rights reserved*

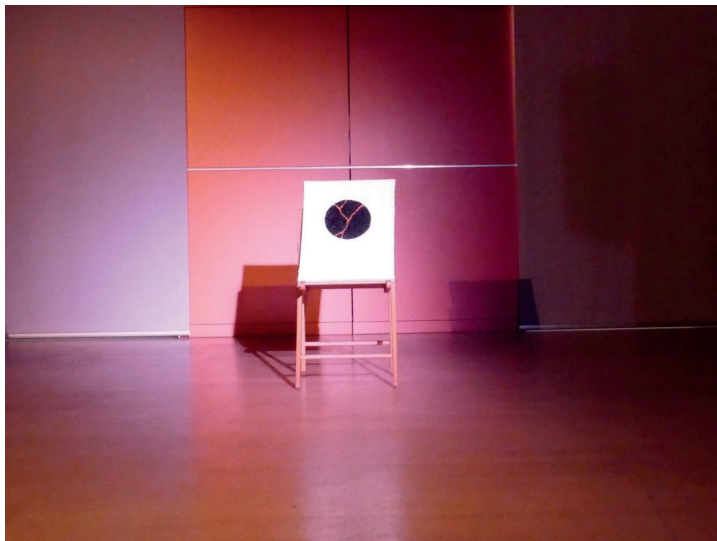
Joy Harjo’s poem “I Give You Back” bears witness to and accompanies this almost shamanic transition from fragments to

wholeness, from trauma to healing. Born in Tulsa, Oklahoma, as a member of the Muscogee (Creek) nation, Harjo combines in her poetry the First Nation storytelling tradition with feminist and social justice claims. “I Give You Back,” in particular, is an imaginary dialogue that a woman entertains with her fears. By reclaiming her life experience as various, multi-phonetic, and unique, the poet on stage gives back her fear. The language of this poem is precise and unsentimental, its tone bitter and visionary. No musical background envelops the scene, silence surrounds everything, and the dancer on stage moves lightly yet resolutely on the slow modulation of the tones of the voice and on the precise cadence of the bare words: “I release you, my beautiful and terrible fear. / I release you. / You were my beloved and hated twin, but now, I don’t / know you as myself.” By voluntarily releasing her fear, the woman on stage appears as powerful and fascinating at once. The evocative force of the closing lines of the poem communicate this sense of regained strength, empowerment, and magnificence: “I take myself back, fear. / You are not my shadow any longer. / I won’t hold you in my hands. / You can’t live in my eyes, my ears, my voice, my belly, or in my heart / my heart my heart my heart. / But come here, fear. / I am alive, and you are so afraid of dying.”

As soon as the poet pronounces the last, powerful line, a bright and vibrant melody erupts on the scene, investing the dancer with its force and vitality. The musical piece “Elle est l’eau qui fait le torrent” by Chapelier Fou, an experimental composer who mixes traditional melodies and hypnotic sounds of electronic music, accompanies the woman’s rebirth with its soft, mesmerizing words and its invigorating rhythms.

After this short yet intense moment of hope, *Kintsugi, Precious Wounds* closes with another moment of silence. As the lights dim out, we hear a few lines drawn from June Jordan’s “Poem about My Rights,” in which the speaker publicly declares that rape is never consensual and the rape victim never a “wrongdoer.” To quote Jordan: “But let this be unmistakable this poem / is not consent I do not consent / ... / I am not wrong: Wrong is not my name /

My name is my own my own my own.” As the fierce and committed words of African-American poet Jordan fill the void, the painting is brought on stage and exposed in front of the audience. On a rough white surface, a black circumference with its fragments glued together by using liquid gold dominates the scene.



*Photo by Silvia Dezulian, all rights reserved*

*The Istanbul Convention*, adopted in 2011 and entered into force in 2014, provides the first comprehensive framework in Europe to prevent and combat gender-based violence. The Council of Europe’s initiative equates gender-violence to a human rights violation and sets out standards of prevention, protection, and prosecution as well as services to respond to the needs of the victims. *The Convention* encourages the implementation of “comprehensive and co-ordinated policies” (art. 7) to fight gender-based violence. A strong emphasis is put on preventing violence through awareness-raising campaigns and other initiatives in the education sector. *The Convention* further tackles the issue of gender discrimination and promotes “a substantive equality between women and men, including by empowering women” (art. 1).

As I see it, the performance *Kintsugi, Precious Wounds* belongs to the initiatives conceived by and for a civil society actively engaged in combating violence against women (art. 9). Art, and culture more generally, are indirectly listed in *The Convention* among the necessary measures to prevent violence—to eradicate prejudices, customs, traditions, and practices that disempower women as well as “to promote changes in the social and cultural patterns of behaviour of women and men” (art. 12). The scope of our performance is precisely to contribute to increase awareness and understanding on gender-based violence among the general public. It does so, by employing a variety of artistic languages and by mixing electronic sounds and more traditional musical patterns, in order to convey the complexity and different manifestations of gender-based violence both locally and globally.

Together with *The Convention*, the performance underlines that a social and cultural environment soaked with gender biases, stereotypes, and social inequalities is a fertile ground for gender-based violence to spread. All the women performing on stage, both fictional and real, are a clear reminder that acts of violence do not happen in a vacuum but are embedded in ubiquitous social structures, such as the couple, the family, the workplace, the school, etc. By and large, the performance underlines the importance of words, representations, and bodily acts when addressing the topic of violence. Indeed, the language of the discourse about violence against women requires explicit attention and great sensitivity, since words, images, and bodily acts greatly contribute to shape and influence the ways in which the general public perceives, reacts to, and fights gender-based violence. This is why we have chosen to include in the performance women poets, who have been engaged in a variety of justice-seeking struggles: for civil rights, women’s rights, the survival of indigenous people, the protection of personal and collective freedoms. The connection between gender-based violence and other human rights violations needs to be stressed, if we want to seriously engage in the realization of non-violent intimate relations and societies.



*Works Cited*

- Abdallah, Myra. "Fighting Gender-based Violence Through Art." *The Arab Weekly*. January 07, 2018. <https://the arabweekly.com/fighting-gender-based-violence-through-art>. Accessed 15 January 2019.
- al-Massri, Maram. *Anime Scalze*. Multimedia Edizioni 2011.
- Amar, Armand. "Paddy Fields." *BSO Human*. 2016.
- Calfas, Amy. "In Pakistan, Women Combat Gender Violence Through Art: An Indian Artist Crosses Borders to Amplify Women's Voices." *United Institute of Peace*. May 4, 2016. Accessed 15 July 2019. <https://www.usip.org/publications/2016/05/pakistan-women-combat-gender-violence-through-art>.
- Chapelier Fou. "Elle Est l'Eau Qui Fait Le Torrent." 613. 2013. Council of Europe, *Convention on Preventing and Combating Violence Against Women and Domestic Violence*. Istanbul, 11.V.2011. <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>. Accessed 20 February 2020.
- European Commission. "Special Eurobarometer 449." Gender violence: Report. 2016. [http://data.europa.eu/euodp/en/data/dataset/S2115\\_85\\_3\\_449\\_ENG](http://data.europa.eu/euodp/en/data/dataset/S2115_85_3_449_ENG). Accessed 15 February 2020.
- Harjo, Joy. "I Give You Back." *How We Became Human: New and Selected Poems, 1975-2001*. W. W. Norton and Company, 2002.
- Jordan, June. "Poem About My Rights." *Directed by Desire: The Collected Poems of June Jordan*. Copper Canyon Press, 2005.
- Lesser, Casey. "The Centuries-Old Japanese Tradition of Mending Broken Ceramics With Gold." *Artsy* Aug. 24, 2018. <https://www.artsy.net/article/artsy-editorial-centuries-old-japanese-tradition-mending-broken-ceramics-gold>. Accessed 10 January 2020.
- Satie, Eric. "Gnossienne n. 1." *Gymnopédies & Gnossiennes*. Brilliant Classics, 2016.



REFLECTIONS ON VIOLENCE AND NON-VIOLENCE  
FROM A POLITICAL, CULTURAL AND ETHICAL PERSPECTIVE<sup>1</sup>

Leela Gandhi, *Brown University*

*The Istanbul Convention*

You'll recall: the political philosopher Hannah Arendt once said that the pathos of human rights is—they are only conferred on those already expelled from the human condition.

Even as the groundbreaking *Istanbul Convention* gives more visibility to women it shows them to us (painfully) as objects of violence and violation. Consider the horrifying statistics that in Europe alone: one in three women has suffered physical/sexual abuse since the age of 15 women are the overwhelming majority of victims of sexual harassment and violence (including rape), and physical and psychological abuse *at the hands of intimate partners* and they are targeted because they are women—and usually by men.

Let me add, of my own country of origin: according to the National Crime Records Bureau, India experienced a 26.7 percent hike in crimes against women between 2013 and 2014 alone.

Currently it has one of the lowest rankings in the World Economic Gender Gap Index, in terms of women's access to the means of health and survival—leave alone educational attainment and economic opportunities.

---

<sup>1</sup> This paper reproduces in form Leela Gandhi's oral delivery.

*The Istanbul Convention* puts a ban on such gender-based violence, at least in Europe. And it does something else, no less profound. It makes an explicit commitment to non-violence—as a value in its own right.

In Chapter III, Article 14 of *The Convention* there's a new accent (however tentative and fleeting) on the need for an ethos of “non-violent conflict resolution in interpersonal relationships.”

Now, this appendix on the promotion of non-violence (over and above the prevention of violence) is beyond the purview of the law, *per se*.

You can compel people not to be violent. But you can't compel them to be non-violent. So what is non-violence exactly?

I'd like to offer some reflections on this question today. My discussion is organized into five short sections: **democracy**, **ethics**, **social contract**, **negativity**, and **immortality**. Each section concludes with a proposal or thesis.

### *Democracy*

Some of you will remember that at the end of 2006, the General Assembly of the UN passed a resolution (61/45) declaring 2001-2010 an International Decade for a Culture of Peace and Non-Violence for the Children of the World.

But a year later it named 2nd October—also the birth anniversary of M. K. Gandhi—an annual International Day of Non-Violence.

These UN resolutions, and *The Istanbul Convention*, all invoke the legacy of the C18th Bills of Rights and Man, and Declarations of Independence, and the Universal Declaration of Human Rights (UDHR)—**so as to claim a place in the evolving history of democracy**. And violence, these resolutions say categorically, is not acceptable in democracy.

However, the concept “non-violence,” is very much on par with liberty, equality (*égalité*), the pursuit of happiness, and so on.

And this completely widens the scope of democracy, as we know it. In two ways.

Point number 1: *even today we labor under the view that democracy is a purely western inheritance.* But modern non-violence—this new democratic value—has a varied transnational genealogy.

And I say this today, standing in Europe to remind Europe of non-Western histories of democracy. But also because parts of the so-called non-west have lost contact with their own radical traditions of non-violence and humanity.

Here are some examples from the wide networks of nonviolent activism that the Indian leader, Mohandas Karamchand Gandhi participated in during his lifetime.

It was the C19th vegetarian movement in Europe, led by chartists, utopian socialists and anarchists, which radicalized M. K. Gandhi's thinking on non-violence.

Gandhi, in turn, gave new life to the nonviolent strains in Christian socialism, especially Quakerism.

On the eve of World War II, Gandhi and the great Jewish philosopher and reformer, Martin Buber, entered into an extraordinary dialogue on the possibilities and limits of non-violence in the modern world.

This evolving *Weltanschauung* of early and mid-C20th non-violence was further developed by Gandhi's close associate, Bāchā Khān: a Pashtun independence activist and devout Muslim, who started a popular movement of nonviolent Islam in the Peshawar valley that went by the name, *Khudai Khidmatgar*, or “servants of god”—and whose members were committed to oppose hatred, to live by nonviolent principles, and not to desire any rewards for their service: either in this life or the hereafter.

So, it was a very hybrid form of non-violence—produced by a century or more of intercultural and interfaith dialogue—which later fed into global interwar pacifism, the early American Civil

Rights movement, and the Campaigns for Nuclear Disarmament, and so on.

Point number 2: *western democracy professes rock-bottom secularism*. Now, the cultures of non-violence I've just described also have very little to do with institutional religion.

But they are *heterodox* rather than strictly *secular*.

And they come out of civil society as a force for the spiritualization of politics: that wants to change hearts and souls

And which is, minimally, ethical—

That is, pertaining to the way we live in the small: in the kitchen, in the bedroom, when we pray, on the darkened street corner, after midnight, and in our solitariness as mortal beings.

***Proposal #1: Modern non-violence is a global inheritance that belongs to the inner life of democracy.***

### *Ethics*

Now let there be no doubt that non-violence is not for the faint-hearted. Or for cowards. It's an extremist (often highly un-peaceful), very counterintuitive, and sometimes unnatural way of life. Here are three general principles.

#### 1. The ethics of non-violence is not *utilitarian*

We can't desist from causing injury because it may result in gain for ourselves—but because not hurting others is its own end.

In fact, this is an attitude of treating **the flourishing of others** (whether intimates or strangers, citizens or foreigners) as though it were our own paramount happiness: *eudaimonia* itself; the "highest of all goods." (To mix Aristotle and Gautama Buddha).

#### 2. Ethical non-violence is not *normative*

(a) Because it is typically **anarchic** /as a form of civil disobe-

dience or non-cooperation)—thus, always suspicious of prevailing norms

(b) Because is something profoundly creative, which we have to rediscover and renovate again and again on a case-by-case basis, as we live out our daily lives with others

3. Though nonviolence certainly concerns character, it's not really *virtue ethics*—

that is, concerned with achieving personal excellence or perfection or exceptionality or even fullness.

The pacifist Gene Sharp once described non-violence as “**the politics of ordinary people.**”

Let me take this further—

***Proposal #2: Non-Violence is an ethical commitment to revolutionary ordinariness.***

### *Social Contract*

One of the most remarkable features of *The Istanbul Convention* is how it emphasizes the structural nature of gender violence: how such violence results from the deep-seated belief *that men just count for more than women.*

This is, arguably, the formula for all kinds of violence: *x* race counts for more than *y* race; *x* religion more than *y* religion, *x* sexuality more than *y* sexuality, young people more than old people, humans more than animals, and so on.

Modern non-violence simply inverts this principle. *It is the practice of being or becoming less rather than more.* Let me unpack this idea.

You know, the Sanskrit term for violence, *himsa*, means harmfulness. And its antonym, *ahimsa*, literally means harmlessness.

So, in this tradition and its modern offshoots, the *ahimsaic* (or, non-violent) person must literally aspire—24/7—to become harmless. What an ideal.

Now, harmlessness—which is a strain of “*lessness*” (or, becoming less rather than more)—gets its moral charge *only within a radically revised social contract*: involving victims, perpetrators and their overlapping life worlds.

In this revamped social contract power (the way we share it or distribute it) is no longer the substance that binds communities together.

- In the late C19th the socialist-anarchist-vegetarian Peter Kropotkin put forth exactly such an ideal for a society founded on mutual aid alone.
- It was a motto of the American War Resisters League or WRL (founded by conscientious objectors in 1923) that: “power comes in giving up power.”
- The nonviolent chapter of the American Civil Rights movement, likewise, sought out forms of conflict resolution in which, “nobody is defeated, everybody shares in the victory.”
- Finally, let me tell you about the Buddhist paragon of *sangha*:  
 which means a spiritual community or assembly (or network of friends) that comes together/gathers solely to surrender power—unconditionally and on a planetary scale: all the better to develop loving-kindness, and to wish the world well.  
 (How different this is from the Hobbesian anxiety that a world without power or absolute government will result in a “war of all against all.”).

So—

***Proposal #3: Non-Violence envisions a political order in which power is no longer a social or cultural or even a political value.***

### *Negativity*

Two styles of social objection clarify the edgy nature of radical harmlessness, aka, being less rather than more. Let's call these *falling short* and *withholding consent*, respectively.

*Gandhi, who considered gender-violence at the source of all violence, was a great believer in falling-short as a technique of ahimsa.*

To this end he urged all men (advisedly) to fall short of prevailing norms of masculinity—in fact, to consciously emasculate themselves.

Much to the chagrin of fellow male nationalists, he often expressed the desire to become, “God’s eunuch.”

Gandhi also urged women to fall short of prevailing standards of femininity, to be free from fear, to be *sui generis*—invent new kinds of relationships; a new social style—and take to the streets as avant-garde soldiers of the nonviolent revolution.

Now, *withholding consent is a corollary to falling short.*

Modern political thought—modern democracy—prides itself so much on the invention of consent: so that citizens can say “yes, please rule over me, in exchange for x or y.”

But non-violence philosophy argues that the best thing about democracy is how it gives everyone the legally protected right to say “no.”

No. I won't participate. No. I don't want to belong to this or that *status quo*.

This principle is at the moral core of civil disobedience, according to Henry David Thoreau. He says: “[If anything] requires

you to be the agent of injustice to another, then I say, break the law. Let your life be a counter-friction to stop the machine.”

Notably, in 1909, Gandhi described “no-saying” as love-force or soul-force itself. Because it is a way of challenging domination and any other form of injustice, without inflicting injury on the opponent.

*So, falling short and holding back are, we could say, based on a very particular form of negativity.* How should we think about this?

There’s such a strong bias against negativity in Western philosophy, especially—

Recall: Nietzsche’s prayer that he may be someday, “only a yes-sayer.”

Recall also: that the no-sayer is the blocking force of orthodox comedy— the *alazon*, the killjoy, the spoilsport [who must be vanquished so that the male hero can achieve biological and economic self-perpetuation].

By mid-C17th, in European letters at least, this role was increasingly populated by female figures: overeducated, opinionated, historically precocious, masculine bluestockings with short hair and loud voices.

But the history of non-violence sees courageous no-saying, differently, as something that is remedial and ameliorative:

A way of holding out hope for a truly inclusive sociality.

And a dissatisfaction with the options that are currently available. Consider this small example—

In the novel *Our Sister Killjoy* (1977), written by the Ghanaian author Ama Ata Aidoo, there’s an anti-heroine called Sissie, who is a very negative person. She’s always saying things like: “There is nowhere ... No city is sacred ... No spot is holy.”



What she really means is: No not yet. No not here. No not quite. Surely, we can do better than this.

In this way—

***Proposal #4: Non-Violence is a type of utopian negativity.***

### *Immortality*

In the practice of *ahimsa* the care of the self is completely tangled up with caring for others.

**Those who are vulnerable** become refuseniks to protect themselves and other potential victims, of course. But also out of the belief that violence brutalizes the perpetrator. [And that the perpetrator, no less, must be protected from self-brutalization].

On the flip side: **Those who are powerful** struggle for self-mastery— not only to become more efficient and successful in the world. But to master their desire for mastery. To rule their will to rule.

This is true freedom and true democracy à *la* non-violence.

In its radically relational dimension, then, non-violence opens us to the epiphany (the consolation) that there's much more in the world beside and beyond ourselves.

That is to say: at the very limit of our self-interest: exactly where we experience our finitude most acutely—we may find ourselves infinitely extended (or relayed) in the flourishing of others.

I will end. I want you to be. *Volo ut sis* (in Saint Augustine's alleged formula).

***Proposal #5: Non-violence offers us a glimpse of something like horizontal infinity at the very core of our mortality. Perhaps this is the only immortality we will ever know.***

*Conclusion*

Modern nonviolence is a global inheritance that belongs to the inner life of democracy. It is an ethics of revolutionary ordinariness. It promises a political order in which power is no longer a cultural or even a political value. It is a type of utopian negativity. It is a form of horizontal infinity.

Congratulations on *The Istanbul Convention*.

ADDRESSING VIOLENCE AGAINST WOMEN  
IN A DIVERSE WORLD:  
FOUR PERSPECTIVES ON CULTURE

Renate Klein, *University of Maine, USA*

*Abstract*

This paper suggests four perspectives on culture that appear to underlie discourses about culture and violence against women: difference, skill, identity and responsibility. A notion of culture is explained that informs the analysis and the four perspectives are sketched out. Each has strengths and weaknesses. A combination of all four seems necessary for effective social change.

Culture is a flexible concept for which hundreds of definitions have existed for decades (Kroeber & Kluckhohn, 1963; Moore, 1980). In anthropology and related fields, culture refers to practices that make up the social life of different peoples, such as ethnic groups, sub-cultures, or members of organizations. Culture is a central concept in cross-cultural research (Johnson, Ollus & Nevala, 2008; Gelb & Palley, 2009; Seager, 2009; García-Moreno, Jansen, Ellsberg, Heise & Watts, 2005). Culture is often used in the study of “others” but also appears in studies of one’s own country as in ‘culture of honor’ in the Southern United States (Nisbett & Cohen, 1996) or ‘rape culture’ (Sanday, 1996).

For present purposes, by culture I mean interrelated sets of human practices, not only the production of art but all social practices: how we relate to each other, how human relationships

are organized, in families, in institutions, at work, in public. That includes norms and customs, politics, hierarchies, and religion; all this activity is gendered in the sense that how we relate to each other depends on how we understand and regulate sex, gender, sexuality and gender identity. Our activities and institutions are gendered, which shapes and reflects our relative agency. This gendered activity varies across place and time. We each grow up within such interrelated sets of gendered practices; they shape our identities, we struggle with them, adapt and adopt, or try to change them: “Humans develop through their changing participation in the socio-cultural activities of their communities, which also change” (Rogoff 11).

I’ll first describe how I think about culture. Then I’ll suggest four perspectives on culture that I see in academia and practice. They are not mutually exclusive; each have advantages and disadvantages that can, and I would say should, complement each other. Four notions underly my thinking about perceptions of culture: coherence, imprinting, gender politics, and encounter. Cultural practices display a degree of coherence and interrelatedness; culture varies greatly around the globe but it is everywhere and we each are imprinted to some degree by the particular version of culture we grew up with; culture is entwined with gender politics; how women, men and people of different genders can gain influence, advantage or safety varies with given cultural practices; gender cultures could be peaceful – remnants of indigenous societies suggest as much but gender peace is ongoing, hard work, not passive bliss (Counts, Brown & Campbell, 1999); how we approach others depends on the circumstances under which we meet.

### *Coherence*

There is a Gestalt element to cultural practices, which turns them into a whole that is more than the sum of its parts. Based on cross-cultural studies of child-rearing Barbara Rogoff posit-

ed basic concepts for understanding cultural practices and processes:

*“Cultural practices fit together and are connected. [...] Cultural processes involve multifaceted relationships among many aspects of community functioning; they are not just a collection of variables that operate independently. Rather, they vary together in patterned ways. Cultural processes have a coherence beyond ‘elements’ such as economic resources, family size, modernization, and urbanization. It is impossible to reduce differences between communities to a single variable or two [...]; to do so would destroy the coherence among the constellations of features that make it useful to refer to cultural processes. What is done in one way in one community may be done another way in another community, with the same effect, and a practice done the same way in both communities may serve different ends. An understanding of how cultural practices fit together is essential.”* (Rogoff 11-12; emphasis in the original)

In a similar vein, but referring directly to violence against women, Charlotte Bunch (2008) argued that the “real cultural challenge of violence against women” is that such violence must be understood as “culturally embedded practice ... in virtually all societies,” and not as “some marginalized, exotic ‘cultural practice’ that takes place somewhere else” (p. xiii). In discussions of violence against women, mainstream culture tends to remain invisible, whereas minority or foreign culture is hyper-visible. When judging other cultures, violence against women easily becomes a defining element, whereas in one’s own culture it is a regrettable exception from the rule. In discussing Western perceptions of violence against women in India, in particular a selective focus on sensational cases of dowry murder, Narayan called such stereotyping ‘death by culture’: “Thus, while many Western readers might not know exactly what dowry is, or the factors that lead to dowry-murders, or the exact nature of the relationship of either dowry or dowry-murder to “Indian culture,” the presence of references to “Indian culture” can provide a swift and convenient “explanation” for what they do not understand” (Narayan 103-104).

### *Cultural Imprinting*

All of us are marked by our culture just as we are by gender, race, class, sexual orientation, ability or religion. Cultural markers can be intensely personal; to some extent culture, as gender or race, is literally embodied. For instance, in our accents when we speak, in our body language when we move, and in our taken-for-granted assumptions when we think. It is not just other people who have strange cultures, we all do. Culture is fundamental to who we are as gendered, social beings, to how we are connected to others, and how we can act in the world. Our very agency is to some extent a collective achievement because how much agency we can exercise depends on our social and political location or dislocation, and on how others respond to us.

While culture is everywhere, it is not everywhere alike. We differ in how we relate to other people, to family members, in communities, at work, in public. Violence against women is woven into these interrelationships but the specific form this takes varies from place to place, and over time. Only in the abstract is violence against women “the same everywhere.” In practice, local circumstances shape forms of vulnerability, power and exploitation, constraining victims and perpetrators in different ways, and influencing victimization and perpetration patterns; the very experience of trauma is inflected by our cultural background (Deer, 2004). Local contexts create different constellations of vulnerability that abusive actors may exploit, be it misogynous teachings or customs, racism, homophobia, poverty, or women’s exclusion from political decision-making. Laws benefiting women in principle need local implementation to benefit them in practice (Merry, 2006), and interventions in violence against women that have been successful elsewhere need to be adapted to the requirements of different cultural contexts (Roggebrand, 2004).

*Gender Politics*

Why bother with culture and not say that gender relations depend on local politics? We could say that, but then we should think in terms of local politics everywhere, and not call our own context political and that of other people cultural. Then we are back at the “culturalisation” debate and the “dangers of stereotyping inherent in culturalism” (Hagemann-White 175). We could get rid of the notion of culture for fear that it invites too much stereotyping and prejudice but then we risk overlooking how deeply embodied culture can be and we might fall into a different trap: the pretence that cultural differences did not matter (Gillum, 2009). An alternative is to aim for a fuller “interrogation of concepts of culture” (Burton, Ibryamova, Khanna, Mazurana, & Mendoza 29), understanding that all interventions in violence against women, anywhere in the world, majority societies included, are cultural achievements (Thiara, Condon & Schrötle, 2011).

Debates about women’s rights—and about the right to intervene in violence against women—are entwined with race and class and political sovereignty, and these intersections take on specific cultural forms. We need to understand how a gendered environment “works,” and that means understanding the specific forms in which power and gender operate in that environment.

We need approaches to violence against women that are culturally inclusive in the sense of seeing culture as integral to all gendered practices—those of others and our own—and critical of culture in the sense that ending violence against women requires a shake-up of culture-as-usual. Good feminist practice needs to be at once culturally appropriate to make sense and culturally *in*appropriate to make change.

Those indigenous societies where there seems to be little or no violence against women have created cultures in which women’s autonomy is normal, not exceptional; women are viewed as free agents, free to make their own decisions, and that is ac-

knowledge and supported by society as a whole; it is reflected in woman-friendly norms and worldviews, in broad, collective support and respect for women's agency and self-determination (Klein, 2012). In Western countries the idea of self-determination is often read as "I can do whatever I want." That certainly is not the case in non-violent societies, but in truth, it is not the case in Western societies either. Humans can exist only in interdependence with each other. The challenge is to achieve and maintain a social fabric in which interdependence is based on equality and respect rather than exploitation and abuse. Maintaining a gender culture of equality and non-violence is not passive bliss but requires continuous hard work. Social and interpersonal tensions are inevitable in human relationships and need to be managed in a way that is respectful and supportive of all genders alike (Klein, 2012). While transforming societies towards more gender equality is difficult, once gained, such equality must be actively maintained. Violence against women cannot be ended in one big effort and then all is well. Instead, non-violence is a way of life that requires constant effort and vigilance. How this might be done depends on local culture and may vary over time.

### *Historical Encounters*

So long as we stay in our own cultural bubble, we will take our local culture for granted; it may remain invisible. In contrast, in the encounter with others, culture is revealed, and not only their culture but ours as well. Whether we meet in person, or indirectly, mediated through news reports, movies, literature, or social networks, the notion of culture encapsulates a recognition that social life and gender relations can be organised in different ways. In cultural encounters, something about social life becomes visible that used to be invisible.

Such an awareness of alternative lives can be a powerful, even liberating recognition if we suffer under our current circumstanc-



es; it can be a scary and unsettling recognition if we benefit from them or are afraid of change. Recognition of cultural diversity takes place in specific historical, political and institutional contexts. Cultural encounters offer the potential for learning and insight, but whether this potential will be realized, depends on circumstances. They will shape whether the other culture and one's own will be admired or despised, loved or hated, recognized or misunderstood, affirmed or challenged. You cannot throw people from different cultures together and expect that they automatically will come to celebrate their differences.

Cultural encounters may take place among equals but often they do not. Instead, we meet each other in circumstances structured by wealth, race, class, and political power, by hegemonies of different historical origin: tourists meeting locals, migrants in transit, international negotiators, indigenous activists and majority representatives, conference participants, workers at a rape crisis centre serving minority or majority women, an undocumented wife appealing to a foreign bureaucracy for protection against a violent husband. Do we meet others on their territory or on ours? How much agency do we each have? Am I near powerless in the encounter or can I rule it? Must I learn their language or they mine? These parameters shape and constrain our agency and our impressions of each other. Not only do the present social and political conditions under which we meet influence how we see each other and how we treat each other, but so does the history of past encounters.

#### *Four Perspectives on Culture*

I suggest four complementary themes or perspectives that I see reflected in many discussions of culture and violence against women. These perspectives seem to suggest a particular emphasis people make when evoking notions of culture in relation to violence against women, an emphasis which in turn appears to

be shaped by the particular circumstances under which culture is used or criticized as an explanatory concept.

*Culture as difference* features sweeping generalizations that emphasize differences between cultures, with a tendency toward stereotyping, prejudice and othering. *Culture as skill* emphasizes cultural competence and cultural sensitivity. *Culture as identity* focuses on the embodiment of culture in language and identity, on sovereignty and cherished customs and traditions. And fourth, *culture as civic responsibility*<sup>1</sup> emphasizes social and cultural change to end violence against women. These perspectives are not exclusive but complementary. Indeed, for successful social change they must come together. Each perspective emerged from specific historical contexts in which cultural encounters took place; the legacies of these encounters remain influential today.

### *Culture as Difference*

Culture-as-difference reflects the legacy of colonialism and imperialism (Said, 2000; Abu-Lughod, 1989; McClintock, 1995), a perspective in which members of a different culture are cast as the Other (Dharmoon, 2004). In this role they may be vilified, infantilized, romanticised, or museumised (Spivak, 2001) but in any case, are thought to be categorically different from one's own culture. Differences between cultural groups are emphasized, while variation within is minimized. In this perspective, there may be a tendency to cherry-pick one practice (often the "4Ds—dress, dance, dialect and diet," Srivastava, 2007) as a typical marker and unproblematic representation of an entire culture. Such markers are often associated more with the women of a culture than with the men. Westerners often judge gendered

---

<sup>1</sup> In U.S. English "civic responsibility" is often used (sometimes interchangeably with civil responsibility) to refer to citizens' engagement on behalf of the welfare of their communities, be they rural or urban.

practices such as the veil in Islamic societies or dowry disputes in India without taking local and historical context into account and dismissing or ignoring women's agency. When discussing violence against women, culture-as-difference thinking tends to be ahistorical, unaware of social change over time, and ignorant of local activism to end violence against women (Narayan, 1997).

Minority feminist activists tend to resent the "culturalization" of violence against women in which white majorities and institutions dismiss violence against minority women as "part of their culture" (Narayan, 1997; Puri, 2007). As counter-productive as that is, there is value in some aspects of culture-as-difference thinking. This value concerns the recognition that cultures are not alike. Gender practices do vary and can vary to a significant degree. The problem with culture-as-difference thinking is not the awareness of difference but its simplification and exaggeration, and the prejudice and discrimination that run along gradients of unequal social and political power. Common ground among people from different cultures and shared political concerns are often ignored (Burton, Ibryamova, Khanna, Mazurana & Mendoza, 2002; Sen, 2005), leading to problematic talk about 'culture as deficit' (Park, 2005), to divisive rhetoric that pits groups against each other (Sen, 2005), and flawed assumptions of culture-blind services that in fact disadvantage minority women (Gillum, 2009; Sokoloff & Dupont, 2005). We might talk mindlessly about violence against women in 'other' countries (Lodhia, 2007), or even excuse violence against women in the name of cultural tolerance (Puri, 2007). In this perspective, the Other, whether victim or perpetrator, becomes an object of suspicion and fantasy; abused women in other cultures appear hapless victims of their own culture, perhaps in need of rescue from the West should the spotlight of global news shine on them (Khan, 2005).

When wider political power relations are unequal, cultural encounters risk becoming sites not of curiosity and understanding but of fear and exploitation. As a result, the historical and political context of violence against women is often misunder-

stood and opportunities for cooperation are missed (Ochoa & Ige, 2008; Khan, 2005; Narayan, 1997).

### *Culture as Skill*

Culture-as-skill thinking also emphasises difference between and sameness within. However, it stresses the need to bridge these differences by acquiring intercultural skills (Tseng & Streltzer, 2008), implementing culturally sensitive policies (Srivastava, 2007), and delivering culturally appropriate services (Gondolf, 2004).

The culture-as-skill perspective is associated with social policy in culturally diverse, modern nation states. This is generally understood to mean the ability to work with people from different cultural backgrounds. Cultural skills may include basic command of another language, awareness of cultural markers such as holidays or foods, and knowledge of ‘how to behave’ with women and men of different groups (the terms competence and sensitivity are used interchangeably here). Culturally competent service providers ought to have a “culturally sensitive attitude, appropriate cultural knowledge, and flexible enough skills to provide culturally relevant and effective care for the patients of diverse backgrounds” (Tseng & Streltzer 12). Similarly, “[p]roviding culturally responsive care to individual clients, families, and communities requires knowledgeable healthcare providers as well as responsive organizations that support this practice” (Srivastava x). Purnell & Paulanka (1998) suggest that “demonstrating an active interest in learning cultural concepts, people increase their respect and sensitivity for diversity, minimize their potential for violating cultural norms, and improve health-care and working relationships among individuals from similar and dissimilar cultures” (v). Culture-as-skill thinking sees cultural differences as barriers to service delivery, which can be overcome by training service providers on cultural skills.

More than learning facts and figures, intercultural competence is the ability to engage with others effectively. However, what constitutes 'effective' engagement is often left unsaid. This is a particular problem with regard to violence against women. What if cultural rules require that the husband leads all conversation with outsiders and it so happens that a particular husband is abusive to his wife? In such situations adhering to conventional cultural etiquette may look at first glance like cultural skill but it may be sorely lacking if it leaves abused women in the lurch. Cultural behaviour patterns are always also gendered behaviour patterns (Liben, 2004) so that cultural skills also represent gender skills, but for addressing violence against women not any cultural skills will do. Appropriate specialist cultural skills must be culturally specific as well as culturally critical. This holds when feminist activists challenge white society's misogyny and when they challenge misogyny in communities of colour, and particular skill is needed when minority feminists challenge misogyny in their own community in the context of misogyny and racism in wider society (an example are Southall Black Sisters in London, Gupta, 2003).

Culture-as-skill discourses recognise that working with cultural others requires effort, but they risk overemphasizing conventional etiquette, which often is an etiquette of politeness that may be necessary but not sufficient to unmask sexism and gender inequality. Many cultures are structured along multiple hierarchies of age, gender, race, class or caste. The risk of general how-to-behave rules is that they turn a blind eye to gendered power and exploitation (Puri, 2007).

### *Culture as Identity*

In culture-as-identity thinking culture is emphasised as an integral part of being human and indispensable for survival (Rogoff, 2003). This thinking emphasises the importance of cultural

traditions and practices, and of participating in these for a sense of self and belonging. To some extent culture is literally embodied in speech patterns and body language (Maalej & Yu, 2011).

Culture-as-identity perspectives reflect efforts to protect one's culture against real or perceived threat. They are particularly significant for indigenous societies who have been experiencing real threat to their physical and cultural survival (Gone, 2013; Moodie, 2018). At issue are political sovereignty, self-determination, and the right to live according to traditional principles, and not merely to survive but to thrive (Clark et al., 2017; Hartmann, Wendt, Burrage, Pomerville & Gone, 2019). Native American women experience disproportionately high rates of sexual violence and abuse (Amnesty International, 2007), and their responses to violation and trauma are culturally shaped and require culturally specific support (Indian Law Resource Center, 2019; Deer, 2004).

Culture-as-identity perspectives also appear in debates about violence against women in diasporas, such as racial and ethnic minorities within white-majority nation states (Dasgupta, 2007; Sen, 2005). Minority women activists face multiple challenges: serving and empowering minority women in a culturally sensitive way, dealing with male community leaders who may want to sweep violence against women in their community under the rug, and confronting racism in police and social institutions of the white state (Gupta, 2003; Incite! 2006). And sometimes, majorities, too, invoke the language of threatened identity when they feel under attack as can be seen in populist political discourses and anti-immigrant rhetoric.

The predominant historical and political context of culture-as-identity discourses is the struggle of minorities and diasporas for cultural self-determination, legal rights and political sovereignty. Regarding violence against women, culture-as-identity thinking offers potential for better understanding trauma and healing and for improving cultural competence. The complex political contexts of immigrant societies and the historical legacies

of settler colonialism add layers of challenges to activists and practitioners seeking to end violence against women.

### *Culture as Civic Responsibility*

Culture-as-civic-responsibility thinking takes a self-reflective critical stance and challenges cultural practices that systematically harm women. It is associated with social justice and protest movements. Culture-as-civic-responsibility emphasises principles of justice and human rights that are valid across cultures (principles that may be rejected within culture-as-identity perspectives). Critiquing misogyny and patriarchy and pushing for social change on behalf of women is integral to transnational feminism and women's movements worldwide (Htun & Weldon, 2012). The predominant cultural encounters have been local and global settings in which women have been organizing against patriarchal oppression: international meetings such as the U.N. conferences on women, cross-border exchanges among feminist activists such as women's rights and anti-violence activists in the Balkans in the 1990s, and minority women working in white-majority contexts (Khan, 2005). Women have used these encounters to develop ideas of global gender justice that allow coalition-building across cultural differences and support cultural change within and across countries (An-Na'im, 1993; Basu, 1995; Moghadam, 2002; Mohanty, 2003; Sen, 2003, 2005; Wieringa, 1995).

Culture-as-civic-responsibility views cultural encounters in a positive light, emphasises similarity of experience, rejects "us versus them" thinking, and embraces coalition-building. It reflects a willingness to work together and to bridge divides, so that collective action can be taken amongst temporary or long-term allies (see also the notion of transversal politics as a way to overcome polarization born of identity politics, Yuval-Davis, 1997). A culture-as-civic-responsibility perspective recognises that culture

is not given but actively created by people in different positions of power and influence. It challenges problematic practices and calls for cultural transformation and social change.

This focus sometimes underestimates the importance of local contexts, the effects of embodiment, the need for transcultural skills, and, indeed the importance of difference. Where culture-as-difference creates artificial binaries, culture-as-civic-responsibility sometimes assumes more similarity than there is. Black and minority feminists in the global north have criticised white, western feminists for assuming that women and the circumstances they live under are more alike than they actually are (Naghibi, 2007). Responses to social problems need to grapple with the local conditions that produce and reproduce these problems, and the way in which inequalities intersect in different places (Crenshaw, 1994; Baca-Zinn, Hondagneu-Sotelo & Messner, 2000). Interventions in such problems need to be, in the words of anthropologist Sally Engle Merry, “translated into the vernacular,” meaning into local language and idiom (Merry, 2006). Global organising supports the exchange of ideas but these need to be translated into locally relevant practice (Roggeband, 2004).

### *Concluding Remarks*

Although violence against women has been on public agendas for years now, there still is a “culture of impunity” (Bunch xii) that lets perpetrators off the hook. In addition, there now is a culture of ‘well-meaning,’ to paraphrase U.S. activist and community educator Tony Porter, in which political and institutional decision makers pay lip-service to awareness and intervention, while real social change lags or stalls, and any gains made towards gender equality and women’s safety are precarious. Each new generation of researchers and professionals addressing violence against women in the public, private, or non-governmental sector will encounter cultural constraints and opportunities. For



successful social change, these need to be recognized and navigated with skill.

Violence against women is culturally embedded and occurs in webs of social, personal, and institutional practices that connect victim, perpetrator and third parties. To end violence against women, intervention must weave a new web of social and institutional relationships that resist exploitation and abuse. Whatever its name and local emphasis, effective intervention is collective action: coordinated community response (Sullivan, 2005), multi-agency work (Hester & Westmarland, 2005), community networks (Velzeboer, Ellsberg, Arcas & García-Moreno, 2003), neighbourhood projects (SToP, Close to Home). They all are collective attempts at changing culture; “no one profession or group can eliminate violence working on its own” (Velzeboer et al. 78). Judith Herman (1994) argued that the healing of trauma is a collective responsibility. And so is the healing of individual victims of violence a collective responsibility, and the healing of societies.

*The Istanbul Convention* is an international convention of the Council of Europe that aims to prevent violence against women and domestic violence. Its very existence testifies to the value and power of transnational feminism and culture-as-civic-responsibility. *The Istanbul Convention* shows that women and men can work successfully across cultural and national divides, even on a topic as institutionally complex, politically divisive and culturally embedded as violence against women.

We live in a world of many cultures that are connected through myriad historical and contemporary threads. The four perspectives on culture matter for intervention and policy because they influence how we view and understand violence against women. While each perspective has short-comings, each also brings analytical strength. Together, they help see violence against women as a communal problem in cultural context. Understandings of difference are as important as skilful coalition-building across difference. Most importantly, neither violence against women nor

resistance to it can be dealt with by ‘othering’: by attributing it to other people, different circumstances, or distant lands. Whichever view of culture we take, this view will influence our approach to intervention and it will make its way into problem definitions and policy solutions. Hopefully, it will be a helpful view of culture, one that supports cooperation and social change.

As all social movements challenge the existing order, the movements to end violence against women challenge patriarchies and toxic masculinities. Over the past forty years, these movements have gathered experience in how to contest misogynist power configurations at local, national and international levels. As *The Istanbul Convention* shows, these movements also have used supranational mechanisms with success. Yet, nothing guarantees the longevity of these gains, let alone their permanency. What is won, can be lost. Backlash is common and gender politics remain complicated. The struggle to end violence against women continues.

What is more: when violence against women finally ends, the work will not be done. It will only change so that it can meet a new challenge; perhaps that will be a better challenge to have, but it will still be a challenge. When we have created new gender cultures of mutual respect, autonomy and interdependence, we need to maintain these cultures with deliberate effort. They cannot be decreed and are not cast in stone. Gendered relationships free from violence and abuse are relationships in which power and vulnerability, desire and rejection must be negotiated in new and complicated ways, which may mean more stress than bliss. Freedom and equality of all genders must be lived and kept alive through hard work, every day.

### *Works Cited*

Abu-Lughod, Janet L. *Before European Hegemony: The World System A.D. 1250-1350*. Oxford UP, 1989.

- Amnesty International. *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA*. Amnesty International USA, 2007.
- An-Na'im A. *Human Rights in Cross-cultural Perspective*. Pennsylvania UP, 1993.
- Baca Zinn, Maxine, Pierrette Hondagneu-Sotelo and Michael A. Messner. *Gender Through the Prism of Difference*. Allyn & Bacon, 2000.
- Basu, Amrita, ed. *The Challenge of Local Feminisms: Women's Movements in Global Perspective*. Westview Press, 1995.
- Bunch, Charlotte. "Feminist Quandaries on Gender and Violence: Agency, Universality, and Human Security." *Violence and Gender in the Globalized World*. Eds. Sanja Bahun-Radunović and V.G. Julie Rajan. Ashgate, 2008. xi-xv.
- Burton, Barbara, Nouray Ibryamova, Ranjana Khanna, Dyan Ellen Mazurana and S. Lily Mendoza. "Cartographies of Scholarship: The Ends of Nation-states, International Studies, and the Cold War." *Encompassing Gender: Integrating International Studies and Women's Studies*. Eds. Mary M. Lay et al. Feminist Press, 2002. 21-45.
- Clark, Natalie, et al. "Melq'ilwiye (Coming Together): Re-imagining Mental Health for Urban Indigenous Youth through Intersections of Identity, Sovereignty, and Resistance." *Critical Inquiries for Social Justice in Mental Health*. Eds. Marina Morrow & Lorraine H. Malcoe. Toronto UP, 2017. 165-193.
- Close to Home. <http://www.c2home.org/#the-close-to-home-approach>. Accessed 18 June 2019.
- Counts, Dorothy A. et al. *To Have and to Hit: Cultural Perspectives on Wife Beating*. Illinois UP, 1999.
- Crenshaw, Kimberle W. "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color. *The Public Nature of Private Violence: The Discovery of Domestic Abuse*. Eds. Martha A. Fineman and Rixanne Mykitiuk. Routledge, 1994. 93-118.

- Dasgupta, Shamita D., ed. *Body Evidence: Intimate Violence against South Asian Women in America*. Rutgers UP, 2007.
- Deer, Sarah. "Toward an indigenous jurisprudence of rape." *The Kansas Journal of Law & Public Policy* 14. 1 (2004): 121-154.
- Dhamoon, Rita. "'Cultural' versus 'Culture': Locating Intersectional Identities and Power." Paper presented at the Annual Meeting of the Canadian Political Science Association, June 2004.
- García-Moreno, Claudia et al. *WHO Multi-Country Study on Women's Health and Domestic Violence Against Women*. World Health Organization, 2005.
- Gelb, Joyce and Marian L. Palley. *Women and Politics Around the World: A Comparative History and Survey*. ABC-CLIO, 2009.
- Gillum, Tameka L. "Improving Services to African American Survivors of IPV: From the Voices of Recipients of Culturally Specific Services." *Violence Against Women* 15. 1 (2009): 57-80.
- Gondolf, Edward. "The Need for Intervention Studies." *Violence Against Women* 10. 8 (2004): 855-859.
- Gone, Joseph. "Redressing First Nations Historical Trauma: Theorizing Mechanisms for Indigenous Culture as Mental Health Treatment." *Transcultural Psychiatry* 50. 5 (2013): 683-706.
- Gupta, Rahila, ed. *From Homebreakers to Jailbreakers*. Zed Books, 2003.
- Hagemann-White, Carol. "Male Violence and Control: Constructing a Comparative European Perspective." *Gender, Economy and Culture in the European Union*. Eds. Simon Duncan & Birgit Pfau-Effinger. Routledge, 2000. 171-207.
- Hartmann, William E., et al. "American Indian Historical Trauma: Anticolonial Prescriptions for Healing, Resilience, and Survivance." *American Psychologist* 74. 1 (2019): 6-19.
- Herman, Judith L. *Trauma and Recovery*. Basic Books, 1997.
- Hester, Marianne and Nicole Westmarland. *Tackling Domestic Violence: Effective Interventions and Approaches*. Home Office Research, Development & Statistics Directorate, 2005.

- Htun, Mala and Laurel S. Weldon. "The Civic Origins of Progressive Policy Change: Combating Violence against Women in Global Perspective, 1975-2005." *American Political Science Review* 106. 3 (2012): 548-569.
- Incite! Women of Color Against Violence, ed. *Color of Violence: The Incite! Anthology*. Southend Press, 2006.
- Indian Law Resource Center. <https://indianlaw.org/issue/ending-violence-against-native-women>. Accessed 19 June 2019.
- Johnson, Holly, Natalia Ollus, & Sami Nevala. *Violence Against Women: An International Perspective*. Springer, 2008.
- Khan, Shahnaz. "Reconfiguring the Native Informant: Positionality in the Global Age." *Signs: Journal of Women in Culture and Society* 30. 4 (2005): 2017-2035.
- Klein, Renate. *Responding to Intimate Violence Against Women: The Role of Informal Networks*. Cambridge UP, 2012.
- Kroeber, Alfred L. and Clyde Kluckhohn. *Culture: A Critical Review of Concepts and Definitions*. Vintage Books, 1963.
- Liben, Lynn S. "Cultural Development and Gender Development: Shared Concepts, Methodologies, and Challenges." *Human Development* 47. 3 (2004): 179-184.
- Lodhia, Sharmila. "Selective Storytelling: A Critique of U.S. Media Coverage Regarding Violence Against Indian Women." *Shout Out: Women of Color Respond to Violence*. Eds. María Ochoa and Barbara K. Ige. Seal Press, 2007. 110-117.
- Maalej, Zouheir A. and Ning Yu, eds. *Embodiment via Body Parts: Studies from Various Languages and Cultures*. John Benjamins Publishing Company, 2011.
- McClintock, Ann. *Imperial Leather: Race, Gender and Sexuality in the Colonial Context*. Routledge, 1995.
- Merry, Sally E. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago UP, 2006.
- Moghadam Valentine M. "Globalizing the Local: Transnational Feminism and Afghan Women's Rights." Paper presented at the conference *Afghanistan and Beyond: Women's Activism in Times of War*, March 2002. <http://www.peuplesmonde.com/>

- imprimer-article.php3?id\_article=20. Accessed 10 November 2017.
- Mohanty, Chandra T. *Feminism Without Borders: Decolonizing Theory, Practicing Solidarity*. Duke University Press, 2003.
- Moodie, Nikki. "Decolonising Race Theory: Place, Survivance and Sovereignty." *The Relationality of Race in Education Research*. Eds. Greg Vass et al. Routledge, 2018. 33-46.
- Moore, Colleen A. *Major Definitions of the Concept of Culture: A Review of the Literature*. ERIC Clearing House, 1980.
- Naghibi, Nima. *Rethinking Global Sisterhood: Western Feminism and Iran*. Minnesota UP, 2007.
- Narayan, Uma. *Dislocating Cultures: Identities, Traditions, and Third World Feminism*. Routledge, 1997.
- Nisbett, Richard E. and Dov Cohen. *Culture of Honor: The Psychology of Violence in the South*. Westview Press, 1996.
- Ochoa, María and Barbara K. Ige. *Shout Out: Women of Color Respond to Violence*. Seal Press, 2008.
- Park, Yoosun. "Culture as Deficit: A Critical Discourse Analysis of the Concept of Culture in Contemporary Social Work Discourse." *Journal of Sociology & Social Welfare* 32.3 (2005): 11-33.
- Puri, Sunita. "The Trap of Multiculturalism: Battered South Asian Women and Health Care." *Body Evidence: Intimate Violence Against South Asian Women in America*. Ed. Shamita D. Dasgupta. Rutgers UP, 2007. 139-151.
- Purnell, Larry D. and Betty J. Paulanka, eds. *Transcultural Healthcare: A Culturally Competent Approach*. F.A. Davis, 1998.
- Roggeband, Conny. "'Immediately I Thought We Should Do The Same Thing': International Inspiration and Exchange in Feminist Action against Sexual Violence." *European Journal of Women's Studies* 11. 2 (2004): 159-175.
- Rogoff, Barbara. *The Cultural Nature of Human Development*. Oxford UP, 2003.
- Said, Edward. *Reflections on Exile and Other Essays*. Harvard UP, 2000.

- Sanday, Peggy R. "Rape-Prone Versus Rape-Free Campus Cultures." *Violence Against Women*, 2. 2 (1996): 191-208.
- Seager, Joni. *The Penguin Atlas of Women in the World*. Penguin Books, 2009.
- Sen, Purna. "Successes and Challenges: Understanding the Global Movement to End Violence Against Women." *Global Civil Society*. Eds. H.K. Anheier et al. Centre for the Study of Global Governance, 2003. 119-147.
- Sen, Purna. "'Crimes of Honour': Value and Meaning." *'Honour': Crimes, Paradigms, and Violence Against Women*. Eds. Lynn Welchman and Sara Hossain. Zed Books, 2005. 42-63.
- Sokoloff, Natalie J. and Ida Dupont. "Domestic Violence at the Intersections of Race, Class and Gender: Challenges and Contributions to Understanding Violence against Marginalized Women in Diverse Communities." *Violence Against Women* 11. 1 (2005): 38-64.
- Spivak, Gayatri, C. "Moving Devi." *Cultural Critique* 47 (2001): 120-163.
- Srivastava, Rani H. "Culture: Perspectives, Myths, and Misconceptions." *The Healthcare Professional's Guide to Clinical Cultural Competence*. Ed. R.H. Srivastava. Elsevier Canada, 2007. 28-52.
- StoP. <https://stop-partnergewalt.org/wordpress/english/2940-2/>. Accessed 18 June 2019.
- Sullivan, C.M. "Interventions to Address Intimate Partner Violence: The Current State of the Field." *Preventing Violence: Research and Evidence-Based Intervention Strategies*. Ed. J.R. Lutzker. Centers for Disease Control and Prevention, 2005. 195-212.
- Thiara, Ravi K et al., eds. *Violence Against Women and Ethnicity: Commonalities and Differences Across Europe*. Barbara Budrich, 2011.
- Tseng, Wen-Shing and Jon Streltzer. *Cultural Competence in Health Care: A Guide for Professionals*. Springer, 2008.

- Velzeboer, Marijke et al. *Violence Against Women: The Health Sector Responds*. Pan American Health Organization, 2003.
- Wieringa, Saskia. *Subversive Women: Women's Movements in Africa, Asia, Latin America and the Caribbean*. Zed Books, 1995.
- Yuval-Davis, Nira. *Gender & Nation*. Sage, 1997.



## *THE ISTANBUL CONVENTION AS A MORAL NORM*

Daniela Belliti, *University of Milano-Bicocca*

### *Abstract*

This article examines *The Istanbul Convention* from a moral point of view and aims to state that for the full implementation of *The Istanbul Convention* it is not enough to make good laws for the protection of victims and the prosecution of abusers, but it is necessary to act on prevention—i.e., on actions aimed at the socio-cultural change of society. Taking its cue from the parts of the Preamble, where it is recognized that violence against women stems from the structurally unjust nature of the relationship of domination of man over woman in the patriarchal order, the article identifies the role of feminist thought, which is critical of liberal law and advocates complementarity between the fields of law and morals. The heart of this feminist thought lies in the idea of female freedom as the freedom of bodies from the stereotypical codes of the dominant social morality, and in the condition of vulnerability that produces bonds of interdependence and solidarity.

### *Introduction*

*The Istanbul Convention* is the first legally binding international text on violence against women. It is binding in all four fundamental parts: prevention, protection, prosecution of abusers and integrated policies. However, most of the signatory States—and Italy is no exception—have focused on the part relating to

repressive measures and the judicial system, which are certainly important but totally insufficient to achieve the objective of eliminating violence against women.

This article aims to underline the importance of prevention and cultural awareness, as a real field of challenge to violence against women, and the need for a strategic investment by the signatory States; in lack of that, there will be inadequacy and fragility of the repressive and protective measures that the States themselves have decided to adopt. In this sense, the basic thesis of the article is that *The Istanbul Convention* represents a strongly normative text and that its mandatory nature is not simply legal, but substantial and tending towards a new cultural order.

### *The Moral Source of The Istanbul Convention*

*The Istanbul Convention* is a text that is born from the stringent intersection among the moral, the legal, and the political spheres. Its source is purely moral, since it refers to the values enunciated in the *Universal Declaration of Human Rights*, then translated into the theme of the struggle for equality between men and women only with the *UN Convention for the Elimination of All Forms of Discrimination against Women* in 1993. Moral is also its premise, because it expresses a judgment on the patriarchal order that brings with it inequality between the sexes, male domination and even gender-based violence. This is what we read in *The Istanbul Convention* “Preamble”:

Recognising that the realisation of de jure and de facto equality between women and men is a key element in the prevention of violence against women; Recognising that violence against women is a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women; Recognising the structural nature of violence against women as gender-based violence, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.

In other words, violence against women is a consequence of the structurally unjust relationship between the genders that has placed women in a position of inferiority with respect to men. In order for actions to make the struggle against gender-based violence effective, it is therefore necessary to share this judgment, which is clearly a moral judgment, and to adhere to the demand for a socio-cultural change in the relationship between the sexes, which is in turn a moral attitude, because it prescribes a new cultural, social and political order.

Centuries of women's mobilization to win rights and demand equal opportunities tell us what the extent of this challenge is: from the French Revolution with Olympia de Gouges and her *Declaration of Women and Citizens*, to the #MeToo movement born in the United States two years ago to denounce sexual harassments in the entertainment industry and in the workplace in general.

Also male scholars have dedicated attention to the theme of unequal relations between genders. Among them, for example, Ervin Goffmann, in his essay *The Arrangement Between the Sexes*, provocatively says that "gender, and not religion, is the opium of peoples" (310). In *The Male Domain*, Pierre Bourdieu speaks of persistent, silent and invisible impositions, which are the effect of a "sweet and symbolic violence" exerted through the areas of communication, knowledge and at the limit of feeling. This sexually hierarchized world subjects individuals—by preparing women explicitly and men more insidiously—"to accept as obvious, natural and obvious arbitrary prescriptions and proscriptions that, inscribed in the order of things, are imprinted insensibly in the order of bodies" (Bourdieu 50). To explore the subject, Bourdieu chooses the cognitive field of anthropology, and cites "the hypnotic power of domination" by Virginia Woolf, who in *The Three Guineas* genetically links the segregation of women to the rites of an archaic society:

Inevitably we look upon societies as conspiracies that sink the private brother, whom many of us have reason to respect, and inflate in his stead a monstrous male, loud of voice, hard of fist, childishly intent

upon scoring the floor of the earth with chalk marks, within whose mystic boundaries human beings are penned, rigidly, separately, artificially; where, daubed red and gold, decorated like a savage with feathers he goes through mystic rites and enjoys the dubious pleasures of power and dominion while we, “his” women, are locked in the private house without share in the many societies of which his society is composed. (Woolf 96-97)

The French anthropologist Françoise Héritier is highly convinced by the thesis of the process of naturalization that has invested the relationship of domination of men on women, so much so that she even defines the phenomenon of violence against women as human, too human (to employ Nietzschean words): “L’homme est la seule espèce animale, parmi les mammifères en tout cas, où les mâles tuent les femelles. C’est donc par un excès d’humanité, j’entends par là excès de conscience, que les hommes en sont venus à violenter les femmes.” Looked at from this point of view, *The Istanbul Convention* is a working ground for measuring the coherence, consequences and correspondence between moral, legal and political norms; and for measuring how much more gender equality, although written on paper for some decades, does not find true correspondence in the moral norms of our society. As if, in this case, the classical opposition between law and nature, law and morals, emerged with such force to question the fundamental values of our civil life.

In fact, if it is true that the barbarism of violence against women has cultural origins, it is the cultural order of society that must be changed; and this can happen not only with laws but with moral progress. The binding nature of *The Istanbul Convention* must therefore also and above all be exercised with regard to the part devoted to prevention, education and awareness-raising.

### *Preventing Violence*

Acting on prevention means working on at least three levels: first, the full awareness of the fact that a radical change in the re-

relationship between genders in society is necessary; second, education, to be carried out from an early age; third, training and research aimed at preparing professional figures equipped to know and manage situations of violence against women and against children.

A gender-equal culture is difficult to establish. In the face of a politically correct institutional discourse that formally imposes anti-discrimination rules, gender stereotypes continue to prevail in language and in public and private communication; that is, there is a gap between the formal dimension of linguistic, social and legal rules, and the factual dimension of gender relations in the workplace, in the social and domestic sphere, where it is more difficult if not impossible to penetrate. Eradicating stereotypes from everyday behavior requires a long process of work that involves all areas that contribute to forming mentalities: from communication to advertising, from families to places of socialisation (associations, sports, lay and religious aggregation groups). Interventions in this field have so far been characterized by lack of homogeneity and extemporaneousness, and therefore do not manage to affect the stereotyped dominant vision. As far as schools are concerned, in Italy there are national guidelines for the teaching of gender education in schools of all levels. These Guidelines are addressed to autonomous educational institutions for the implementation of paragraph 16 of Article 1 of Law 107/2015, which says:

The three-year plan of the educational offer ensures the implementation of the principles of equal opportunities by promoting in schools of all levels of education gender equality, the prevention of gender-based violence and all forms of discrimination, in order to inform and raise awareness among students, teachers and parents on the issues indicated in Article 5, paragraph 2, of Decree-Law No. 93 of 14 August 2013, converted, with amendments, by Law No. 119 of 15 October 2013.

These Guidelines refer to *The Istanbul Convention* and acknowledge the indication that education to respect differences is the condition for overcoming violence against women; they identify teachers and psychologists of school listening centers as

reference points; they invite working especially on men, actors of violence, to combat any form of discrimination that generates violence in itself. Quoting from the Guidelines: “The role of the school is central to this increase in awareness. Making students reflect on this phenomenon becomes part of the daily work done in the classes that aims to convey the great sense of respect for the person and for differences.” However, these Guidelines have so far remained non-applied.

In universities, the topic of violence against women and children is still entrusted to the good will and competence of particularly sensitive individual teachers who are already active in the field of gender equality. The objective must be to systematize and consolidate what is already organized, to enhance and extend it in order to obtain the necessary institutional recognition. The theme of violence against women and children and domestic violence must be given academic status, through the activation of degree courses, advanced and master’s courses, doctoral and post-doctoral fellowships. Only in this way an action of dissemination of knowledge and preparation of professional figures, who will be able to recognize, face and manage situations of violence, can be carried out.

### *A Battle of Ideas*

To achieve these aims we have to prepare ourselves for a battle of ideas. In fact, *The Istanbul Convention* seems to be currently experiencing a period of deadlock, in which attitudes of active resistance on the part of the governments of some Member States are delaying its implementation. A recent document published on the website dedicated to *The Istanbul Convention*, “Questions and Answers,” is expressly aimed at countering the ideological interpretations of neoconservative and religious groups that intend to exploit the cultural reserves of some countries on the notion of gender. In fact, it is said: “Despite the clearly stated aims of the

convention, the seriousness of the phenomenon and its impact on victims and on society, a number of religious and ultra-conservative groups have, in recent years, been spreading false narratives about the convention, especially around the concept of ‘gender’ included in the text.”

Misunderstanding the concept of *gender* cannot be the pretext for not proceeding with the implementation of the dictates of *The Istanbul Convention*, which is no longer “a matter of goodwill: it is a legal obligation.” For this reason, *The Istanbul Convention* offers preliminary definitions that must be shared in order to adhere to the objectives indicated below. Article 3 defines gender as that set of “socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for women and men.” The production of certain roles and stereotypes contributes “to making violence against women acceptable.” Therefore, Article 12.1 frames the eradication of prejudices, customs, traditions and other practices that are based on the idea of the inferiority of women or on stereotyped gender roles, as a general obligation to prevent violence. This definition of *gender* is important, because it is the assumption of the definition of “gender-based violence against women” which means “violence that is directed against a woman because she is a woman or that affects women disproportionately” (Article 3.d).

Although it is recognized that not in all languages there is a term *gender* distinct from the term *sex*, it is not considered acceptable that these difficulties in translating the term *gender* “become a pretext for the rejection of the Convention, or an obstacle to its implementation.” The document further states:

Eliminating gender stereotypes does not mean overturning all tradition and customs. Transmitting customs or beliefs from generation to generation is important in shaping our identity. Some customs and traditional practices are, however, harmful to women and girls and may put them at risk of violence. The aim must therefore be to deconstruct the stereotypes affecting women and men that are invoked to justify such harmful traditions.

We must take part in and react against the arguments justifying violence, even if this means abandoning customs and traditions rooted in the history of our communities. Precisely this assertion demonstrates that we need the socio-cultural change, to which *The Istanbul Convention* invites us:

**Article 12 – General obligations**

1. Parties shall take the necessary measures to promote changes in the social and cultural patterns of behavior of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men.
- ...
5. Parties shall ensure that culture, custom, religion, tradition or so-called ‘honor’ shall not be considered as justification for any acts of violence covered by the scope of this Convention.

The legal norm enunciated by *The Istanbul Convention* has a prescriptive function for the social norm; but the moral norm to which it refers has yet to be shared. It is as if the law were to change not only the factual reality but also the morality that presupposes it. In this case, therefore, the triangulation law-morality-nature must be rearticulated with respect to what classical philosophical thought has proposed so far. Feminist thought has given its main contribution exactly on this ground and therefore it should be taken into account whenever the issue of gender equality intervenes to change the current regulatory framework.

*The Relationship Between Rights and Morality*

The relationship between law and morality is a classic theme of philosophy, which has had very different declinations over time. Law has always been placed on the side of human construction, positive of the rules of social coexistence; morality has often been associated with the “natural” side of human experience, as something that is given anthropologically in its essence. Hence the dis-



inction between positive law and natural law theories, two ideal currents based on the separation if not juxtaposition between culture and nature, between law and morality. Law has been understood either as an external translation of morality (the Kantian position of the primacy of morality over law) or as an area endowed with autonomy but in dialectical and/or conflictual relation with morality. Habermas has tried to identify a field of convergence in the theory of complementarity between law and morality:

Positive law always carries within itself an indelible reference to morality. But this reference to morality must not lead us to subordinate the right to morality in the sense of a hierarchy between norms [...] Rather, autonomous morality on the one hand, and positive law [...] on the other, are in a complementary relationship. (Habermas 130)

The evolution of the concept of morality, which after the discovery and recognition of pluralism has lost its original claim to unity and universality and its identification with the natural datum of being, has filed the position of the primacy of morality over law. Both in the position of conflict and in the one of complementarity, the space of autonomy of the one with respect to the other guarantees, on the one hand, objectivity and relative universality of positive norms and, on the other, the subjective translatability of principles into concrete behavior, beyond the sphere of law. In essence, morality also takes on a positive character and presupposes a subject who practices it in relation to his own conscience and with others. But morality also knows a further splitting: between social morality, a set of ideas, beliefs and moral attitudes, diffused in a certain social context and at a certain historical moment (which is mostly not unique, but is presented in the form of the majority and for this reason is dominant); and critical morality, the subjective point of view from which existing social institutions are criticized, including the social morality that is prevailing.

Let us assume that the morality underlying the legal obligations of *The Istanbul Convention* is a critical morality, which therefore aims at questioning the dominant social morality that

does not yet agree on gender equality, and indeed justifies the gender gap in the family, in work and in society. So what is the strength of the normative character of *The Istanbul Convention* in this context? How can the relationship between law and the two forms of morality called into question hold? We have already cleared the field of the position of the primacy of morality over law, since it is surpassed by moral pluralism. But if this fact reassures us—that the dominant morality can no longer be considered “natural”—we cannot feel so reassured by the fact that the morality inspiring law is not yet majority. Furthermore, we must investigate the actual relationship between the law expressed in *The Istanbul Convention* and the critical morality that undoubtedly provided it the arguments. If we consider them separate, then we could rightly deduce a division of labor between a legal norm that is limited to external regulatory aspects, and the moral norm—critical—that must use its own means to become majority. This is a good argument in support of those, such as the signatory States, who implement the Convention with laws essentially relating to protection and repression. How a gender ethics should be able to assert itself is a question left to the subjective goodwill of actors and actresses concerned. Recognition of the mutual autonomy between law and morality would still legitimize the fact of reducing the force of law to the sphere of respect for the law without undermining the dominant discriminatory morality in any way; that is, it would reaffirm the centrality of law in the application of *The Istanbul Convention*, leaving it to the discretion of States to intervene in the promotion of a morality of equality between genders. On the other hand, as we have seen, the position of complementarity between law and morality presupposes autonomy but also mutual dependence. This seems to us to be an interesting point of view that should be developed for the implementation of *The Istanbul Convention* in all its parts, starting from the full awareness that the respect of its prescriptions cannot be neutral with respect to the organization of social relations and of society more at large. For this reason, the approach of duty and duty to

be, of an already pre-established model to replace the existing one, is not enough. In implementing *The Istanbul Convention*, we need to take an alternative viewpoint to the one that has produced the male order of society also thanks to a system of law that is unequal.

### *Feminist Thought Versus Liberal Right*

Feminist thought has long been confronted with the sphere of law. According to Carol Smart, the first liberal feminist wave spoke of “a sexist right,” which worked by automatically reproducing gender discrimination until women raised the issue of equality between men and women. The second feminist wave, defined as radical, clashed with the inadequacy of the egalitarian paradigm, both in the liberal version and in the socialist one. It defined the current paradigm as “male law,” born from the patriarchal order and therefore structurally designed to assign to men a position of dominion over women; since such a structure was artificially determined by a precise symbolic and cultural order, radical feminism seemed to recover the “natural” character of gender, in relation to sex, as a consequence of the fact that the body had been placed at the center of attention, as the real object of the dynamics of power. The limit of the visions of “sexist law” and “male law” lies in the reproduction of a rigidly binary scheme: in the first case, the dualism between genders is incarnated within the same institutional, legal, political and social structure; in the second case, it is an “ontological” dualism of unity and otherness, the irreducibility of difference, which will lead these feminists to undertake paths of self-affirmation outside the institutional channels. “Sexual law,” the position of the latest feminism, would represent the overcoming of gender dualism because it identifies in law a field of deconstruction and reconstruction of subjectivity and sexuality, identity and gender, which is not given once and for all, but continuously changes according to

context and an experience that is made not only by sex, but also by ethnicity, social class and other categories of identity.

The discourse on violence against women was the main element that contributed to change feminist thinking. In fact, liberal-socialist feminism, which had the objective of emancipation and equality, focused on the more general problem of women's oppression in a male world, and violence was a subset of this female condition. With radical feminism, violence against women is mentioned for the first time as a matter relating to the male patriarchal order, which arises and is to be found in the relationship between man and woman and in families; violence against a woman because she is a woman. But if a certain type of order, the patriarchal one, is structurally violent in power, the risk is to face reality by stiffening the roles between the male violent perpetrator and the victim woman. The world, read from the point of view of gender binarism is made up of a man, the executioner, and a woman, the victim; the process of the victimization of women, therefore, is reinforced at the same time as gender and gender-based violence is put into a discourse framed on the same binary. But there is another way to handle the discovery of the injustice of patriarchy. The fact of having given a name to violence against women as women already changes the perception of reality; the lexicon of gender violence lays the foundations for a new linguistic structure that intervenes on the symbolic, cultural order, deconstructing it and reconstructing it on other bases. In this way, through the discourse on gender violence, the challenge is to redefine together moral and legal norms that arise from the emergence of new gender subjectivities. These new subjectivities can only arise from unprecedented discourses on the body, sexuality, and gender, which have freedom as their main connotation. It is not, of course, the freedom of modern liberal thought, closed in the dichotomy of positive freedom and negative freedom, all addressed to the subject as a whole; but the freedom of the body, in its passions and desires, in its lack and its dependence: in short, in the very vulnerability of life that needs the other to develop.

We can conclude this brief excursus on the relationship between feminist thought and law by stating that implementing *The Istanbul Convention* only on the “judicial” side of the punitive and protective laws does not free women from violence, but only contributes to reproduce their role as victims.

### *Security or Freedom: The Dilemma of the Rule in The Istanbul Convention*

The women’s movement has always criticised the security dimension of State intervention against gender-based violence. It reproduces the same scheme of control over the bodies typical of the disciplinary actions of the State, not only on the repressive side, but also generally on the regulatory one. Alongside the punishment inflicted on the violent male, there is the narration of the woman who is a victim, but at the same time is deemed responsible for the suffered violence: since she dresses in a manner that does not adhere to the morality in force, she agrees to enter into relations with strangers, and provokes the violent reaction of the predatory male with her equivocal and seductive behavior. This problem has had an enormous weight in the recognition of cases of sexual violence perpetrated by strangers or, in general, by people who have no emotional ties with the woman. However, we have also seen cases of racist instrumentalization that tried to emphasize sexual violence especially when the perpetrators were foreigners and migrants. We remember, for example, the murder in Rome in October 2007 of Giovanna Reggiani at the hands of a Roma inhabitant in an irregular camp, and Pamela Mastropietro, the girl who fled from a recovery community in Corridonia and was killed by an irregular African (the latter would even have been the spring that on February 3 drove Luca Traina to shoot some Black men he met on the street in Macerata).

Obviously the perspective changes with the emergence of the phenomenon of domestic violence or Intimate Partner Violence,

which cannot be induced by equivocal or “inappropriate” behavior. In this case the woman is only a victim. The knot of male power and possession emerges: with jealousy, with the rejection of abandonment, or simply with the will to subdue her partner in the intimate relationship. In the face of this type of violence, the security approach is a failure in itself, because it cannot identify the violent male in a specific category to be repressed and controlled (the black, the migrant, the Roma, the social misfit), but having to do with man as a man, within the emotional relationship, it can intervene only *ex post*, when it is too late. Women denounced this problem. On November 24, 2007, women mobilized under the slogan “Not in my name” to condemn the anti-migrant and anti-Roma exploitation of cases of sexual violence and to strongly affirm: “Violence has neither culture, nor religion, nor nationality. It has only one sex.”

For this reason, the key to a true transformation of relations between genders will have to be the end of the power of control and discipline of the bodies to move on to the freedom of the bodies themselves. When Maria Luisa Boccia, Lia Cigarini and others spoke of female freedom in the 1990s, they referred exactly to the need to free the body from all that apparatus of control and discipline codified in the laws on sexual reproduction, on the family, on relations between genders, which, according to them, did not escape even the law on sexual violence of 1996.

On the freedom of women, as freedom of bodies, there is still conflict if not real regression, as demonstrated for example in Italy by the Bill no. 735 signed by Senator Simone Pillon. Through the objective of affirming bi-parenthood forcing children to attend both parents, and canceling the maintenance allowance, he reaffirms the primacy of the father in the couple. This point could have dramatic consequences for gender-based violence, because women could be increasingly discouraged from embarking on the path of separation and denouncing their abusive partner.

In this case, children’s bodies are used against women, and against their freedom. It is clear that the possible approval of this

proposal would greatly limit the effectiveness of *The Istanbul Convention* in Italy, which instead continues—for example with the introduction of the Red Code—to see the woman as the victim to be protected after suffering violence. If, on the other hand, we want to be consistent with the requirements of *The Istanbul Convention*, we should show solidarity with women not only by taking their point of view as victims, but above all by affirming their freedom.

Now, as we have already said, affirming the freedom of women means freeing their bodies and their sexuality; it means removing the threat of violence from the naked body; it means, in other words, ensuring that the vulnerability that manifests itself in bodies freed from gender stereotypes does not attract violence, but solidarity.

Judith Butler insists on the concept of vulnerability of our lives to show that we are all bound by interdependent relationships. Interdependence, and not the domination of one over the other, is the true condition of belonging among human beings, from which derive the ethical obligations of mutual sustenance and new forms of political action, which Butler defines as an aggressive form of non-violence that struggles with psychic ambivalence and seeks to embody social ideals of inter-dependency and equality.

Up to now, the feeling of vulnerability has produced fear for the other; the perception of being in front of someone weaker than us has induced us to exercise power and violence against him. As Emmanuel Lévinas says: the first reaction to a defenseless person is the temptation to kill them. From here, according to Butler, humanity has always been divided between those who matter and those who do not, and the latter constitute the socially vulnerable part of the public body, always at risk of violence that may result from their exposure. If we attribute a gender connotation to this division of humanity, women, the so-called “weaker sex,” are therefore at risk of violence every time they are exposed. But gender is not the only possible distribution of a binary logic that

tries to cage everything between us and others; daily experience tells us how vulnerability is a shared condition in different contexts and circumstances. In reflecting the various vulnerabilities, which the global world is more evident in, the thrust should be precisely in assuming vulnerability not as the possibility of taking over, but as the possibility of equality and mutual relations.

This is the precise point where the relationship between vulnerability and freedom is born. If the exposure to vulnerability does not lead to the fear of subjugation, domination and violence, because the other is also equally vulnerable, an infinite space for freedom is released: the freedom of being as one is, without vestments and masks, a freedom that has no limits because the other is not what limits but what completes. This is a condition of equality and equality, too.

Linking vulnerability and freedom prevents the fall into victimization. Those who are vulnerable are not destined to be victims, but help to expose the common destiny of fragility, which characterizes the whole of humanity. Premised on the structural nature of the relationship between men and women, *The Istanbul Convention* recognizes that women and girls are more at risk of gender-based violence than men and that domestic violence disproportionately affects women, even if men can also be victims of domestic violence. Therefore, *The Convention* proposes to “promote gender equality in practice, including by strengthening women’s autonomy and self-determination.” In paragraph 1, Art. 4. *The Convention* states that it “seeks to promote and protect the right of all individuals, and in particular women, to live free from violence, whether in public or private life.”

In Chapter III on Prevention, Art. 12 - General Obligations, the condition of vulnerability is the one that requires special attention and the necessity to satisfy all the specific needs of vulnerable people, not by chance recalling respect for human rights. Human rights are those rights recognized to all human beings, to any State, ethnicity, religion, sex they belong to, and are proper and inalienable even for those who have no membership: state-



less persons, the nameless, refugees. Since 1993, the UN has stated that discrimination against women is a form of violation of human rights, as it violates “the principles of equal rights and respect for human dignity, hinders the participation of women, under the same conditions as men in the political, social, economic and cultural life of his country.” If gender discriminations are a violation of human rights, respect between genders is part of human rights, that is, it is part of those fundamental freedoms without which it is impossible to fully enjoy civil, political and social rights. Respect between genders is therefore the first form of recognition of mutual vulnerability and the consequent freedom of self-expression.

Conversely, the domination of one gender over the other is already violence and restriction of the possibilities of others. The feminist thought that denounces the bases of male domination and reverses them in the name of the freedom of bodies, of all bodies, therefore tells us a lot about the possibility of attributing a normative character to *The Istanbul Convention* also with respect to the part regarding prevention and education. If we adopt the moral norm that derives from the vulnerability of the human condition and that makes it possible to expose the bodies without putting them at greater risk of violence we can understand the importance of focusing above all and first of all on the respect between genders, as one of the human rights.

To eradicate the sources of violence, to enunciate the reasons for respect and rights for all human beings, to preserve them and defend them from the aggressive law of the strongest: this is today the task of culture in all its expressions, and therefore also of the custodians of *The Istanbul Convention*.

### *Works Cited*

Boccia, Maria Luisa. *Le parole e i corpi. Scritti femministi*. Ediesse, 2018.

- Bourdieu, Pierre. *Le domination masculine*. Editions de Seuil, 1998.
- Butler, Judith. *Precarious Life: The Powers of Mourning and Violence*. Verso, 2004.
- Cigarini, Lia. *La politica del desiderio*. Pratiche, 1995.
- Council of Europe. *Istanbul Convention. Action against Violence against Women and Domestic Violence*. <https://www.coe.int/conventionviolence>. Accessed 06 December 2019.
- Gelsthorpe Lorraine and Alisson Morris, eds. *Feminist Perspectives in Criminology*. Open University Press, 1990.
- Goffmann, Ervin. "The Arrangement Between Sexes" in *Theory & Society* 4. 3 (1977): 301-331.
- Habermas, Jürgen. *Morale, diritto, politica*. Einaudi, 1992.
- Merckx, Ingrid. Interview with Françoise Héritier in *Politis*, 18 April 2013, <https://www.politis.fr/articles/2013/04/francoise-heritier-linjustice-et-la-violence-envers-les-femmes-sont-universelles-21734/>. Accessed 06 December 2019.
- Lévinas, Emmanuel. *Altérité et Transcendance*. Éditions Fata Morgana, 1995.
- Smart, Carol. "Feminist Approaches to Criminology or Postmodern Woman Meets Atavistic Man" in *Feminist Perspectives in Criminology*. Eds. Loraine Gelsthorpe and Alisson Morris. Open University Press, 1990.
- Woolf, Virginia. *Three Guineas*. Blackwell Publishing Limited, 2001.

PROTECTING LESBIAN, BISEXUAL AND TRANS WOMEN  
SEEKING ASYLUM IN FRANCE:  
THE IMPACT OF FRENCH NATIONAL CULTURE  
ON GROUP-SPECIFIC PROTECTION

Amandine Le Bellec, *University of Trento - Sciences Po Paris*

*Abstract*

Despite an important debate on migration in Europe since 2015, little has been said about lesbian, bisexual and transgender (LBT) women asylum-seekers. Yet, if these claimants often face high levels of violence in their home countries, they can also be confronted by abuses within European asylum systems. This is why *The Istanbul Convention* underlines the necessity to provide gender-sensitive asylum procedures. The essay will analyze the transposition of “gender-sensitivity” into French asylum law and examine the situation of LBT asylum seekers in the light of French culture and its particular relationship to gender and universalism. Based on the document analysis of Parliamentary minutes and on interviews with people involved in SOGI asylum, I show that homophobia and misogyny are still commonplace in the asylum system. The French traditional attachment to the principle of “universalism” plays an ambiguous role in the situation of LBT women. On the one hand, women’s and gay rights are integrated into the Republican ideal of “care for the weaker.” On the other hand, French culture is marked by an uneasy relationship to difference, making politicians reluctant to formalize gender-sensitive measures that could improve the situation of LBT women. This study will explore how cultural factors can shape

gender-specific policies, leading to the persistence of gender-specific violence in the same societies that value gender-sensitivity.

### *Introduction*

Although migration has been increasingly debated in Europe since 2015, little has been said about the situation of women, let alone of women belonging to gender and sexual minorities. In 2012, the Organization for Refugee, Asylum and Migration (ORAM) estimated that around 175 million-LGBTQ<sup>1</sup> people were living under the threat of potential persecution – coming not only from states, but also from their own communities and families. The annual reports published by ILGA-World and ILGA-Europe show the extent of the discrimination faced by these minorities worldwide, including in countries where they theoretically benefit from state protection. I will hereafter use the acronym “Sexual Orientation and Gender Identity” (SOGI) minorities to refer to LGBTQ people, in order to avoid assuming an identification with contemporary labels, which are historically and culturally limited (Katz and Duggan). It is in this context that sexual orientation and gender identity have been progressively integrated to the interpretation of the 1951 Geneva Convention Related to the Status of Refugees, which is the text of reference for contemporary asylum. Yet, if women and SOGI claimants can face violence in their home countries, they often are confronted by abuses within European asylum systems. In this sense, *The Istanbul Convention* has underlined the necessity of providing gender-sensitive asylum procedures.

This paper analyzes the 2015 French asylum law reform and

---

<sup>1</sup> Lesbian, gay, bisexual, trans and queer people. Transgender refers to people who identify with a different gender than the one they were assigned at birth. Queer is here understood as an umbrella-term that encompasses people belonging to gender and sexual minorities, independently of their identification with the previous “LGBT” labels.

the way it transposed gender-sensitivity in a (politically) tense migratory context. What is the situation of SOGI women seeking asylum in France, and what are the politico-cultural factors that shape their specific protection?

The importance of culture to the issue of SOGI women asylum-seekers is manifold, as it can refer to a personal feeling of identity in migration, as well as to the way culture and its gendered aspects are conventionally thought to shape experiences of mobility. Here, the focus will rather be on the way French culture can impact the asylum experience of specific groups. This choice derives from the observation that often, when analyzing the place of culture in migration, the focus is on the cultural characteristics of newcomers – and more rarely on those of host-societies, thus passing under silence the way it shapes their relationship to foreigners. For the purpose of this paper, we will thus consider some specific aspects of culture, and in particular how it can act as a set of myths, norms and cognitive frameworks, which shape policies by guiding and constraining actors' understandings of the world.

As underlined by Tripp and Hugues, gender studies are “best advanced by championing a pluralist vision for the field – one that appreciates the value of different tools, provided they are appropriate to the questions being asked” (251). The global lack of knowledge and data on SOGI women asylum-seekers in France pointed towards qualitative fieldwork based on document analysis of Parliament minutes and in-depth interviews. As a matter of fact, in France, national authorities are reluctant to share specific information on SOGI asylum issues, and although some reports have been published (see the High Council for Gender Equality's contributions), most reports generally focus on the broader European level. The literature on SOGI women is even scarcer, with the notable exception of an article by Winter. In order to remedy this gap, I conducted semi-directive interviews with 36 people involved with SOGI asylum. The interviews generally lasted around one hour, and interviewees included politicians involved in the reform, members of human rights-related institutions,

members of the French Office for the Protection of Refugees and Stateless People (OFPRA) and of the National Court for Asylum (CNDA), activists (mostly from French local NGOs, but some of them also worked at the EU level), and academics. My interviewees did not include asylum-seekers since this project focused on the reform process.

The first part of this paper examines the challenges faced by SOGI women in the French asylum system. The second part focuses on the way gender-sensitivity is understood in France and explores how cultural factors have shaped the development of group-specific policies.

### *Specific Challenges of SOGI Women in the French Asylum System*

This section first analyzes the way international obligations have been transposed into the French context, and then investigates the specific situation of SOGI women asylum-seekers, by intertwining interviews and historical elements.

### *Protecting SOGI Women: From International Obligations to National Transpositions*

In 2013, shortly before the 2015 French asylum law reform, the *Haut Conseil à l'Égalité entre les Femmes et les Hommes* (High Council for Gender Equality, HCEfh) published a press release entitled “Asylum: today, a system unfavorable to women and blind to gender, and tomorrow?” In this brief note, the institution underlined the way French asylum law was not adapted to women asylum-seekers, who were five times more susceptible than men to be granted subsidiary protection (a less protective type of international protection) in the place of the refugee status. Indeed, if, as noted by the HCEfh, one asylum-seeker out of

three is a woman, their particular experiences are less taken into account. The 1951 Geneva Convention states that the refugee status can be granted on five grounds: race, religion, nationality, membership of a particular social group, and political opinion. The UNHCR integrated gender-based violence and persecutions linked to sexual orientation as part of the “social group” ground only in 2002, through the Guidelines on International Protection No. 1. In this sense, acknowledging the specific challenges faced by women in migration, *The Istanbul Convention*, Article 60 states that:

Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognized as a form of persecution within the meaning of Article 1, A(2), of the 1951 Convention relating to the Status of Refugees and as a form of serious harm giving rise to complementary/subsidiary protection.

Parties shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds (...)

Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection.

*The Istanbul Convention* was ratified by most members of the Council of Europe and signed by the European Union itself. Shortly after, the EU issued recasts of two of its Common European Asylum System (CEAS) directives, the Qualification Directive 2011/95/EU and Reception Directive 2013/33/EU. Both directives consolidated the inclusion of gender issues into the CEAS. More precisely, the 2011 Qualification Directive Article 10 states that “a particular social group might include a group based on a common characteristic of sexual orientation... Gender related aspects, including gender identity, shall be given due consideration for the purposes of determining membership of a particular social group”. On the other hand, the Article 18 of the 2013 Reception Directive emphasizes the necessity of a gender-sensitive approach in accommodation, while its Article 21 states that Member-States

shall take into account the specific situation of vulnerable persons. France was late in transposing both directives, but the text was finally discussed in 2015, and it transposed, to some extent, the original Istanbul Convention principles, stating that: “Regarding motives of persecution, gender and sexual orientation aspects are duly considered for the purpose of recognition of belonging to a particular social group, and for the identification of a characteristic of such group” (Chapter 1 – Dispositions regarding the conditions of asylum qualification, Article L. 711-2). However, most of *The Istanbul Convention* content was weakened, since the three previously cited obligations (inclusion of gender-based violence into persecutions, development of a gender-sensitive approach to each of *The Convention* grounds, development of gender-sensitive procedures) were reduced to the simple necessity to “take into consideration” gender and sexuality issues. Moreover, it can be argued that the 2015 reform comforted policies already implemented by asylum institutions, rather than building upon or deepening these. In fact, long before the 2015 reform, both the OFPRA (first instance) and the CNDA (appeal court) had put into place gender-specific policies. The CNDA has been historically more sensitive to SOGI and gender aspects than the OFPRA. The ancestor of the CNDA, the *Commission de Recours des Réfugiés* (CRR) was the first to examine seriously a SOGI-related case, through the case of Gambini, an Argentinian trans woman (1990). Gambini’s application was rejected, but in 1997, the *Conseil d’Etat* (highest appeal court) enjoined the CRR to re-examine the asylum application of an Algerian trans woman (M.O. n°171858), thus acknowledging that trans people were part of a “social group.” Two years later, the CRR granted the status of refugee to an Algerian gay man (M.D. n° 98006017/328310 R.). In this sense, the CNDA has been confronted by SOGI claims very early and has been obliged to integrate such aspects into decisions due to its own legal precedents. However, even if it has organized a few conferences and trainings on the topic, the implementation of compulsory trainings or of strong internal pol-



icies appears as much more difficult. The situation at the OFPRA has followed a very different path. For Pierre<sup>2</sup>, CNDA agent, “the OFPRA cannot pretend that it has been historically sensitive to SOGI claims... When you see some questions asked by protection officers to asylum-seekers, obviously, there was no training at that time. Things have certainly changed, *a fortiori* with the arrival of Pascal Brice, who did a lot of good to the OFPRA at different levels. We were starting from very low standards; with totally inappropriate questions on sexual practices from which groundless conclusions were drawn out.” The positive impact of Pascal Brice was underlined by most activists interviewed, and the OFPRA has notably developed “working groups” on different topics, that include gender-based violence and sexual orientation. Such working groups act as referent for protection officers and develop issue-specific guidelines, thus aiming at the homogenization of decisions. Under the presidency of Pascal Brice, some SOGI and gender-related associations were accredited to the OFPRA, allowing them to assist in interviews in order to support asylum-seekers. However, in 2019, Pascal Brice was not renewed in its office by the Macron-Philippe government, and uncertainties remain regarding the future developments of gender-sensitivity policies in an institution where it was strongly dependent upon the goodwill of its director.

In this sense, if the 2015 asylum reform has transposed some of the obligations set by *The Istanbul Convention*, it has done so in a restrictive way, reducing these obligations to a necessity for gender to be “considered.” As a matter of fact, this text is unlikely to help deepening the policies already implemented at the OFPRA and the CNDA, although it provides a legal basis comforting the gender-sensitive path these institutions took. But are such policies necessary in the French context, or is this limited transposition due to the fact that asylum would already be gender-sensitive in the country?

---

<sup>2</sup> All interviewees are anonymized.

*Sexuality and Gender in France: Historical Ambiguities and their Consequences upon SOGI Women Asylum-Seekers*

In reality, the inclusion of SOGI minorities and women into asylum policies should not be seen as something taken for granted in the French context. On the contrary, although many people see this protection as a “natural evolution” of the asylum system, the very idea that SOGI minorities have never been more accepted than today is a vision largely based on what Perreau described as a “mythology of human rights progress” (20). In France, the history of SOGI minorities is rather marked by non-linearity. For Albertini, the French context is marked by a tension between different historical legacies, and in particular between its liberalism and attachment to the 1789 Revolution, and its strong Catholic tradition – which considers homosexuality as a sin. The Third and Fourth Councils of Lateran durably marked the country, and several of the different “*coutumes*” (customary law) enforced at that time punished it by death (*Coutume de Touraine-Anjou*, *Coutume de Paris*). Although the Revolution unpenalized it, the Vichy regime re-established differences between ages of consent for heterosexual and homosexual relationships, penalizing the latter. This legislation was kept and even reinforced at the Liberation, and repression culminated in the Mirguet amendment of 1960, which gave full powers to the executive in order to fight “social plagues” – which included homosexuality.

This context thus does not appear as particularly favorable to SOGI migrants. However, same-sex practices were finally unpenalized in 1982, and interestingly, the beginnings of the 21<sup>st</sup> century were marked by what Fassin called the “inversion of the homosexual question,” meaning here that “it is less the society that questions homosexuality: in return, homosexuality poses more questions to the social and the scholarly orders” (264). Indeed, as noted by Borrillo, it became more shameful for a politician to be accused of being “homophobe” than of being “homosexual.” Nowadays, SOGI asylum-seekers benefit from a rather positive

vision, and one interviewee, regional advisor, testified that in his region, even members of political movements that were built on the opposition to same-sex marriage (*Sens Commun*, in this case) did not oppose themselves to SOGI asylum.

In her book on equality in France, Sénac argues that “inequalities have to be questioned as ‘return effects’ [*effets retours*], to take back Foucault’s expression, of the way that the principle of equality was thought not for all citizens, but only for those who are seen as being in capacity of being brothers [principle of “fraternity”]” (32). In the same way, the way the asylum system deals with SOGI migrants is not deprived from its own homophobic and sexist *effets retours*, that reveal the ambiguous history of gender and sexuality in France, and the way the asylum system has not been thought for SOGI minorities and women. Homophobia is here understood as violence but also as heterosexism, *id est*, “a process of systemic denegation and devalorization that consecrates the inferiorization of homosexuality and of women on the ideological, institutional, legal and political levels” (Chamberland and Lebreton, 40). In the asylum system, this means rejection, but maybe more commonly, stereotypes, prejudices and invisibility—this last category concerning SOGI women in particular. Indeed, as Shuman and Bohmer underlined, what seems gender neutral is often not, and “the political asylum process produces particular kinds of cultural silences, invisibilities, and hypervisibilities” (940). Women almost did not exist in the mind of my interviewees, and the trans association I interviewed underlined that they sometimes had to pass trans applications as gay ones, in order to avoid a rejection based on misunderstanding. This invisibility is not deprived of consequences for this paper. As such, I will not limit my analysis to explicit references to “lesbians” for example, but I will include in my discussion references to “SOGI and/or women’s rights,” since SOGI women are included in both categories. Of course, this proxy is not perfect, but it will allow to document the situation of a group which is often plainly and simply non-existent.

Regarding SOGI claims in general, prejudices are also very common, and were reported to me by activists, but also by CNDA and OFPRA members. For Alain, local NGO activist, “the main issue is the way sexual orientation is understood... It’s better at the OFPRA than at the Court because at the Court it’s a caricature, and it’s obscene.” Pierre, CNDA agent, also reported that “you have, for some French actors... the idea that if someone has a particular sexual orientation, it can be seen, through the clothes, the haircut, tattoos, accessories, etc.” These prejudices can also take more verbally violent forms, as underlined by Léa, ex-rapporteur at the CNDA, who explained, “it’s not only about homosexuals. During advisements, there are scandalous things that can happen. It’s very subjective, and many things are based on physical appearance. When a woman has been raped, it’s ‘Oh, I doubt that someone like her has been raped, look at her face.’” She also underlined the fascination and the misplaced sexual curiosity some judges had for lesbians. Homophobia can also lead some judges to discard asylum applications because the applicant is homosexual, according to some local NGO members. Even though these processes are not about physical violence, they create a context of psychological and social violence, which, *de facto*, renders SOGI women more likely to face physical violence too. Indeed, according to Freedman, “the position of these ‘failed’ asylum seekers who have been refused asylum is one of extreme exclusion from French society” (3). Failure of one’s asylum claim often leads to extreme precarity and homelessness, or deportation back to the place the asylum-seeker fled from – two scenarios that can lead to increased physical violence. In this sense, the idea that SOGI asylum seekers benefit from a globally positive look in asylum institutions needs to be nuanced. This positive a priori is often associated with the necessity to conform to stereotypes, thus paradoxically increasing asylum seekers’ vulnerability to homophobia and/or doubts about whether they “overplay it.” Moreover, the way SOGI women asylum-seekers are treated shows how legal and policy-making narratives of protection and

tolerance can be catch up by persisting prejudices inherited from an ambiguous history.

In this context, the safeguards offered by *The Istanbul Convention* appear essential to improve the situation of SOGI women. Yet, as explained earlier, *The Convention's* principles were thoroughly limited in their French transposition. This raises the question of the rationale behind this restriction, in particular in a context where the fight against homophobia and sexism benefit from a rather positive vision, and where *The Istanbul Convention* principles could have participated in that.

### *The Impact of French National Culture of Asylum upon Group-Specific Policies*

This section analyzes the way gender-sensitivity is understood in France. It first underlines how old myths and new normative frameworks have led most politicians to claim their attachment to the fight against homophobia. It then offers an explanation of the incompleteness of gender-specific policies in this context by showing how specific policies enter into tension with French political traditions.

### *The Tradition of “Caring for the Weaker”: SOGI and Women’s Rights as a Simple Narrative?*

When it comes to the 2015 asylum law reform, it is interesting to note that amendments aiming at better protecting women and SOGI migrants were not opposed but were rather rhetorically supported by all those in presence. Even refusals of amendments were articulated as a way of reminding one’s support for the fight against homophobia. For example, the Interior Minister Bernard Cazeneuve insisted that, although opposing amendments on the specific protection of SOGI minorities, the Government support-

ed the fight against homophobia and misogyny in the asylum system (XIV Legislature National Assembly, 2014-2015, 1<sup>st</sup> session of 10/12/2014). SOGI and women's rights were portrayed as being part of French culture, through their inclusion into the French self-representation as "the cradle of human rights." Zuber describes the centrality of human rights in French national identity as a "civil republican religion," characterized by an "adhesion to general (and generous), philosophical (and abstract) principles of the first Revolution" (362). These generality and abstraction facilitated the inclusion of SOGI rights into the French tradition, passing under silence the historically recent character of this gay-friendliness. Echoing Sénac's analysis of the debates on same-sex marriage, SOGI rights were rather articulated in "the French republican narrative of political continuity" (115), which portrays human rights progresses as the logical continuation of the Revolution.

However, this Republican inclusion of women and SOGI minorities was made only through a narrative of protection. There are three historical visions of asylum in France: constitutional asylum, international protection, and subsidiary protection. The first one, constitutional asylum, aims at protecting freedom fighters; while the second one, international protection, rather inscribes itself in a logic of "caring for the weaker." Finally, subsidiary protection is less protective than the refugee status, and is used as a way of protecting claimants who do not enter into the 1951 definition of refugee. For a very long time, women and SOGI claimants were granted subsidiary protection. However, since the 2002 UNHCR Guidance Note, they have been progressively granted international protection as a "social group." Some authors criticize this logic. For example, Brocard and his co-authors argue that "granting asylum to persecuted women on the ground of social group and not of their political opinions amounts to considering them as passive beings, not as active and actors to be supported. This illustrates a general tendency towards women that tends to negate their power to act and to confine them to a

role of victims” (14). In the 2015 asylum debates, women and SOGI claimants were referred to exclusively as vulnerable victims, to the exception of one deputy, who wanted to explicit that “feminist activists” could be part of “freedom fighters.” However, her amendment was rejected by the National Assembly—underlining how women are seen as being in need of rescue, and not as equals to men fighting for freedom. In this sense, it is women’s and SOGI minorities’ assimilation to weakness that allowed them to access specific protection. But this new inclusion into Republican ideals has been made on the ground of inferiority, not of equality.

Yet, if women and SOGI minorities were depicted as vulnerable victims fleeing from persecution, this image contrasts with the one mobilized for “other” migrants—understood as mostly men and African. Pierre Lellouche, right-wing deputy (UMP) portrayed Africa as a reservoir for migrants, estimating that in 2050 “the migratory waves that we should expect are around dozens of millions of individuals, likewise the population of a country like France and Italy... We should brace ourselves for gigantic South-North migratory fluxes” (XIV Legislature National Assembly, 2014-2015, 2<sup>nd</sup> session of the 09/12/2014). When it comes to SOGI asylum seekers, some politicians used them as a way to build a North/South binary, presenting France as progressive and thus superior to Southern countries. For example, Lellouche argued that:

In many countries of the world, women are persecuted because they are women and homosexuals because they are homosexuals. It is not useless to come back to the text of the Geneva Convention, as it was written in 1951, after the war, when targeted populations had been persecuted for other reasons... The questions of gender and sexual orientation were absent, as we discovered them after the decolonization and globalization. These rights are not acknowledged, while people are coming to Occident to claim asylum on those grounds.

Interestingly, some of the most vocal supporters of SOGI asylum are right-wing politicians who have often opposed themselves

to SOGI rights in other contexts. Lellouche, for example, was accused of having yelled “Sterilize them! [the homosexuals]” during the civil union debates, an accusation that he denied but which is still on the official minutes of Parliamentary debates. This vision opposes a “France of human rights” to welcoming more migrants, and can be interpreted through the concept of homonationalism, such as defined by Puar; *id est*, as a way for Northern countries to marginalize Muslims and migrants based on their supposed homophobia. The idea that SOGI rights are a core characteristic in the opposition Global North/Global South can be analyzed as a normative framework, defined as “taken-for-granted assumptions about values, attitudes, identities and other ‘collectively shared expectations’” (Katzenstein qtd. in Campbell 23). Such normative frameworks may supplant actors’ self-interests: here, conservative politicians supported progressive policies.

Here thus, the defense of SOGI asylum is not so much about improving SOGI women’s rights than about justifying a restrictive migration agenda. This rhetoric is based on the vision of SOGI minorities and women (*a fortiori* SOGI women) as vulnerable victims and includes them into the French tradition of “caring for the weaker”. But this support of SOGI rights on the basis of this South/North binary is located mostly in the discourses of right-wing conservative politicians, that are not known for supporting SOGI rights. The sociological profile of these supporters can partly explain the limitation of the reform, since it was influenced by conservative agents that see SOGI rights as part of the “Occidental culture” and use this normative vision as a way to pursue other agendas – and who are thus more likely to claim their support in general terms, than to argue for the implementation of specific protection tools.

Yet, this vision alone cannot account for explaining the limitations of the reform, since the French Parliament of that time was constituted of a majority of left-wing and ecologist politicians, for whom SOGI and women’s rights are an integral part of their political agenda.



*Tensions between gender-sensitivity and universalism in the “country of human rights”*

Beyond the cooptation of gender-sensitivity into national(ist) rhetoric, it also seems that the vision of France as the country of human rights and as the rightful defender of women and SOGI minorities conflicted with other principles that underlie the French approach to policy. These are, in particular, the attachment to the principle of universalism, and a fear of “communitarianism.” As underlined by Scott, France is marked by the existence of a very traditionally strong republicanism, which strongly insists on the abstraction of the individual. For her, this insistence is a specificity of the French context, and “this rigidity valorizes aspects of universalism which renders more difficult to raise the question of difference, whether it is about sex, ethnicity, or religion” (14). Implementing group-specific policies is made particularly difficult, since it resonates with the fear of “communitarianism”—community is not seen positively, but rather as a threat to the solidarity of the broader society. This tension between human rights ideals and universalism is well illustrated by the pattern of justification used by politicians refusing amendments, who all underlined their attachment to fundamental rights but portrayed group-specific policies as a threat to these very rights.

Indeed, in this logic, group-specific policies undermine the principle of equality before the law by creating distinct groups of citizens. For example, Marie-Françoise Bechtel (UMP) argued that integrating feminist activists to the list of freedom fighters would actually be counterproductive, since, “the ‘better’ being the enemy of the ‘good’, by wanting to bring an extension to the definition of freedom fighters, we would risk to downplay some parts of the concept – which will lead to the restriction of the beautiful concept of liberty” (XIV Legislature National Assembly, 2014-2015, 1<sup>st</sup> session of the 10/12/2014). Similar logics were used by political groups independently of the right/

left binary. Consequently, SOGI-specific protection was passed *in extremis*, despite the discourses of anti-homophobia of MPs; and the Senate deleted all references to *The Istanbul Convention* from the text voted at the Assembly. Yet, the lack of ambition of the 2015 reform is not without consequences for SOGI asylum seekers. Some important questions raised by local NGOs stayed unanswered: this is the case of the question of accommodation, for example (which is often attributed depending on one's gender, and insensitive to trans identities). The Senate also suppressed an amendment from the rapporteur Maud Olivier, which stipulated that the OFPRA should include in its activity report data on gender-based asylum and on the training of protection officers to gender aspects. Similarly, the text from the Assembly provided that asylum claims should be assessed by a protection officer and an interpreter of the same sex as the asylum seeker; an aspect that is particularly important for women claimants. The Senate modified it by adding that such match asylum seeker/protection officer should be done "whenever possible." Such pull-backs of the Senate, which was the institution that at the same time passed the crucial article stating that "regarding motives of persecution, gender and sexual orientation aspects are duly considered," show very well their uneasiness to promote specific policies and their preference for general statements.

This emphasis on universalism arguably led to the articulation of the reform as being part of the "fight against homophobia." This is very different from the idea of granting group-specific rights to some citizens, since the idea there is to make sure that no citizen is discriminated—a logic that is much more consistent with the French rigid interpretation of "equality before the law." In this sense, in terms of content, the 2015 reform was rather based on the lowest common denominator: the statement that homophobia is bad, which is now widely accepted in France (Fassin). However, one should note the gap between "fighting homophobia" and "fighting for equality"—not to mention "questioning normative systems." This can be illus-

trated by the contribution of one of the Senators interviewed. When asked why there was little opposition to SOGI asylum in comparison to same-sex marriage (which happened one year earlier), he answered:

We try not to mix everything. The theory of gender, in particular at the moment of *La Manif Pour Tous* [anti-same sex marriage movement] was less about LMPT than about... including this theory in the school teaching [reference to the “*ABCD de l’égalité*,” a school program about gender equality] ... When we talk about asylum, we were talking about people who already had physical changes. It’s not the same thing, in the sense that it’s different from saying a little girl that she can be a little boy... We protect physical persons as they are, from all forms of aggression they can be victim of. Physical aggression or contestation of their very humanity. It’s a noble act, in reality.

This statement is even more interesting in that it shows the use of a “hierarchy of homophobias” that helps legitimizing non-deadly homophobia by juxtaposing it with persecutions and death penalty. In a country that takes its pride in repeating that it is the cradle of human rights and that it is the French people who invented contemporary asylum after the Revolution, while simultaneously being conservative on questions of sexuality, asylum acts as a conceptual bridge, providing relief to politicians, who can then reconcile what they consider as “their opinions on sexual issues” with the myth of the “French legacy on asylum.”

This consensus on SOGI rights was thus specific to asylum and does not appear as promising beyond this particular field: politicians who opposed themselves here to homophobia clearly separated the “fight against hatred and violence” (such as in asylum) from the “granting of civil rights.” The French tradition of “human rights” plays an ambiguous role here, both by facilitating general statements of goodwill and by limiting the development of group-specific policies.

### *Conclusion*

The situation of SOGI women seeking asylum in France thus appears to be complex. They are confronted by stereotypes, invisibility and misunderstanding, but also by sexist, homophobic and transphobic discriminations and verbal violence. This situation increases their likeliness to face physical violence since it renders more difficult the obtention of the refugee status, and given that failed asylum-seekers are more likely to face deportation and/or situations of great exclusion. If the 2015 reform transposed *a minima* the principles of *The Istanbul Convention*, those were drastically reduced in their content. Lacking from specific tools or procedures, the reform does not appear as having built beyond what had already been put into place by asylum institutions, and which has not been able to eliminate LGBT phobias and sexism from the asylum procedure. What is the role of culture in this situation? Taking back the previous definition of culture as including myths, norms and cognitive frameworks, we can note that the impact of French culture upon these asylum-seekers is manifold. First, the mythicized self-representation of the French nation as “the country of human rights” has indubitably played in favor of the inclusion of women’s and SOGI rights into asylum law. However, the asylum system is not deprived of the “*effets retour*” of centuries of perception of women as inferior, and of SOGI minorities as sinful or abnormal. If new normative frames such as the idea that gender-sensitivity is a core element of the Global North cultures have led conservative politicians to take position in favor of SOGI asylum, these new actors appear as unlikely to push for concrete and elaborate policies. Furthermore, the strong cultural attachment to the principles of universalism and anti-communitarianism in France entered into tension with the idea of establishing group-specific policies, thus leading to the watering down of the reform. However, this reform still represents an important safety net, comforting asylum institutions in the – more gender-sensitive – path they had taken by themselves.

This aspect should not be underestimated, given the unpredictability of the French political context.

### *Works Cited*

- Albertini, Pierre. "France." *Dictionnaire de l'homophobie*. Ed. Louis-Georges Tin. Presses Universitaires de France, 2003.
- Borrillo, Daniel. *L'homophobie*. Presses Universitaires de France, 2000.
- Brocard, Lucie, et al. "Droit d'asile ou victimisation ?" *Plein droit* 75.4 (2007): 11–14.
- Campbell, John L. "Ideas, Politics, and Public Policy." *Annual Review of Sociology* 28.1 (2002): 21–38.
- Chamberland, Line, and Christelle Lebreton. "Réflexions autour de la notion d'homophobie : succès politique, malaises conceptuels et application empirique." *Nouvelles Questions Feministes* 31.1 (2012): 27–43.
- Fassin, Éric. "L'inversion de la question homosexuelle." *Revue française de psychanalyse* 67.1 (2003): 263–284.
- Freedman, Jane. "Mobilising against Detention and Deportation: Collective Actions against the Detention and Deportation of 'Failed' Asylum Seekers in France." *French Politics* 7.3 (Sept. 2009): 342–358.
- Katz, Jonathan Ned, and Lisa Duggan. *The Invention of Heterosexuality*. Chicago UP, 2007.
- ORAM. *Opening Doors: A Global Survey of NGO Attitudes Towards LGBTI Refugees and Asylum-Seekers*. 2012, <http://oramrefugee.org/wp-content/uploads/2016/04/oram-opening-doors.pdf>. Accessed 16 December 2019.
- Perreau, Bruno. *Qui a peur de la théorie queer ?* Presses de Sciences Po, 2018.
- Scott, Joan W., and Bruno Perreau. "La question du genre. Entretien avec Joan W. Scott." *Genre, sexualité & société* 4 (2010). <http://journals.openedition.org/gss/1659>. Accessed 16 December 2019.

- Sénac, Réjane. *Les non-frères au pays de l'égalité*. Presses de Sciences Po, 2017.
- . “Same-Sex Marriage in France and Spain: Comparing Resistance in a Centralized Secular Republic and the Dynamics of Change in a ‘Quasi-Federal Constitutional Monarchy.’” *Global Perspectives on Same-Sex Marriage - A Neo-Institutional Approach*. Eds. Bronwyn Winter et al., Palgrave Macmillan, 2018. 105–125.
- Shuman, Amy, and Carol Bohmer. “Gender and Cultural Silences in the Political Asylum Process.” *Sexualities* 17.8 (Dec. 2014): 939–957.
- Tripp, Aili Mari, and Melanie M. Hughes. “Methods, Methodologies and Epistemologies in the Study of Gender and Politics.” *European Journal of Politics and Gender* 1.1-2 (2018): 241-257.
- Winter, Bronwyn. “The ‘L’ in the LGBTI ‘Alphabet Soup’: Issues Faced by Lesbian Asylum Seekers and Other Non-Western Lesbian Exiles in France.” *Contemporary French Civilization* 40.2 (July 2015): 179–198.
- Zuber, Valentine. *Le Culte Des Droits de l’homme*. Gallimard, 2014.

## GENDER ISSUES IN FEMALE MIGRATION

Máira Roubach Topall, *Sciences Po Paris*

### *Abstract*

The discussion over migration evokes, among other subjects, the theme of gender violence in the procedure of asylum. According to OFPRA (French Office for the Protection of Refugees and Stateless Persons) women represented 33% of asylum seekers in France in 2016 and a great number of them were exposed to gender violence in their countries and on their way to Europe. When talking about migration we tend to imagine a refugee as a political opponent and because of it sometimes it can be difficult to imagine a woman. Nevertheless, fighting a forced marriage or the mutilation of one's child can also be a political act. However, French institutions that are responsible for according asylum rights tend to be very reluctant to take into account the specific persecution of women and often refuse to recognize the transgression of social standards. Somehow, they interpret violence against women as a private subject. This same attitude also concerns the issue of violence against women. This paper aims at understanding gender-based violence and how it is applied on migration laws. We want to comprehend to what kind of violence the majority of women arriving in Europe are exposed in their country of origin and how it is taken into account when asking for asylum in France. In order to analyze this, it is necessary to remember that refugee and migrant women are in a situation of double vulnerability—both as refugees/migrants and as women.

*Introduction*

More than ever migration is on the radar these days. We hear about it on the media all the time: the so-called global “migration crisis.” Although we do not agree with this expression, it is true that in the last few years the world has seen more people on the move than during the time of the Second World War. Most international media are interested in refugees arriving in Europe, however, there is a tendency to think more about men and young workers. Nevertheless, female migration is a growing phenomenon in the current time. Women are in this process of gradually travelling alone without the purpose of meeting their husband who had already moved to the destination country they are heading to. They can leave for multiple reasons: to escape war, to protect their children, to find a job, to change their lives in relation to what they have in their country of origin.

Motivations and consequences of migration are the most diverse and are shaped by a wide variety of factors such as norms based on gender, ethnicity, race, age and social class. Among these, we can say that gender is one of the components that has the greatest impact on the migratory experience of people—it can be very different if you are a man or a woman. Considering gender as an important element is essential to understanding what is happening in the world today. Female migration is not something new, however, it was not until the 1980s that this phenomenon began to be debated. According to Claudie Lesselier and Edmée Ollagnier, the specificities of migrant women’s trajectories are attracting more and more the attention of researchers. As they state: “Their situation as women interferes with their situation of migrant, in their migration route, in the country of departure as well as in that of destination. Policies, laws, administrative procedures, particularly those concerning asylum rights, family migration, labor migration, trafficking or slavery, undocumented migrants, may have a differential impact according to the sex” (224).<sup>1</sup> Generally, migrant women seek

---

<sup>1</sup> This and the following translations are mine.



a better and freer living condition. Faced with a series of dangers in their countries of origin, women flee to protect themselves and their children from murder, domestic violence, forced marriage, female circumcision and rape among other things. They present a clear need for international protection. Since national authorities are often unable to contain violence and provide reparations, many vulnerable women have no choice but to run for their lives and try to live in a country where living conditions will be more humane.

Escaping is a test in itself and for most women the journey to safety is a journey through hell. After paying exorbitant fees to unscrupulous passersby many women are beaten, raped and very often killed along the way. This is the story of many refugee women trying to arrive in Europe—stories that the media do not tell. To talk about asylum means also talking about women's rights. Currently, it is estimated that one billion people worldwide are migrants, which is one in seven people. Since policy makers do not attempt to understand how these movements affect societies, the needs of women (and girls) continue to be underestimated. As long as women live in non-inclusive and non-egalitarian societies, we will not succeed in ending all forms of violence against women.

### *Violence against Women and Migration*

Nowadays it is possible to find several studies on female migration and exile, though there are still few studies wrote by women. These researches highlight the feminization of migration and its social and geographical diversification, the multiple motives that make a woman emigrate or exile herself. Most of them seek a better life with more (human) rights and freedom with respect to what they are required to tolerate in their home country.

Currently, it is possible to observe more autonomous migration strategies. Social transformations in the countries of origin, the situation/status of women in the emigration countries, crises,

wars, etc., are the multiple factors that can explain the patterns of female migration. Understanding what constitutes violence against women and how it relates to migration is important as mentioned by Claudie Lesselier and Edmée Ollagnier, who note that “emancipation from oppressive social and family structures and structural discrimination” (228) are the most common reason for emigration.

### *Violence against Women: Some Definitions*

In our view even if there are multiple studies about migration and a few about gender issues, there is a lack of connection between the two topics. Gender issues and how these interrelate with migration processes is a topic that needs to be addressed. First, it is necessary to return to some definitions. Here it is important to clarify our understanding of gender. The term first appeared in the 1980s in United States and during the 1990s and 2000s in several other countries, especially after the publication of an article by the American historian Joan Scott. It is quite clear in her article that there are several aspects that relate to the term “gender.” One of them corresponds to a substitute for “women,” but it is “also used to designate social relations between the sexes” and it “becomes a way of denoting “cultural constructions”—the entirely social creation of ideas about appropriate roles for women and men” (Scott 1056). In addition to that, Scott states that “the use of gender emphasizes an entire system of relationships that may include sex but is not directly determined by sex or directly determining of sexuality” (1057). For her the definition of the term is composed of two parts with several related sub-parts as she writes in the following statement:

The core of the definition rests on an integral connection between two propositions: gender is a constitutive element of social relationships based on perceived differences between the sexes, and gender is a primary way of signifying relationships of power. Changes in the organi-

zation of social relationships always correspond to changes in representations of power, but the direction of change is not necessarily one way. As a constitutive element of social relationships based on perceived differences between the sexes, gender involves four interrelated elements (...). (1067)

We understand and agree that gender involves more than women as also mentioned by the United Nations (U.N.) Entity for Gender Equality and the Empowerment of Women (U.N. Women), for which:

gender is not only about women. It is important to emphasize that the concept of gender is not interchangeable with women. Gender refers to women, men (and other gender groups), and the often unequal relations between them. (...) In practice, debates on gender often focus on women because they as a group have been most affected by gender inequality. However, (all gender groups) have important roles to play in working toward full equality. (U.N. Women Training Centre's Glossary, 2017)

Despite of that, in this article, I use gender as a substitute for women, because my study is about female migration. With this view in mind, it is also important to clarify what is understood here by violence against women. Gender equality is one of the sustainable goals developed by the UN, and one of its main goal targets is to eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation. Because of that, the subject is very present in many discussions. In fact, the question of equality between women and men has been affirmed since the creation of the United Nations in 1945. On the other hand, researchers in this field differ on the concept of violence against women and there are different denominations: gender-based violence, violence against women, domestic violence, etc. Gender-based violence and violence against women are terms that are often used as synonyms, since in most cases it is a man who is involved in gender-based violence against women or girls.

Since the elaboration of the UN Chart, several documents have been written with ideas about the theme. In 1979, the United

Nations General Assembly voted the Convention on the Elimination of Discrimination against Women (CEDAW) and in 1980 during the Second World Conference on Women in Copenhagen for the first time violence against women was really addressed. However, until that, the question remained relegated to the private sphere as a family subject. It was only with the pressure of feminist movements that it began to change.

The year 1993 is very important for these movements, with the emergence of new declarations and recommendations from distinct international bodies. Beyond the UN it is important to emphasize the importance of the Organization of American States (OAS) that created the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, that is the “Convention of Belem do Para.” In 1994, this Convention presented a new classification and according to the text of its first article, “violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.”

In addition to these definitions of violence against women, the above-mentioned Convention states that “every woman has the right to be free from violence in both the public and private spheres,” meaning that “every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments.”

*The Istanbul Convention* on preventing and combating violence against women and domestic violence (Council of Europe Convention, 2011) also has some important definitions in its article 3:

**Article 3 – Definitions**

For the purpose of this Convention:

- a) “violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result

- in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;
- b) “domestic violence” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim;
  - c) “gender” shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men;
  - d) “gender-based violence against women” shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately;
  - e) “victim” shall mean any natural person who is subject to the conduct specified in points a and b;
  - f) “women” includes girls under the age of 18.

To sum up, “gender-based violence” is often used as a way to clarify that violence against women is a consequence of inequalities between women and men and that violence could manifest itself in several ways: rape as a weapon of war, female genital mutilation, forced marriages, “honor killings,” and other practices contrary to women’s rights in general. Furthermore, the manifestation of this violence can be direct or indirect. Trafficking women for sexual exploration, domestic slavery and human rights violations in wars, for instance, are considered to be forms of institutional violence. Based on those definitions we can move on further to analyze how those violations affect migration.

### *Migration and Violence: The Importance of Gender*

In the 1980s and 1990s researches on women’s migrations began to appear in the world even if migrant women had been on the move for a very long time and in great numbers. However, they had been ignored until then. The perception of women as passive actresses in migrations, on the basis of those studies,

has been set aside and women begun to be seen as active agents in this field. Despite the fact that a large part of these studies tends to focus on international migration, it is important to note that internal migration has also evolved considerably.

Researchers are trying to understand female migration and women's reasons to move, which are a little different from male patterns. According to Sylvia Chant and Sarah Radcliffe, "gender-differentiated population movement may be significant in a whole range of ways to societies undergoing developmental changes" (1) to the point that we can affirm that the sex, gender, sexual identity and/or sexual orientation of a person will shape each stage of her/his migration path. Gender influences the reasons why people migrate, who will migrate, which social networks will be used by migrants, how integration will happen and what will be the working opportunities in destination countries and the relations with country of origin.

It is now well recognized that since 1960 women have made up almost half of the migratory flow, accounting for 44% of migrants in the 2000s. Clearly, some of them are accompanying their families, but more and more women are migrating on their own for a variety of reasons. Their main purpose is to find a more just and equal social situation than the one they left in their country of origin. Hence, the question is: "Is there a link between violence against women and female migration?" In "The global dimensions of female migration," Hania Zlotnik presented some data on this issues, arguing that "female migrants have generally accounted for a larger fraction of the migrant stock in developed countries than in the developing world." The cause of these differences can be verified in the laws and regulations controlling migrants' admission to destination countries in addition to the interaction of the factors determining the status of women in countries of origin and countries of destination. This information is confirmed by the Organization for Economic Co-operation and Development (OECD), which states that:

Little attention has been paid to how discrimination and violations of women's rights and freedoms may also influence their migration decisions. Women's unequal status in familial, societal and cultural structures, restrictions on their access to paid employment or public life, inter alia, should be considered barriers or incentives to migrate, as well as influencing their choice of destination country. (Ferrant, Tuccio, Louiseau and Nowacka 1)

Existing research point out that there is a link between governments, discriminatory social norms, social institutions and women's migrations, especially in the South. In addition, it is necessary to take into consideration that all these factors also influence the choices of the countries towards which women are travelling, as "on the one hand, migration may be a way for women to escape discrimination; on the other hand, discrimination may curtail their abilities to migrate" (Ferrant, Tuccio, Louiseau and Nowacka 1).

Female migration is the result of an analysis of the living conditions of women in their countries of origin and the possibilities that exist in the chosen country of destination to improve their situation. Since opportunities abroad are more favorable than in their current countries, women tend to migrate more easily. However, although Zlotnik claims that migrant women make up a larger share in developed countries, this does not mean that developing countries receive fewer migrants. Women are trying to move to countries where social norms and institutions are more favorable for them, with better access to education and job opportunities, so that they can be economically and socially independent. On the other hand, the living conditions of women in some countries may be so unfavorable that even a country considered to be developing may represent a considerable improvement for most of them. Based on this, it is possible to answer our initial question; by considering the concepts of violence presented previously in this article, we can conclude that gender-based violence interferes directly in the choices of migrant women. Women around the world make choices to improve their individual freedoms and rights, as mentioned in the OECD study, which states, "low levels of discrimination in a country appear to be attractive for women

migrants” (Ferrant, Tuccio, Louiseau and Nowacka 6). When applying this to women’s migrations, it is not difficult to understand how women’s freedom (or lack of freedom) can influence their decision to migrate and their choice of the country of destination.

Migration in general cannot be explained by a simple formula, but it is quite clear that female migration depends on a number of variables including gender inequalities. On the one hand, women want to escape the sexist discriminations that exist in their community or even family structures. Many women prefer to migrate to avoid early marriage, female genital mutilation or fear of gender-based violence. On the other hand, if a community is based on a high level of discrimination against women, women may not have the capacity or the opportunity to make the decision to migrate and change their life.

### *The Evolution of Migration from the Point of View of Gender*

Demographic data show at a European and global scale a feminization of migration with a growing proportion of women among immigrant populations and in migratory flows. However, this is not a current phenomenon, since in some countries women were present during the first waves of immigration. What we need to understand are the reasons for this growth, by asking questions such as the following: Where do the women arriving in Europe come from right now and what are the difficulties they face on the road? According to the statistics presented in the French High Council for Equality (HCE) report, there are more than 65 million internally displaced people in the world, internally or in neighboring countries, knowing that there are still 2 million new asylum applications filed. In the European Union (EU), in 2015, these requests for asylum doubled in less than one year. France is the third country (after Germany and Italy) in the list of European countries to receive migrants. Nearly one-third of these requests are made by women and girls.



Even though the majority of women and children trying to escape from any type of gender violence do not come to Europe—it is easier for them to go to a neighboring country—women represent more or less 30% of asylum seekers in the countries of the European Union and according to OFPRA—the French office of protection of asylum seeker and stateless people—in December 2017 40% of asylum seekers were women. Asylum is the protection a State can offer to a foreigner who is suffering some forms of persecution in her/his country of origin—or who is at risk of being persecuted—whether by the authorities of the country or by non-State agents. The Geneva Convention, known as the Refugee Convention, in its article 1 expresses that the term “refugee” shall be applied to any person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of her/his nationality and is unable or, owing to such fear, is unwilling to avail herself/himself of the protection of that country. This Convention does not make gender a recognized ground of persecution, but it is open to interpretations. *The Istanbul Convention* devotes one entire Chapter (VII) to migration and asylum. Articles 60 and 61 express in a very clear way that parties shall take the necessary measures to ensure that gender-based violence against women may be recognized as a form of persecution when talking about asylum claims:

**Article 60 – Gender-based asylum claims**

- 1) Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognised as a form of persecution within the meaning of Article 1, A (2), of the 1951 Convention relating to the Status of Refugees and as a form of serious harm giving rise to complementary/subsidiary protection.
- 2) Parties shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant instruments.
- 3) Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for

asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection.

**Article 61 – Non-refoulement**

- 1) Parties shall take the necessary legislative or other measures to respect the principle of non-refoulement in accordance with existing obligations under international law.
- 2) Parties shall take the necessary legislative or other measures to ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.

Although *The Istanbul Convention* establishes that States shall recognize gender-based violence against women as a form of persecution, French authorities often refuse to recognize the transgression of social norms. According to them, violence against women has a private nature, since the consequences remain in the family sphere. According to the OFPRA 2016 report, the top 10 countries of origin of women who arrived in France that year are Sudan, Afghanistan, Haiti, Albania, Syria, DR Congo, Guinea, Bangladesh, Algeria, China. It separates asylum seekers by groups of vulnerabilities (unaccompanied children, sexual orientation and gender identity, torture, human trafficking and violence against women). Based on this report, asylum seekers do not put much emphasis on sexual orientation and gender identity. Except for those coming from Pakistan, Albania, Kosovo, where most problems are associated with the problem of forced marriage or violence against women. The situation is a little different regarding the group on trafficking human beings and women victims of violence. Requests for asylum based on trafficking are specifically for trafficking with the purpose of sexual exploitation. Those women and girls and the ones seeking asylum based on female circumcision or sexual violence, especially rape as a weapon of war, are more easily recognized as refugees, but this is still not enough. When French authorities do not recognize the refugee status, they

accord a subsidiary protection, which allows women to remain on the French territory but with fewer rights and protection.

All the women seeking asylum in France leave states where they are victims of all types of gender-based violence and there is no help available for them there. Hence, the importance of continuing to guarantee the right of asylum to these women. Even though the French Office for Immigration and Integration (OFII) is aware of the vulnerability those women are exposed to, agents are not always trained to identify it in a personal interview with the asylum seeker. Violence against women is a form of structural violence and in this sense that it cannot be considered a private subject between a man and a woman.

### *Conclusion*

The results of this paper support the idea that gender influences all aspects of the migration process. As I said, almost half of the migrants around the world are women. Being a woman or a man can trigger very different migration trajectories, as a result of gender-related difficulties and discrimination. Understanding gender-based violence is an important factor to perceive how it affects women's migration. Women have always emigrated, however, with the evolution of history the reasons have changed. Time after time, many women are unwilling to continue accepting precarious conditions of life, dependence, and inequality.

Immigration and asylum laws and regulations exist, but in reality, when talking about women's rights they are still very weak. States must include gender in their policies in a more efficient way. With the growth of research on this topic and of associations working with women, it must be acknowledged that progress is being made.

*Works Cited*

- Chant, S., Radcliffe, S., “Migration and development: the importance of gender.” Eds. S. Chant et al. *Gender & Migration in Developing countries*. London, 1992.
- Council of Europe. *Convention on preventing and combating violence against women and domestic violence*. Istanbul, 11.V.2011.
- Ferrant, Gaëlle et al. “The role of discriminatory social institutions in female South-South migration.” *OECD Development Centre*. April 2014
- Lesselier, Claudie, Ollagnier, Edmée. “La condition des femmes migrantes face aux politiques d’immigration et d’asile en Europe.” Eds. Marie-Claire Caloz-Tschopp and Pierre Dasen. *Mondialisation, migration et droits de l’homme : un nouveau paradigme pour la recherche et la citoyenneté*. Bruylant, 2007. 223-255.
- Rapport du Haut Conseil à l’égalité entre les femmes et les hommes. “Situation des femmes demandeuses d’asile en France après l’adoption de la loi portant réforme du droit d’asile,” 18 décembre 2017, France.
- Rapport d’activité OFPRA 2016.
- Scott, Joan W. “Gender: A useful category of historical analysis.” *The American Historical Review* 91.5 (Dec., 1986): 1053-1075.
- Zlotnik, Hania. “The global dimensions of female migration,” March 1, 2003. Available at <https://www.migrationpolicy.org/article/global-dimensions-female-migration>. Accessed 16 May 2019.

“IT HAPPENS TO ALL WOMEN”:  
WHY IT HAS BECOME IMPERATIVE  
TO ADOPT AN INTERSECTIONAL APPROACH  
IN COMBATING VIOLENCE AGAINST WOMEN

Paola Degani, *University of Padova*  
Francesca Cimino, *University of Padova*

*Abstract*

Nowadays the interplay between gender-based violence (GBV) perpetrated by men against women, women’s vulnerability and women’s exploitation has been largely demonstrated both by scholars (Degani and Della Rocca, 2014) and by field practitioners such as International Organisations and NGOs (ICMPD, 2015; Healy, 2013; U.N. General Assembly, 2018). Indeed, the power dynamic observed in the behavior of both perpetrators of violence against women and exploiters to dominate their victims are largely equivalent. Furthermore, there have been studies regarding the role of the family in the decision to leave, also linked to some form of gender-based violence experienced in the country of origin, for example among Nigerian young girls (BeFree and Act!onaid, 2019; Women’s Link Worldwide, 2011; EASO, 2015).

However, the majority of the literature fails to cover the responses through which protection mechanisms deal with these intersected vulnerabilities to address the personal needs of the women and to empower each survivor. Moreover, professionals and operators in the field of human trafficking and international protection often do not recognize the severity of GBV in favouring exploitation, thus reproducing dynamics and forms of subju-

gation, in which the distance between public and private spheres of violence disappear. The paper analyses the mechanisms that are put in place when working with women victims of GBV, exploring possible explanations of why the systems of protection of women's human rights have failed to work together so far and why there is a need for a strong collaboration—in terms of referral mechanisms—to benefit the victims and improve the systems themselves.

### *Introduction*

In the last two decades the role of international institutions concerning political solutions to the phenomenon of male violence against women has emerged with a great visibility thanks to the networking capacity of feminist movement(s) and NGO's to act as participants involved in the process of agenda-setting (Edwards, Manjoo and Jones, 2013).

The commitment of institutions such as the United Nations (U.N.) and the Council of Europe (CoE) for promoting and protecting human rights have been mainly focused on intimate partner violence (IPV), also as an effect of the multitude of activists, academics, policy makers acting in civil societies who have underlined the dimension and the cross cutting nature of this phenomenon. In the international political agenda, both public and institutional, regarding male violence against women, the main substantive issue deals with the need to improve promotion, protection and justiciability of women's human rights (Degani and Pividori, 2018). Male violence against women also represents a clear demonstration of the process of multiplication and specification of human rights.

The way of dealing with violence if, on the one hand, is involved in the policy and law-making processes, on the other hand, shows new aspects comparing with feminist movements of the seventies and eighties. Furthermore, women participation

promoted necessary lobbying actions from international arenas and their agenda-setting process, determining new cultural tendencies. However, the necessity to reframe the issue strongly emerged after the weakness of recent national policy responses (Degani). Within this process, overcoming the emergency approach to work on more structured and consolidated responses and being able to go beyond the different phases of agenda setting and policy making can represent a real challenge due to the difficulties of many social contexts.

The increase of violence against women as a topic in the political discourse (Ballarino, 2013) has been possible thanks to the political pressure of women’s feminist networks at the international level and the capacity of political agendas at different grounds to bring problems using political streams along with the opening of a policy window. It is clear today that achieving a different speed in combating violence implies a real change in the normal relationships in societies and obviously a different public discourse on this phenomenon (Roia, 2017). This means also the adoption of projects devoted to work with women who experienced violence, based on their empowerment and on the needs that each one of them can express (Creazzo, 2012; Pauncz, 2016).

If reflections of this kind are matched with foreign women, the intersectional approach with issues related to international migration deeply enlarges the opportunity for political discourse to focus on the social dimension of violence and to the individual approach to the cases rather than to policy solutions able to deal with the endemic aspect of this reality.

Findings of recent studies suggest female migrants are more vulnerable than male migrants and violence is a common feature during the migration journey for women on the move: GBV is very frequently detected among migrants in mixed migration flows toward Europe (Birchall, 2016; Women’s Refugee Commission, 2016; Thiemann, 2019). To sum up with Marchand, “it goes without saying that the migration–violence nexus is gendered. Men and women are affected in different ways, and the

violence to which they are exposed is related to their position concerning the migration–violence nexus” (Marchand 1387).

Although the literature demonstrates a multitude of women’s human rights breaches during migrations (La Barbera, 2012) and once the destination is reached, little is known about the protection mechanisms put in place to avoid these violations and about the ways in which the different protection systems cooperate to tackle the phenomenon with an intersectional approach. This paper analyses the Italian situation and the protection systems whose beneficiaries are women potentially victims of a form of GBV in migration. Moreover, the article will answer to the following research question: how can women’s human rights be protected, and women’s needs be properly addressed in the Italian protection mechanisms?

To answer this question, the paper will first analyse the delicate situation of women on the move and the intersecting vulnerabilities which can be developed during the journey and those already present at the departure. Then an example of cooperation and referral between two Italian protection systems that deal with the protection and promotion of human rights (the asylum and counter-trafficking system) will follow. The discourse will develop alongside the legal framework’s analysis of protection of victims of trafficking and of domestic violence. Finally, we will enounce the benefits that a possible referral mechanism between the counter-trafficking and violence systems could bring.

### *Migration and Gender-Based Violence: Women In-Between*

Migration is a different experience and has a disparate impact on women and men not for the specific features, but for the different roles they cover in the society and for the different resources they collect and own. The decision to migrate can be informed by expectations and gender norms, power relations, accorded rights, gender labour division, access to capital as well as gender age,



class and hierarchy (Fleury) and also by the different needs to leave the place of origin due to abusive or exploitative conditions or to other situations related to a lack of freedom and space for self-determination.

Being a woman and, at the same time, arriving from a non-European cultural context or belonging to a minority potentially increases the risk to be exposed to vulnerable situations – also in relation to IPV. Sex, nationality, age, indebtedness, migrant status and cultural background correspond to multiple axes of power of subordination and subjugation, such as sexism and racism that in conjunction interplay simultaneously to generate a unique vulnerability producing intersectional discriminatory conducts.

One element that covers an essential role in female migration is the family, where women are generally understood as those taking care of children and the elderly. Indeed, if men in migration studies are often defined as autonomous migrants who leave their country of origin and their family, women’s migration is paired with “family-related migration”, supporting the assumption that “patterns of female migration would either reflect those of male migration, or that women are just passive followers/not real protagonists, and there is nothing to explain” (Morokvašić 358). This assumption has been dismantled by the thousands of women in these last decades who have moved abroad alone to support family or with a family mandate as well as to conquer a full autonomy and to substantially ameliorate their personal condition.

Until now, feminist scholars have challenged the vision of female migrations as family-related and not autonomous (Parreñas and Choi, 2016), nevertheless the decision of a woman or a girl to move from her country of origin is often, somehow, still linked to provide a better future for their children or brothers or the other male members of the family. However, very often gender-based discriminations in the family can be the driver factor for migration. In light of this, adolescent girls might choose, for example, to flee a forced or early marriage, or genital mutilation

or other consuetudinary invasive practices (Temin et al., 2013). The decision to migrate is usually made when there are no other options and possibilities for the woman, apart from moving out of the country also because women in general have less money than men for migrating. Freedman demonstrates this pattern studying Syrian female migrants in the island of Kos, Greece. At the beginning of the Syrian conflict in 2011, women migrated as part of a family plan and with the rest of the family. Then, after a few years, they started to move alone when they found themselves trapped in a war that seemed far from an end and with no relatives to travel with because they were dead or had already gone away.

In Nigeria, it is widely accepted that the discrimination towards women and girls is a push factor to migrate (BeFree and Act!onaid, 2019; Women's Link Worldwide, 2011; EASO, 2015). On the one hand, Ferrant and Tuccio noted a higher probability of migration among women who live in a country where discriminatory social institutions exist toward a country where the discriminatory level is lower. On the other, women migrate as long as the living standard in their country of origin is not so high to hindering female migration (Ferrant and Tuccio, 2015), which could be a ban to female migration as in Nepal or Philippines.

Although female migrants are less open to hazard and prefer to use regular channels and social networks when possible (Fleury, 2016), when this is not possible or does not occur, the risks of being victims of gender-based violence along the migration route increases. One of most detected form of violence for women migrants is sexual violence.

With regard to this, several studies and researches into women on the move in the contemporary flows have pictured female migrants as more likely to have their vulnerability level increased during the migration journey and once in the destination or transit countries; they are therefore more in danger than men and potentially easily assaulted (Freedman, 2016; UNFPA, 2006). Different reports issued by international organisations confirm the fragility of women, especially those travelling without a family

or with little children and breastfeeding them. These women migrants are at risk of being trapped in trafficking in human beings criminal networks with the consequent privation of their rights (Fleury, 2016; UNHCR, UNFPA, et al., 2016; Amnesty International, 2018).

In 2018, the UN High Commissioner for Refugees (UNHCR) stated that women and girls are more likely to suffer from sexual and gender-based violence along routes to Europe as well as in some places within Europe. On the same vein, the report “Mixed Migration Trends in Libya: Changing Dynamics and Protection Challenges” issued in 2017 by UNHCR, Altai Consulting, & IMPACT clearly reported that “[r]efugees and migrants [...] women in particular, are vulnerable to different forms of exploitation and trafficking including sexual assault and forced prostitution”, such as “[...] domestic servitude or sex trafficking in Sudan and Ethiopia, or some are sold to Gulf countries from Sudan” (123).

Far from being limited solely to inherent personal characteristics, the condition of vulnerability, in which most migrants find themselves, relies on the interactions between diverse structural factors (legal, cultural, social and economic) that produce situations in which (making reference to the definition of “position of vulnerability” contained in Directive 2011/36/EU)<sup>1</sup> a person does not have any alternative but to submit to exploitation and other forms of abuse. In the case of women, this situation is further

---

<sup>1</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. Art. 2 states that “The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” More precisely, paragraph 2 describes the position of vulnerability as “a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.”

compounded by particular gendered dynamics and power relations defined also on the basis of racial segmentation.

One of the forms of GBV among female migrants is the trafficking of women with the purpose of the exploitation through severe forms (Palumbo and Sciarba, 2018), in which the presumed or potential victims often remain undetected (Nicodemi, 2017; OHCHR, 2014) and therefore lack the protection that is entitled to those who are recognised as victims of such crime. Although the identification procedure is a delicate issue and it is not always possible to formally detect a woman who is involved in trafficking or being exploited, it has been demonstrated that in these blurred cases the elements that are always present are the various forms of violence the women suffer (Degani and Della Rocca, 2014).

The promotion of female condition has been substantially constructed by reiterating the substantial discrimination between the sexes through a systematic use of violence, which is one of the crucial mechanisms by which the subordination and discipline of women is guaranteed at the social level with the principal aim of extracting their work of reproduction.

The issue of violence against women is the one that more than any other has allowed in recent years to look at the problem of sexual discrimination, highlighting the universal relevance of some threats, although their seriousness and their diffusion may differ even substantially depending on the situations considered.

The reality of violence is configured as a touchstone in terms of women's safety. It is a dimension so strongly characterising the condition of women that it undoubtedly constitutes, together with the great theme of poverty, the pre-eminent problem, which marks the real distance between the perspective of human security declined with a gender sensitive approach and the lack of this specific attention and dimension.

Studies and research conducted at an international level, including those carried out by institutions of the international community for human rights and those engaged in monitoring and

promoting the status of women, have unequivocally highlighted how women’s economic weakness, and therefore social fragility, constitute the pre-eminent cause of all the manifestations of male violence against women.

The structural character of the women’s “minority” linked to the sexual division of labour is therefore the element from which to start to understand all the forms of abuse prevailing against women, from domestic violence to enslavement and trafficking. The adoption of this approach allows us to frame the condition of women within the context of a series of emergencies that mark this historical phase, such as poverty, war, pandemic lack of food, epidemic diseases, new forms of colonisation linked to the mechanism of countries’ indebtedness, and in general brutalisation and moral degradation linked to a continuous polarisation of wealth.

With regard to the intersectional dimension that can be observed between GBV and serious exploitation, when the targets are some foreign women in Italy, it is important to avoid falling into the generalisation and trivialisation of the problem. It is equally important, however, to consider how the dimension of intra-family violence or of the IPV associated with sexual violence emerged as a modality in the phenomenon of trafficking and other serious forms of exploitation of foreign women since the late 1990s. Based on this observation it is also possible to assert the link between violence and trafficking on a gender level and to frame this issue fully within the human rights discourse.

The approach focusing on human rights first of all highlights the right to protection from enslavement that must be guaranteed to the most “at risk” population groups: migrants, women, children, refugees, members of ethnic minorities, disabled persons, groups living in socio-cultural contexts that do not respect human dignity, people and communities deprived in accessing to material resources and income that protect them from the blackmail of traffickers. It also promotes forms of rehabilitation and removal of the stigma that affects the victims of such trafficking, as well as the repression of criminal forms of exploitation and the respon-

sibility and penalties for illegal acts committed by the victims during, or in relation to, their condition of exploitation. Hence, this approach does not concede anything to pietism and philanthropism. Nor does it lend itself to being circumvented by pseudo-arguments that justify certain practices of exploitation with their suitability to produce income anyway. In the human rights approach, the maximum of pragmatism should be linked with the intransigent defence of the dignity of the individual, guaranteed and defended by the law.

Immigrant women, by placing themselves in the traditionally female segments of the market, carry out tasks inextricably linked to the sexual division of labour and at the same time respond to a male demand for services to the person, in which the absolute invisibility of care work is combined with the extreme visibility of street prostitution. Both of these situations, and all those arising along this continuum, represent a further confirmation of the fact that women occupy a subordinate social position which makes clear the difficulty for immigrants, not only to improve their personal condition in terms of access to income and consumption, but also to pursue an eventual path of realisation and authentic personal emancipation.

In recent years, the issue of violence against immigrant women in Italy has served to accentuate the repressive discourse towards migrants and therefore to legitimise criminalising types of policy choices that have also implied—if observed from a point of view of the analysis of the female condition—the concealment of the matrix and the facts of violence in Italy.

It must also be carefully considered that, the designation of prostitution as a specific issue concerning human rights can be used to emphasise the distinction between women involved in commercial practices of a sexual nature and those who, although used in market segments characterised by inadequate recognition or by the total absence of attribution of social and economic value of the tasks performed, are not however socially stigmatised.

This distinction in the female status of immigrants, while

maintaining its objective value, risks hiding the fragmentation that exists between the two situations, not only because of the “flexibility” imposed to the female workforce in the countries of destination, but also for the multiple forms of sexual abuse acts by employers especially in domestic and care services (Palumbo) or other activities unrelated to the sex business. The irregular and exclusively segregation-based access to specific sectors of the labour market is therefore a further vehicle for legitimising violence. If the use of harassment is a reality, commonly reserved for women in the workplace, in the case of immigrants the denial of rights in the economic, social and labour field and the discrimination they suffer and experience, leaves ample space for abuse often aimed to reproduce conditions of enslavement related to servile relationships. Being forced to have sexual relations with their employer, even outside prostitution activities, is only one of the manifestations of this situation.

A general discourse on violence against foreign women is not feasible here. However, what must be emphasised is the common root of the problem of male violence against women and the slave exploitation of women’s work. Despite the fact that many violations fall within the regulatory framework for the protection of human rights, there is no doubt that most of the abuses which occur daily in homes, in IPV, in workplaces, along roads and also in leisure and entertainment environments, escape all legal control and every sanction, sometimes even when provided for by the internal criminal laws of various countries. The examples in this sense could be very numerous, especially with reference to violence in intimate relationships and to the relevance of the obscure number of this phenomenon.

Considering the repeatedly confirmed and reported violence against migrant women along the Central Mediterranean route where Italy is the access country to enter Europe, but also occurring once arrived in the country, the clear and deep intersection between the migration experience and violence is established and needs to be addressed.

*Fighting Violence Against Women: The Anti-Trafficking and Asylum System Joint Action and the Relevance of the “Article 18”*

Although female trafficking and exploitation is a complex phenomenon profoundly interrelated with violence against women, in Italy a comprehensive protection plan based on the intersection of the different vulnerabilities of the woman concerned is not applied yet, and the anti-trafficking and anti-violence systems work separately—although with a multi-agency approach. The anti-trafficking system has been conceived by all governmental and non-governmental organisations and agencies traditionally operating in the framework of the fight against trafficking and which are part of the recent “National action plan against human trafficking and severe forms of exploitation” established for the first time in Italy in 2016.<sup>2</sup> This anti-violence system is a more articulated reality because of the different approaches used to help, assist and more in general frame facts of male violence against women. For the purpose of this article, we refer to the anti-violence system as the network of women, professionals, volunteers, actors and stakeholders who contribute to support the efforts realised by the anti-violence centres in order to assist, help, and protect female victims in the different territories. Integrated responses offer clear benefits for service delivery to victims, including improving the experience of victims involved in multiple proceedings across different legal frameworks. Offering an integrated help does not mean that different services—devoted to work in different areas of vulnerabilities—have a referral mechanism among them to improve effectively the intersectional policy analysis and implementation in order to mitigate all forms of oppression and discrimination.

---

<sup>2</sup> For more information on the action plan, its activities, management and legal framework: <https://www.osservatoriointerventitrattra.it/primo-piano-nazionale-dazione-contro-la-tratta-di-esseri-umani-e-il-grave-sfruttamento-degli-esseri-umani/> (last accessed 03.07.2019).



At present, complete national referral mechanisms are either not in place at all for the specific matter, or else they officially exist but are operationally not always adequate, since a cross-sectoral referral mechanism that involved operators and services of different areas and expertise is absolutely missing.

The need to integrate these systems favouring a real exchange in terms of skills and practices would constitute a great improvement to guarantee a more holistic approach to both sexual and other forms of exploitation and male violence. It would mean acting with a feminist-oriented approach and at the same time observing the reality of violence to fight against exploitation and to obtain residence titles able to recognise the complexity of women’s human rights violations.

Before proceeding to examine the different possibilities that these two systems could have to address the issue of violence against women in migration, especially in the context of the trafficking and exploitation of women, it is useful to analyse a previous experience of cooperation having the anti-trafficking system as an actor.

From 2015 onward, the number of migrants arriving at the borders of Greece and Italy rose (according to UNHCR, in that year a total of more than one million third-country nationals were registered in these two countries).<sup>3</sup> Also the asylum claims increased, especially those lodged in Italy by Nigerian citizens,<sup>4</sup> a specific group whose members have been traditionally involved in the human trafficking network both as victims and exploiters (EASO, 2015; Degani and Perini, 2018; Pascoal, 2018; IOM, 2015). In this framework, the Italian anti-trafficking system and the territorial asylum commissions, devoted to interview asylum

---

<sup>3</sup> Data available at <https://data2.unhcr.org/en/situations/mediterranean/location/5179> (last accessed 03.07.2019).

<sup>4</sup> In 2015 the increase of asylum claims made by Nigerian citizens compared with the previous year was of 81%, while in 2016 of 50% compared with 2015. Data available <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/i-numeri-dellasilo> (last accessed 03.07.2019).

seekers in order to decide if granting them the International (or another form of) Protection or not, began to collaborate.<sup>5</sup> Thanks to the close collaboration, results clearly showed that, among the multitude of Nigerian women claiming for asylum, a consistent number were instructed by the exploiters to enter the asylum procedure in order to gain permission to legally stay in Italy and receive the benefits entitled to asylum seekers in Italy. Although the International Organisation for Migration (IOM) was present at the moment of the disembarkation when the vessels arrived and performed the delicate job of spotting presumed or potential victims of trafficking and then the activation of the protection system through the referral of the woman to the anti-trafficking organisations, it was not always possible to identify survivors (Pascoal, 2018).

Once disembarkation took over, migrants who claim asylum were (and still are) normally transferred in the reception centres for asylum seekers spread in the country,<sup>6</sup> where the identification may also happen. Some critical points emerged in the cases where the organisations managing the centres did not have any experience, neither with victims of trafficking nor with migrants and not even, in some cases, with social work. However, not the whole amount of managing organisations lacked experience in this field, thus we must thank the network made by those who did have experience in this kind of work, the asylum commissions and agencies such as IOM for unveiling the situation that was emerging.

---

<sup>5</sup> For an overview of the asylum procedure in Italy: <https://www.asylumineurope.org/reports/country/italy>, last accessed (03.07.2019).

<sup>6</sup> To the ends of this article, it is worthwhile to explain how the reception centres are organised in Italy. In 2013, after the increase of migration flows following the Arab Spring, instead of funding an expansion for the already existing and well working reception system (SPRAR), the Ministry of the Interior issued a call for proposals for new reception centres with lower standards than SPRAR. Consequently, many entrepreneurs with tourist structures and no experience or expertise in social work and assistance became managers of reception centres for migrants, without having the capacities to work within the social sector.

In 2010, IOM already established a system of referral with the asylum commissions for the recognition of International Protection of the principal regions subject to arrivals by sea. Only in 2014, however, with the Law Decree 24/2014<sup>7</sup> representing the national transposition of the Anti-Trafficking Directive,<sup>8</sup> the legislative framework decided that a referral mechanism was to be put in place to coordinate the two protection mechanisms developed for victims of trafficking, namely the protection systems for asylum seekers and beneficiaries of international protection coordinated at a central level and the protection system for victims of trafficking established at a territorial level (ASGI, 2018). The need for a formal and shared protocol brought the UNHCR in cooperation with the Italian Ministry of the Interior at the end of 2016 to issue the guidelines for the asylum commissions.<sup>9</sup>

The guidelines established Standard Operational Procedures (SOP) to apply whenever there might be the possibility of a potential or presumed victim of trafficking, and a referral system to guide the asylum commissions and/or the social operators working in the reception centres where the presumed or potential survivor lives. Indicators were provided, especially those easily observed and retrievable during the asylum interview, such as the condition of the journey (it is an indicator if the person travelled by plane and, once arrived in Italy the documents have been withheld), the payment of the transfer (if the person did not pay anything could be an indicator). The guidelines also provide specific signals to observe

---

<sup>7</sup> Legislative Decree No 24 of 4 March 2014 establishing the “Implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA” entered into force. It had been published in the Official Journal No 60 of 13 March 2014.

<sup>8</sup> Anti-trafficking Directive, *supra* note 1.

<sup>9</sup> UNHCR. (2017). L’identificazione delle vittime di tratta tra i richiedenti protezione internazionale e procedure di referral. Linee Guida per le Commissioni Territoriali per il riconoscimento della protezione internazionale. Retrieved from <http://www.refworld.org/docid/5b211b594.html>

in the case the asylum seeker is a Nigerian woman and a potential victim of trafficking and exploitation: the age (between 15 and 24 years old), the area of origin (Edo State is where the majority of Nigerian victims come from), a low level of education, a form of control by somebody else (the person is often on the phone, or somebody is waiting for her at the end of the interview...).

There are possibly two reasons why the cooperation between the anti-trafficking and asylum system happened: the political reaction to the migration flows arrived from 2011 onward and the important presence of Nigerian women in these flows. Migration and asylum topics have been at the top of the electoral programs of many political parties, belonging both to the right and left wing but notably of the Lega Nord, since its first success in the elections at the beginning of the nineties to its current times when its leader Matteo Salvini was the Ministry of the Interior. Furthermore, immigration has increasingly been a topic on the political agenda through a switch in “[...] focus from integration policies to control policies vis-à-vis migration flows and immigrants, with the result that immigration has increasingly been constructed as a law and order issue in political and public discourse” (Colombo 165–66).

The second hypothesis regards the legal entitlement to stay in Italy for female victims of trafficking who also claim asylum, namely the permit of stay ex art. 18 D.Lgs. 286/98,<sup>10</sup> and the different kinds of permits of stay under the umbrella of the International Protection. The potential conflict and/or complementarity conflict situation of the residence permit reflects the difficulties and criticalities of the evaluation, opportunities, reception conditions, rights entitled to the person of concern.

Article 18 of Law 286/1998 provides, among others, the possibility to be granted a permit of stay for social protection for those

---

<sup>10</sup> Legislative Decree n 286 of 1998 “Testo Unico delle disposizioni concernenti la disciplina dell’immigrazione e norme sulla condizione dello straniero” (Consolidated act of provisions concerning regulations on immigration and rules about the conditions of a foreigner).

third-country nationals who, once arrived in Italy, experience a violent situation or grave exploitation as victims, and face at the moment a serious danger for their life or one of their relatives as a consequence of being cooperating witnesses against their exploiters, or for escaping. The first crucial condition is the existence of violence or grave exploitation; this violence does not necessarily consist of physical coercion. The risk of violent retaliations is therefore a decisive element for the recognition of the protection, and this can occur prior to the effective beginning of the exploitation.

Although article 18 was not intended to explicitly address trafficking, but for victims of grave exploitation and violence, the legislator wanted to develop a mechanism to assure not only protection, but also to prevent and suppress all the criminal situations through the construction of trustworthy relationships between the professionals working in the assistance network and the victims, so to contribute to the weakening of boundaries with the exploiters, and easing the persecution of the criminals (Degani and Della Rocca, 2014).

If considered in the framework of Nigerian women claiming asylum during the period from 2011 onward, article 18 can be considered a success. Although article 18 assured a protection and a legal stay to all those Nigerian women arriving in Italy, and who had been subjected to violence and destined for the criminal market of sexual exploitation, at the same time it also guaranteed the increase of knowledge and expertise on the “Nigerian phenomenon” among all those professionals involved in the counter trafficking system. However, on the other hand it has possibly hidden other kinds of GBV, such as female victims of female genital mutilations, as released by many news reports.<sup>11</sup>

---

<sup>11</sup> M. Perroni, “Mutilazioni genitali femminili, un problema anche italiano”, *TPI News*, 06.02.2018, available at <https://www.tpi.it/2018/02/05/italia-donne-mutilazioni-genitali-femminili/> (last accessed 05.07.2019). L. Berti, “I numeri delle mutilazioni genitali in Italia”, *Agi*, 17.05.2018, available at [https://www.agi.it/cronaca/italia\\_mutilazioni\\_genitali-3906620/news/2018-05-17/](https://www.agi.it/cronaca/italia_mutilazioni_genitali-3906620/news/2018-05-17/) (last accessed 05.07.2019).

The dialogue and cooperation between the two systems revealed in 2018 the referral of around 2000 persons (91% of them women)<sup>12</sup> from the asylum commissions to the anti-trafficking network to evaluate the situation and an eventual identification based on the trafficking and exploitation indicators.

*Art 18-bis: The Right to Stay in Italy as a Victim of (Domestic) Violence*

Notwithstanding the lack of comprehensive and coordinated work between all the systems supporting women in situations where grave breaches of human rights happen, the legislative framework providing protection and legal entitlement to victims of exploitation and of violence against women shares some common aspects and diverges on others.

Although often described as a law with an emergency approach, and with a huge lack of preventive and protection tools to develop victim-based programs of social inclusion especially for those women particularly vulnerable such as migrant women (Degani and Della Rocca, 2014), the Law 119/2013<sup>13</sup> at article 18-bis of the D.Lgs. 286/98<sup>14</sup> introduced a new form of permit of stay. All those third-country nationals who, during the investigation for specific crimes,<sup>15</sup> were found to be victims of do-

---

<sup>12</sup> Data collected by the Italian Anti-Trafficking Hotline (Numero verde contro la tratta).

<sup>13</sup> Law No 119 of 15 October 2013 converting Decree Law No 93 of 14 August 2013 Disposizioni urgenti in materia di sicurezza e per il contrasto alla violenza di genere nonché in tema di protezione civile e di commissariamento delle province (Urgent provisions on safety and for the fight against gender-based violence, as well as on civil protection and compulsory administration of provinces).

<sup>14</sup> *Supra* note 10.

<sup>15</sup> During the investigations for crimes related to articles 572 (family abuse and mistreatment), 582 and 583 (personal injuries), 583 bis (female genital mutilation), 609 bis (sexual violence), 612 bis of the Italian penal code (harass-

mestic violence or abuse and to be in a situation where her or his own safety is in real danger can be granted a permit of stay for “humanitarian reasons”. The real danger must be linked to the possible consequence of the decision of the person of concern to withdraw from the violent situation and/or to witness against the perpetrator.

Comparing the conditions of the issuance of the permit of stay foreseen by art. 18-bis of Law 286/1998<sup>16</sup> (hereinafter art. 18-bis), and the one derived from article 18 of the same law (hereinafter art. 18), there are a lot of similarities between the two. A violent situation or grave exploitation must be in place to issue art. 18, apart from a real danger of the victim’s safety following the decision to depart from the exploiters or to be a witness of the legal proceedings against the exploiters. Similarly, for the art. 18-bis, the conditions are a violent or abusing situation and the same danger for the victim’s safety.

Degani and Della Rocca maintained that, although designed for persons who experience different circumstances, the two arrangements have many common points, mainly regarding the provisions (violent situation, real danger also derived from the witness given during the prosecution of the criminals). However, as the literature and studies reported in the first paragraph demonstrated, if the focus is on the migrant women involved in the recent mixed migration flows, it is becoming more common to find the similarity between the two provisions also as a shared feature of the violent situation affecting migrant women now.

The Law 119/2013 is the transposition of art. 59 of the 2014 CoE Istanbul Convention,<sup>17</sup> although it seems that it does not fully seize the essence. The article states that “victims whose residence

---

ment) or article 380 of the Italian criminal code (crimes where it is envisaged the flagrant arrest).

<sup>16</sup> *Supra* note 10.

<sup>17</sup> Council of Europe, Council of Europe Convention on preventing and combating violence against women and domestic violence, 11 May 2011.

status depends on that of the spouse or partner as recognised by internal law, in the event of the dissolution of the marriage or the relationship, are granted in the event of particularly difficult circumstances, upon application, an autonomous residence permit irrespective of the duration of the marriage or the relationship”. It is clear that “particularly difficult circumstances” is far from what art. 18-bis states: “real and actual danger for the alien’s safety” (co.1), and this distance is a detriment for all those situations where, even though physical, psychological or economical violence are present, the concrete danger foreseen by the Italian law for the issue of the resident permit are not in place yet.

The legislator created a provision similar to art.18 for the protection of victims of exploitation, which foresees the subscription of the victim to a social and assistance program devoted to help the person to exit the exploitative situation and be included in the hosting society, regardless of her eventual involvement in the legal proceedings as a witness.

The resident permit for domestic violence (art. 18-bis) lasts one year, and this is binding for the social protection and assistance, but also for access to education services and subscription to the list of those seeking work, or to have an employment contract. This residence permit could find its place also to the women described in this paper, namely when the territorial commission for the International Protection, judges specialised in migration, asylum and free circulation of the European Union (EU) citizens, consider this new tool by referring the Chief of Police (questore) cases of domestic violence potentially happened during the reception period, and inviting him or her to grant a residence permit.<sup>18</sup>

Since the introduction of the new law in 2013, only 111 residence permits have been granted in accordance with article 18-

---

<sup>18</sup> The residence permit for “spacial protection” is one of the new typologies of the new law. It is issued by the Police following the suggestion of the asylum territorial commission (*art. 32, comma 3, d.lgs. 28 January 2008, n. 25*). The residence permit lasts one year after which it is renewable prior consent of the territorial commission.



bis, in total around 30 a year<sup>19</sup>, and only in an inconsistent way throughout Italy. This is a number which highlights the inadequacy of this rule to protect women if we consider that, according to the data published by ISTAT for the year 2013, the year of the introduction of the residence permit under discussion, 4,515 crimes have been reported to the police and judicial authorities for beatings, stalking and sexual violence against foreign women.<sup>20</sup>

Indeed, the possibility that women applying for the permit in accordance with article 18-bis are targeted to make an instrumental use or of exploiting the accusation in order to obtain a residence permit, is very high today for the persistence of many stereotypes and for the general suspicion and prudence in considering declaration and storytelling of foreign people.

The poor dissemination of information on the possibility of access to this residence permit, both among law enforcement and women victims of violence, greatly weakens the implementation of this instrument. Moreover, anti-violence centres are not always legitimised and recognised by law enforcement agencies and judiciaries because the multi-agency operative network in the different areas are often related to single persons rather than to constitute a consolidated practice.

### *Conclusion*

In this framework, the political reflection on international protection and violence did not reach the level of development of that of female trafficking, partly due to the political pressure and the emergency character of trafficking rather than violence,

---

<sup>19</sup> Data provided by Minister of the Interior Minniti during the hearing held before the Senate Commission on Femicide, p. 19.

[http://www.senato.it/application/xmanager/projects/leg17/file/repository/commissioni/femminicidio/stenografici/RES\\_N\\_27.pdf](http://www.senato.it/application/xmanager/projects/leg17/file/repository/commissioni/femminicidio/stenografici/RES_N_27.pdf)

<sup>20</sup> Data reported in the ISTAT databank <http://dati-violenzadonne.istat.it/>.

a phenomenon that is more rooted in the culture, structure and transversal to Italian society. Moreover, the Italian actors working in Italy to support and assist women with these vulnerabilities strove to build bridges and to find a common ground to work together, due to different working methods, languages and rules.

According to the opinion expressed in one of the shadow reports produced for the GREVIO,<sup>21</sup> authorities and law enforcement agencies often believe that a condition of security can be guaranteed by separation and physical distance from the violent partner. Article 18-bis does not explicitly refer to health problems or physical diseases related to the abuses and maltreatment suffered as possible requirements for the issuance of a residence permit. This is in violation of the provisions of the I.C. that, under article 59, 3b, provides for issue of the permit “owing to their personal situation”.

It is evident that in Italy a clear awareness and understanding of the dynamics of male violence against women and the its linkages with exploitation does not belong to the common package of professional skills and resources of social workers and other professionals involved in combating both violence and severe forms of exploitation.

Finally, it should be noted that Article 18-bis, contrary to the recommendations of *The Istanbul Convention*, does not take into account cases in which there is a risk of violence in the countries of origin of women by their families of origin thus determining a situation of vulnerability in case of repatriation in terms of facing further violence.

The lack of economic resources, the difficulties in finding a job and the conditions of legal insecurity prevent women from having a life free of violence in the country they migrate to. This social-situated vulnerability ends up being reiterated for years,

---

<sup>21</sup> Implementation of the Istanbul Convention in Italy. Shadow Report of women’s NGOs, October 2018, [https://www.direcontrolaviolenza.it/wp-content/uploads/2018/10/GREVIO.Report.Ital\\_.finale.pdf](https://www.direcontrolaviolenza.it/wp-content/uploads/2018/10/GREVIO.Report.Ital_.finale.pdf)

forcing migrant women to live in a state of prolonged dependency, uncertainty, and insecurity (Sciurba and Palumbo, 2018).

*Works Cited*

- Amnesty International. “I Want To Decide About My Future.” *Uprooted Women in Greece Speaks Out*. 2018.
- ASGI. *Asylum Information Database (AIDA). Country Report - Italy*. 2018, <https://www.asylumineurope.org/reports/country/italy>. Accessed 15 October 2019.
- Battarino, Giuseppe. “Note sull’attuazione in ambito penale e processuale penale della Convenzione di Istanbul sulla prevenzione e la lotta contro la violenza nei confronti delle donne e la violenza domestica.” *Penale contemporaneo*, Oct. 02, 2013, <https://www.penalecontemporaneo.it/upload/1380640988BATTARINO%202013a2.pdf>. Accessed 07 October 2019.
- BeFree, and Act!onaid. *Mondi Connessi. La Migrazione Femminile Dalla Nigeria All’Italia e La Sorte Delle Donne Rimpatriate*. 2019, [http://www.befreecooperativa.org/wp-content/uploads/2019/04/Nigeria\\_Completo\\_WEB.pdf](http://www.befreecooperativa.org/wp-content/uploads/2019/04/Nigeria_Completo_WEB.pdf). Accessed 20 November 2019.
- Birchall, Jenny. *Gender, Age and Migration: An Extended Briefing*. 2016, [http://www.rosavzw.be/digidocs/dd-001417\\_2016\\_Gender\\_Age\\_Migration\\_IDS.pdf](http://www.rosavzw.be/digidocs/dd-001417_2016_Gender_Age_Migration_IDS.pdf). Accessed 07 December 2019.
- Colombo, Monica. “Discourse and Politics of Migration in Italy.” *Journal of Language and Politics* 12.2 (Aug. 2013): 157–179.
- Creazzo, Giuditta, ed. *Se le donne chiedono giustizia. Le risposte del sistema penale alle donne che subiscono violenza nelle relazioni di intimità: ricerca e prospettive internazionali*. Il Mulino, 2012.
- Degani, Paola. “La violenza maschile contro le donne tra governance multi-livello e prospettiva dei diritti umani: vincoli e opportunità.” *Rivista Italiana di Politiche Pubbliche* 2 (2018): 255-284.

- Degani, Paola and Claudia Pividori. "Ending Violence against Women as Testing Ground for Women's Human Rights Discourse: Practices, Limits and Challenges." *Peace Human Rights Governance* 2.2 (2018):163-184.
- Degani, Paola and Lorenza Perini. "The Italian Public Policies Frame on Prostitution and the Practical Overlapping with Trafficking: An Inevitable Condition?" *Peace Human Rights Governance* 3.1 (2019).
- Degani, Paola and Roberto Della Rocca. *Verso la fine del silenzio. Recenti sviluppi in tema di violenza maschile contro le donne, diritti umani e prassi operative*. Cleup, 2014.
- EASO. *Country of Origin Nigeria*. 2015.
- Edwards, Alice. *Violence against Women under International Human Rights Law*. Cambridge UP, 2013.
- Ferrant, Gaëlle, and Michele Tuccio. *How Do Female Migration and Gender Discrimination in Social Institutions Mutually Influence Each Other?* no. 326, 2015.
- Fleury, Anjali. "Understanding Women and Migration: A Literature Review." *KNOMAD Working Paper Series*, February, 2016.
- Freedman, Jane. "Engendering Security at the Borders of Europe: Women Migrants and the Mediterranean 'Crisis.'" *Journal of Refugee Studie* 29.4 (Dec. 2016): 568-582.
- Healy, Claire. *The Strength to Carry On: Resilience and Vulnerability to Trafficking and Other Abuses among People Traveling along Migration Routes to Europe*. ICMPD, 2019.
- ICMPD. *Targeting Vulnerabilities*. 2015, [https://www.icmpd.org/fileadmin/ICMPD-Website/Anti-Trafficking/Targeting\\_Vulnerabilities\\_EN\\_SOFT\\_.pdf](https://www.icmpd.org/fileadmin/ICMPD-Website/Anti-Trafficking/Targeting_Vulnerabilities_EN_SOFT_.pdf). Accessed 10 July 2019.
- IOM. *Rapporto Sulle Vittime Di Tratta Nell' Ambito Dei Flussi Migratori Misti in Arrivo via Mare Aprile 2014 - Ottobre 2015*. 2015, [https://italy.iom.int/sites/default/files/news-documents/RAPPORTO\\_OIM\\_Vittime\\_di\\_tratta\\_0.pdf](https://italy.iom.int/sites/default/files/news-documents/RAPPORTO_OIM_Vittime_di_tratta_0.pdf). Accessed 10 July 2019.
- La Barbera, Maria Caterina. "Intersectional-gender and the Locationality of Women in Transit." Ed. Glenda Tibe Bonifacio.

- Feminism and Migration: Cross-Cultural Engagements*. Stryker Science + Business Media, 2012.
- Manjoo, Rashida and Jackie Jones, eds. *The Legal Protection of Women From Violence: Normative Gaps in International Law*. Routledge, 2018
- Marchand, Marianne H. “The Violence of Development and the Migration/Insecurities Nexus: Labour Migration in a North American Context.” *Third World Quarterly* 29.7 (Oct. 2008): 1375–1388.
- Morokvašić, Mirjana. “Gendering Migration.” *Migracijske i Etničke Teme / Migration and Ethnic Themes* 30.3 (2015): 355-378.
- Nicodemi, Francesca. “Le vittime della tratta di persone nel contesto della procedura di riconoscimento della protezione internazionale. quali misure per un efficace coordinamento tra i sistemi di protezione e di assistenza?” *Diritto, Immigrazione e Cittadinanza* 1.24 (2017): 1–31.
- OHCHR. *Human Rights and Human Trafficking*. 2014, [http://www.ohchr.org/Documents/Publications/FS36\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS36_en.pdf). Accessed 7 July 2019.
- Palumbo, Letizia. “Demand in the Context of Trafficking in Human Beings in the Domestic Work Sector in Italy,” DemandAT Country Study No.5, June 2016, [https://www.academia.edu/30738942/Demand\\_in\\_the\\_Context\\_of\\_Trafficking\\_in\\_Human\\_Beings\\_in\\_the\\_Domestic\\_Work\\_Sector\\_in\\_Italy](https://www.academia.edu/30738942/Demand_in_the_Context_of_Trafficking_in_Human_Beings_in_the_Domestic_Work_Sector_in_Italy). Accessed 28 December 2019.
- Palumbo, Letizia and Alessandra Sciarba. *The vulnerability to exploitation of women migrant workers in agriculture in the EU: the need for a Human Rights and Gender based approach*, Policy Department for Citizens’ Rights and Constitutional Affairs Directorate General for Internal Policies of the Union PE 604.966-May 2018, [https://www.academia.edu/36731547/The\\_vulnerability\\_to\\_exploitation\\_of\\_women\\_migrant\\_workers\\_in\\_agriculture\\_in\\_the\\_EU\\_the\\_need\\_for\\_a\\_Human\\_Rights\\_and\\_Gender\\_based\\_approach](https://www.academia.edu/36731547/The_vulnerability_to_exploitation_of_women_migrant_workers_in_agriculture_in_the_EU_the_need_for_a_Human_Rights_and_Gender_based_approach). Accessed 28 December 2019.
- Parreñas, Rhacel Salazar, and Carolyn Choi. “Migration.” *The*

- Oxford Handbook of Feminist Theory*. Eds. Lisa Disch and Mary Hawkesworth. Oxford UP, 2016. 490-507.
- Pascoal, Rafaela H. *Stranded: The New Trendsetters of the Nigerian Human Trafficking Criminal Networks for Sexual Purposes*. Cooperazione Internazionale Sud-Sud, 2018.
- Pauncz, Alesssandra. *Dire di no alla violenza domestica. Manuale per le donne che vogliono sconfiggere il maltrattamento psicologico*. Franco Angeli, 2016.
- Roia, Fabio. *Crimini contro le donne. Politiche, leggi, buone pratiche*. Franco Angeli, 2017.
- Sciurba, Alessandra and Letizia Palumbo. *The vulnerability to exploitation of women migrant workers in agriculture in the EU: the need for a Human Rights and Gender based approach*. EU Parliament, 2018.
- Temin, Miriam, et al. *Girls on the Move: Adolescent Girls & Migration in the Developing World*. 2013.
- Thiemann, Inga K. "Human Trafficking as a Migration Crisis." *The Oxford Handbook of Migration Crises*. Eds. Cecilia Menjivar, Marie Ruiz, and Immanuel Ness. Oxford UP, 2019. 720-40.
- UN General Assembly. "Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children." *United Nations*, no. A/HRC/38/45, 2018.
- UNFPA. *UNFPA Women and International Migration*. 2006, pp. 27-30, <http://www.unfpa.org/swp/2006/english/introduction.html>. Accessed 5 October 2019.
- UNHCR. 'Desperate Journeys'. *Bureau for Europe*, 2018, p. 9, <https://www.refworld.org/docid/58b58b184.html>. Accessed 5 October 2019.
- UNHCR, Altai Consulting, et al. *Mixed Migration Trends in Libya: Changing Dynamics and Protection Challenges*. 2017.
- UNHCR, UNFPA, et al. *Initial Assessment Report- Protection Risks for Women and Girls in the European Refugee and Migrant Crisis*. 2016.
- Women's Link Worldwide. *Trafficking of Nigerian Women and Girls: Slavery across Borders and Prejudices*. 2015. Video.

Women’s Refugee Commission. *EU-Turkey Agreement Failing Refugee Women and Girls*. no. August, 2016, <https://www.womensrefugeecommission.org/images/zdocs/EU-Turkey-Refugee-Agreement-Failing.pdf>. Accessed 15 October 2019.





WHEN CULTURE MATTERS:  
DISCOURSES SHAPING INSTITUTIONAL RESPONSES  
TO GENDER-BASED VIOLENCE  
IN CHILE AND LATIN AMERICA

Cristhie Mella Aguilera, *University of Bristol*

*Abstract*

This paper discusses responses to gender-based violence in Chile as a case study, but also more broadly as reflecting the context of Latin America. It argues that despite progress in legislation and the criminalization of femicide, as initially intended with the institutionalization of a ‘gender agenda’ in the region, the movement towards gender awareness is still at an early development. Despite the joining of international agreements, such as the CEDAW and the Belem do Para Convention, limitations to the advancement of effective responses to gender-based violence are still visible in state structures. This paper discusses the contesting nature of institutional discourses as observed in institutional responses in Chile, where research has identified the role of cultural constructions as having an impact on the advancement of gender equality and the prevention of violence against women. Gendered normative cultural constructions have a place in shaping identities that still prevent women from the full exercise of their rights in a region that highly exhibits the historical legacy of colonization, with Catholic values at the heart of such gender norms.

## *Introduction*

The issue of gender-based violence, as addressed by the Council of Europe with *The Istanbul Convention*, is widely recognised as a cross-cultural phenomenon observed across the globe (UNDP and UN Women 10). In this paper, I provide an overview of institutional responses to gender inequality and gender-based violence developed in Chile. I consider the case of Chile more broadly, as representing common issues in the context of Latin America as a distinctive region. By focusing and illustrating some issues in Chile as a case study, I will stress the role of cultural constructions and social discourses shaping state responses to gender equity and gender-based violence, to examine how these cultural constructions, closely linked to configurations of gender roles and gender identity, are salient in Latin America. Because of the embeddedness of such constructions, they have a significant impact on policy outcomes, observed as intertwined in institutional responses aimed at addressing gender-based violence.

This paper is based on my PhD research, conducted at the University of Bristol, a research that explores the construction of gender in professional discourses in child-protection services in Chile. It looks at how these discourses shape professional interventions with children and their families and how the professional narratives are shaped, not only by such cultural constructions, understood as socially constructed discourses, but also by the institutional discourses that drew upon them. These are related to the frameworks for practices and policy guidelines. One of the findings was a strong association between these frameworks for practice, as the type of interventions carried out and institutional discourses observed in policy guidelines. In turn, these were connected to cultural constructions that appear gendered in nature. Thus, it becomes clear that institutional frameworks are subject to discourses embedded in cultural constructions and practices. In reviewing the integration of gender equity policies in Chile, as in the rest of Latin America, one finding is that cultural factors

shape the responses developed by the State. This becomes salient when dealing with policies that target women as the main recipient of services.

*The Institutionalization of Responses to Gender-Based Violence in Latin America and the Gender Agenda: Outcomes, Progress and Limitations*

In relating this case to the role of *The Istanbul Convention* (2011) and its potential to highlight the place of culture in gender based-violence, I have to mention the journey developed in Chile and more broadly in Latin America. The emergence of the issue of violence against women in the region was, in general, inscribed within the context of human rights struggles, which took place in most countries that underwent dictatorships during the 70s and 80s (e.g. Peru, Brazil, Uruguay, Argentina, Chile, etc.). In the case of Chile, the dictatorship lasted 17 years, from 1973 until 1990. Within such a scenario of political mobilization, the issue of women's rights emerged in the context of resistance to authoritarianism and the denouncing of human rights violations. Within these struggles, the feminist movement played a vital role fighting and mobilizing against the dictatorship and consolidating demands for justice. They posed the issue of women's rights as part of these wider demands. The general public social movement resisting the military regimes was often led by women, who were challenging the military order, taking the streets, and demanding justice, through internationally well-known organizations, such as the Madres de Plaza de Mayo in Argentina and the mothers and wives of the disappeared in Chile. As women became the public voices of the victims of state repression, they were active actors in the re-democratization process. In the case of Chile, the feminist movement that grew within such citizen's rights mobilization took part in the new scenario brought with democracy since 1990, as an appropriation and exercise of citi-

zenship. For example, the “democracy in the country and in the home” motto (Sepulvéda 99) raised consciousness of the patriarchal military order as an extension of the domestic violence that keep women subordinated (Pieper Mooney 175). While this was a driving force in the journey to position women’s rights and the quest for gender equality within the recovered democracy, Chile entered the era of international agreements with international agencies such as the UN and certainly the Council of Europe. This new scenario was instrumental and timely to capitalize on women’s demands by taking advantage of a transnational movement. One specific instrument was the 1993 Declaration on the Elimination of Discrimination and Violence against women, CEDAW which led one year later to the specific document we have in Latin America which is the 1994 Inter American Belém do Pará Convention on the Prevention, Punishment, and Eradication of violence against women. This Convention precedes and it is somehow our own Istanbul Convention in the context of Latin America, signed and ratified by all the countries by 1998 (Franceschet 4). Following this development, it is clear we started the journey towards meeting women’s rights long ago, as until *The Istanbul Convention*, the Belém do Pará Convention was the only binding international instrument to address gender-based violence (OAS and The Council of Europe 34). That being the case, analysing the outcomes in Latin America can shed light on the complexities observed regarding the implementation of regional tools and the materialization of the spirit of such instruments into states measures and operative capacity. One important issue to emphasise is the role of societal attitudes and values in assessing these outcomes and the required changes.

In the case of the Latin American region, the internationally subscribed instrument, The Belém Do Para Convention has been guiding and shaping the institutional, governmental responses to gender-based violence since the mid-nineties to some extent, with progress and constraints identified, as we will discuss. One clear outcome has been the institutionalization of what is known as the

‘gender agenda’ or ‘gender mainstreaming paradigm’ (Radcliffe et al. 398). As in the rest of LA, gender entered policy design, becoming mainstreamed across public services (Solar 22) following the Fourth UN Women’s Conference in Beijing in 1995, when it became a global policy paradigm promoted by the UN and the platform for action set following the Beijing Conference. In Latin America and the Caribbean, the ‘gender perspective’ has been inscribed within the modernization of states agenda, as a requirement of the re-democratization process, demanded and monitored by international agencies such as the UN and World Bank. This alliance with the international community implied the incorporation of the Gender and Development framework (Radcliffe et al. 390) as reflected in macro policy documents and within a so-called human capital perspective (Molyneux 3) that links gender equality and women’s empowerment with poverty reduction. As Maxine Molyneux states, under this framework, gender inequality and violence were conceptualized as an obstacle for the development of the country concerned rather than an issue of human rights on its own (115), as initially framed by the feminists of the 1980s and as addressed by the Convention of Belém do Pará. This is one of the complexities of the politics of gender mainstreaming in the regions, linked to the condition of dependence of Latin America to the macro-policies of these international agencies, which not always match local demands and aspirations and therefore result in contradictory outcomes.

In Chile, the agreed commitment subscribed at the international level allowed a gender agenda to enter public policies, aimed at addressing gender inequality formally. It was to be reflected in policies across public services by making the inequalities visible. This development has been known as the *transnationalization* of gender (Radcliffe et al. 399) and has materialized generally across Latin American countries in legal frameworks, mainly in legislation criminalizing violence against women along with the implementation of support services, as well as plans of equity adopted by the vast majority of countries, but not all. The most visible

outcome has been the introduction of monitoring managerial tools (Solar 47), which some have identified as bureaucratization and technocratization of the gender commitment (Molyneux 114).

Despite these issues, amongst the positive outcomes, one should recognize that an increasing awareness of the rights of women as citizens has grown, along with some recognition of sexist attitudes. However, this is still limited. The timid progress made in legislation and the change of attitudes are due to the culture shaped by our history of Catholic family values as a legacy of colonisation. This has an impact on the discourses of gender norms, and, as a result, in the ability to respond to violence against women.

While formal and visible strategies and mechanisms for the advancement of gender equality and tackling gender violence have been implemented, the impact of cultural constructions in the shaping of these strategies becomes an issue. The impact is visible, for instance, in conceptualizations of gender equity, which, in turn, shape institutional responses, reflecting gender norms and gender identity framings. The result is that the goal of advancing gender equity becomes undermined in practice.

### *Cultural Constructions on Gender Identity as Discourses*

To conceptualize and understand this dynamic and its impact it is helpful to refer to the concepts of machismo. Machismo is widely recognized as a Latin trait, as the region of Latin America, in general, has been depicted as associated with the so-called 'macho culture' due to male dominance and patriarchal features. Marianismo, on the other side, is a conceptualization developed by Stevens to reflect the binary opposite of machismo, the inscription of a female gender identity (15) under highly normative gender norms. Influenced by religious values, Marianismo is shaped by the ideal model of the Virgin Mary. Within this framing, women are expected to behave in terms of self-sacri-

fice, purity and commitment to motherhood. This operates a form of social control, structuring women's identity under standards of moral superiority. Also, this identity construct reinforces maternalism (Staab 304), which is also recognized as an ingrained identity marker in Latin America, leading to the idea of motherhood as a woman's destiny. The study of the historical social construction of motherhood (Pieper Mooney 3) emphasizes its complexities, where forms of essentialism are identified (Richards 43) in women actively endorsing maternalist ideals through historical and political processes (O'Connor 264) and therefore, endorsing the Marianist model. It has been widely analysed how motherhood and emphasized femininity were used as a political tool in human rights struggles in the dictatorships period in Chile and Argentina (Jelin 35; Waylen 75), where it was precisely maternal identity (through the image of the "suffering mothers") that was used for acts of resistance.

These constructions as public discourses of mothering and normative gender identity play a significant role and are highly entrenched in Catholic values that have shaped gender norms since colonization and have influenced the way women are conceptualized, as well as gendered social expectations. These undoubtedly permeate discourses observed in social policies as they reproduce maternalist identities (Molyneux, 5; Staab, 304).

Thus, as said before, although some progress exists in responses to gender inequality and violence against women, mainly in promoting and implementing legal frameworks, these conceptualizations of gender roles, especially female identity become framed by family values (Valdés et al. 167) and inform policy responses. Women remain attached to normative gender roles within the institution of the family, as can be observed, for instance, in legislation regarding gender violence. In Chile, this is framed within the notion of "intra-family violence." It is fundamental to name the issues we deal with, and the way we name them has implications for conceptualisations and, as a result, on the approaches put forward. The concept of intra-family violence has

been discussed as shaping and limiting institutional responses, as the result has been the discourse of family preservation by constructing violence as a threat to this social institution rather than women as victims (Casas y Vargas 142). In practice, it obscures the fact that most of the violence that occurs in the family has women as victims, as well as children.

Thus, despite the implementation of specific measures and budget to increase services provisions, limitations must be discussed. Despite piecemeal progress in implementing formal tools, evidence suggests the translation of gender mainstreaming as a limited policy impacting women's rights, showing many of the constraints linked to structural and cultural factors (PNUD 75). Institutional bias prevents measures introduced from meeting their intended goals. For instance, one report from the Economic Commission for Latin America and the Caribbean (ECLAC) established the challenges ahead as improving the autonomy of women and overcoming paternalist approaches focussed on poverty reduction. One conclusion clearly points out the "social and religious beliefs that inform machismo as the sociocultural barriers to overcome discrimination against women" (ECLAC 63). This report also warns about the re-emergence of conservative familial discourses preventing women's autonomy. Thus, the place of culture is emphasized as undermining the advancement towards the goals of equality.

### *The Problem of the Backlash Against Gender Awareness*

One illustrative fact linked to culture is the issue of the backlash against some gender awareness and feminist campaigns. This movement has invoked the 'gender ideology' narrative; it is led by conservative groups, such as right-wing politicians and some factions of the Catholic Church. It claims the 'gender ideology' represents a threat to the family. Evidently, this backlash also influences public attitudes through well-established discours-



es reinforcing normativity. Conservative groups in power and societal attitudes prevent gender-friendly policies and the adoption of more effective strategies to tackle gender-based violence.

Another issue, which I cannot address in detail here but only mention quickly, is the tension between indigenous world views and the Western conceptualization of gender relations. These Western concepts introduced in the LA context through international agreements and agencies have faced resistance. They are regarded as the tools of Western feminism and, as such, as alien to indigenous gender relations (Radcliffe et al. 394) due to a clash between different conceptualisations on gender relations (Bacigalupo 48). Within this debate, particularly the issue of domestic violence and the application of concepts such as patriarchy developed by Western feminism is a contentious issue. This is also a cultural issue and reflects the problem of essentialised discourses of gender identity, which we face in Latin America, underpinned by cultural constructions and socially constructed roles. One issue is also related to the tensions between international macro policy paradigms such as the gender mainstreaming paradigm and local meanings of femininity and masculinity, something that requires more reflection.

### *Policy Responses, Legal Frameworks and Outcomes*

In terms of outcomes, Latin American feminists have consistently pointed out the complicity of the different states across the region to support violence against women. This is testified, among others, by systematic failures to address the issue. Although most countries have passed laws on violence against women, there are still barriers that prevent effective protection. In Chile, legislation on domestic violence was introduced in 1994 (PNUD 104, Franceschet 9) following the creation of SERNAM (National Service for Women) in 1991 as a government agency aimed at the promotion of women's rights (Pieper Mooney 169). From

this service, the first tentative steps to addressing gender-based violence were taken, though significantly framed as intra-family violence, according to legal conceptualizations. Addressing violence against women in this context has faced obstacles such as cultural attitudes that promote impunity or lack of commitment to protecting women from violence in a highly patriarchal culture. For instance, the issue of the police or civil servants not taking seriously women's reports or the judiciary narrow framings, which in turn leads to the problem of underreporting as many women become reluctant to seek help or speak about the violence they suffer because the perception of support is limited after being dismissed in their reporting. This clearly reflects socially constructed discourses on gender norms. In addition, another issue is the lack of accurate statistics, appropriate resources and training as a result of limited budget allocated.

### *Femicide as a Crime of Gender Violence*

On the other hand, despite protocols that seem progressive at first sight, as it is for example with the introduction of the crime of femicide, in practice, bureaucratic procedures and failures to meet the needs of the victims imply that women face a lack of protection. Structural factors are still preventing these laws from being effective. Sexist attitudes and gender biases are found across services such as the police and the Courts, rendering policy aims and protocols ineffective in addressing the protection of women. Despite the fact that a law exists in most countries, and even with improvements introduced such as in Chile in 2005, still this legal framework does not prevent violence, especially in those countries where the approach against gender violence is not comprehensive enough.

Regarding the most extreme violence, in the region, the killing of women has been conceptualised as gender-based violence and specific laws to criminalise it have been introduced since 2007,

following the commitment to the gender agenda. In Chile legislation was introduced in 2010 (UNDP and UN Women 10). The definition of femicide follows Diana Russell and Jill Radford's conceptualisation of the gendered nature of women's killing.<sup>1</sup> There are some variations in legal definitions from one country to another in Latin America and the Caribbean, with some of them applying more comprehensive definitions and measures, others narrower frameworks, such as Chile which excludes the killing of a woman by strangers, which is integrated in other countries' penal codes such as Mexico. In this last case, there is an interesting development introduced by Mexican scholar Lagarde with her conceptualisation of feminicide (Lagarde xxiii). This concept expands the understanding to reflect on the state's neglect, making visible the fact that the killing of women is not only the perpetrator's individual responsibility but also the state's complicity, whenever it does not acknowledge acts of violence against women and supports their normalization. As Lagarde clearly explains:

Feminicide is able to occur because the authorities who are omissive, negligent, or acting in collusion with the assailants perpetrate institutional violence against women by blocking their access to justice and thereby contributing to impunity. Feminicide entails a partial breakdown of the rule of law because the state is incapable of guaranteeing respect for women's lives or human rights and because it is incapable of acting in keeping with the law and to uphold the law, to prosecute and administer justice, and to prevent and eradicate the violence that causes it. Feminicide is a state crime. (xxiii)

This is why Latin America and the Caribbean have 16 out of the 25 countries with the highest rates of femicide (ECLAC 25).

While femicide is the most severe form of gender-based violence, other forms of gender violence continue to have a significant impact on the lives of women, while also revealing the cultural roots of the phenomenon. Particularly sensitive is the

---

<sup>1</sup> See Radford, Jill and Russell, Diana. *Femicide: the politics of women killing*. Twayne Publishers In, Aug, 1992.

issue of reproductive rights, with the Latin American region still reluctant to assume women's autonomy over their own bodies. Abortion remains illegal in several countries. In the case of Chile, a recent bill on "therapeutic abortion" has been passed in 2018 by ex-president Michelle Bachelet. However, in practice, the bill has been undermined by conservative groups led by right-wing politicians and the Catholic Church. A legal battle is still in place over the rights of the medical professionals to object to the bill by putting their values first. Political compromise and the Chilean style of agreements seeking highly conservative ideological discourses have prevented women from exercising full citizenship.

These examples provide evidence regarding the contradictions faced through the journey to honour the transnational commitment to end gender violence and advance towards gender equality. The outcomes in the case of Chile shows that the 'gender perspective' has been uneven with significant obstacles, which make it easier for women to become victims of violence.

The lessons to take from the experience of Chile, and more broadly, of Latin America is that despite progress having been made, there is still an antagonist force that prevents the full endorsement of women's rights and the end of gender-based violence. This is where culture plays a role in resistance to changing normative gender identities and relations. To this regard, let us emphasize the crucial role of social and feminist movements, such as the network against domestic violence and sexual violence against women with their well-developed campaign "Caution Machismo kills!" (PNUD 105). This grassroots movement has contributed to increasing awareness and education on this issue, engaging the civil society and asserting the need for mobilization. The student feminist movement that emerged in Chile in 2018 following the *#metoo* movement was equally crucial in mobilizing people. So far, it has achieved important gains such as including in the agenda the issue of sexual harassment inside the universities perpetrated by academics in power and succeeding in some symbolic gains such as the sanctions against people ac-

cused of misconduct. This certainly marks a new era in terms of increased awareness and mobilization to denormalize issues that clearly constitute violence against women and have been supported and normalized through culture.

### *Conclusion*

More than 25 years after the Beijing Conference and the adoption of the Belém do Pará Convention, the Latin American region has witnessed significant political, social, and cultural changes, and progress is identified in the introduction of a legislation aimed at combating gender-based violence. However, this progress is still uneven, as in the case of Chile.

Violence against women in Latin America is a widespread phenomenon, supported by cultural constructions. The different forms this kind of violence adopts do reflect entrenched values with a mixture of religious discourses and conservative attitudes rooted in colonization. These attitudes and discourses have worked against the integration of the gender agenda within the democratization process, as observed in Chile.

It is important to highlight that legislation alone cannot change the culture and, particularly the pervasive assumptions that support and justify gender inequality. The role played by the state is equally fundamental. Political reforms need continuous monitoring from the civil society to prevent bureaucratization through an active exercise of citizenship. In tackling the cultural underpinnings of normative constructions of gender, the role of the educational sector is also crucial. Legislation and signed agreements need to go hand in hand with a systematic cultural work.

As I have attempted to show, by following international EU agreements sanctioning gender-based violence, most countries in Latin America have introduced legislation to address gender violence. However, the cultural dimension dominated by Machismo and Marianismo have had a negative impact on gender equality

and the fight against gender violence. This is why institutional responses appear fragmented and biased. In sum, culture matters and must be the centre of the strategies implemented by institutions to combat gender violence.

### *Works Cited*

- Bacigalupo, Ana Mariella. "Rethinking identity and feminism: contributions of Mapuche women and machi from southern Chile." *Hypatia* 18. 2 (May 2003): 32-57. <http://muse.jhu.edu/bris.idm.oclc.org/article/44181>. Accessed 16 November 2018
- Casas, Lidia y Vargas, Macarena. "La respuesta estatal a la violencia intrafamiliar." [State responses to intra-family violence]. *Revista de Derecho* XXIV. 1 (July 2011): 133-151. [doi.org/10.4067/S0718-09502011000100007](https://doi.org/10.4067/S0718-09502011000100007). Accessed 26 November 2016.
- Economic Commission for the Latin America and the Caribbean (ECLAC). United Nations. *Regional review and appraisal of implementation of Beijing declaration and Platform for action and the outcome of the twenty-third especial session of the General Assembly (2000) in the Latin American and Caribbean countries*, 2015. [www.repositorio.cepal.org/bitstream/handle/11362/37719/S1421041\\_en.pdf?sequence=4](http://www.repositorio.cepal.org/bitstream/handle/11362/37719/S1421041_en.pdf?sequence=4). Accessed 13 March 2016.
- Franceschet, Susan. "Explaining domestic violence policy outcomes in Chile and Argentina." *Latin American Politics and Society* 52.3 (Fall 2010): 1-29. [www.jstor-org.bris.idm.oclc.org/stable/40925584?seq=1#metadata\\_info\\_tab\\_contents](http://www.jstor-org.bris.idm.oclc.org/stable/40925584?seq=1#metadata_info_tab_contents). Accessed 26 July 2019.
- Jelin, Elizabeth. "Trayectorias entrecruzadas: los derechos humanos y el género en el desarrollo de las ciencias sociales latinoamericanas." *Revista colombiana de Sociología* 28 (2007): 27-45. [www.revistas.unal.edu.co/index.php/recs/article/view/7999/8643](http://www.revistas.unal.edu.co/index.php/recs/article/view/7999/8643). Accessed 1 January 2019.

- Lagarde, Marcela. "Preface." *Terrorising women: Feminicide in the Americas*. Eds. Rosa-Linda Fregoso and Cynthia Fejarano. Duke UP, 2010. xii-xv.
- Molyneux, Maxine. "Change and continuity in social protection in Latin America: mothers at the service of the state?" *Geneva: United Nations Research Institute for Social Development (UNRISD)*. 2007. [www.files.ethz.ch/isn/45959/001.pdf](http://www.files.ethz.ch/isn/45959/001.pdf). Accessed 03 July 2018.
- . "The chimera of success." *IDS Bulletin* 35.4 (2009): 112-116. [www.onlinelibrary.wiley.com/doi/epdf/10.1111/j.1759-5436.2004.tb00163.x](http://www.onlinelibrary.wiley.com/doi/epdf/10.1111/j.1759-5436.2004.tb00163.x). Accessed 30 June 2019.
- OAS and The Council of Europe. *Regional tools to fight violence against women: The Belem do Pará and Istanbul Convention*. February 2014.1-109. <https://www.oas.org/es/mesecvi/docs/MESECVI-CoE-CSWPub-EN.pdf>. Accessed 10 January 2019.
- O'Connor, Erin. *Mothers making Latin America: gender, households and politics since 1825*. Willey Blackwell, 2014.
- Pieper Mooney, Jadwiga. *The Politics of Motherhood: Maternity and women's rights in twentieth century Chile*. Pittsburgh UP, 2009.
- PNUD. *Desarrollo Humano en Chile 2010: los desafíos de la igualdad*. Programa de Naciones Unidas para el Desarrollo. (2010) [Human development in Chile: the challenges of equity. United Nations Programme for Development]. [www.desarrollohumano.cl/idh/download/PNUD\\_LIBRO.pdf](http://www.desarrollohumano.cl/idh/download/PNUD_LIBRO.pdf). Accessed 23 November 2017.
- Radcliffe, Sara, Nina Laurie and Robert Andolina. "The transnationalization of gender and reimagining of Andean indigenous development." *Signs: Journal of Women in Culture and Society* 29.2 (2003): 387-415. [www.journals.uchicago.edu/doi/10.1086/378108](http://www.journals.uchicago.edu/doi/10.1086/378108). Accessed 22 June 2019.
- Richards, Patricia. *Pobladoras, indígenas and the state: conflicts over women's rights in Chile*. Rutgers UP, 2004.
- Sepúlveda, Vanessa. "Democracia en el país y en la casa. Reflexión y activismo feminista durante la dictadura de Pinochet (1973-1989)." ["Democracy in the country and in the home. Reflection

- and feminist activism during the Pinochet's dictatorship (1973-1990)."] *Cuadernos Kore. Revista de historia y pensamiento de género* 8 (2013): 96-117. <https://e-revistas.uc3m.es/index.php/CK/article/view/2036/981>. Accessed 16 October 2018.
- Staab, Silke. "Maternalism, Male-Breadwinner Bias, and Market Reform: Historical Legacies and Current Reforms in Chilean Social Policy." *Social Politics: International Studies in Gender, State and Society* 19.3 (2012): 299-332.
- Stevens, Evelyn. "Marianismo, the other face of machismo in Latin America." Ed. A. Pescatello. *Female and Male in Latin America: Essays*. Pittsburgh UP, 1973.
- Solar, Ximena. "Género y políticas públicas: estado del arte." *Germina*. [https://germina.cl/wpcontent/uploads/2011/05/publicacion2\\_genero\\_politicas\\_publicas\\_estado\\_del\\_arte.pdf](https://germina.cl/wpcontent/uploads/2011/05/publicacion2_genero_politicas_publicas_estado_del_arte.pdf). Accessed 12 December 2018.
- United Nations Development Programme (UNDP) and United Nations Entity for Gender Equality and Empowerment of Women, (UN Women) (2017). *From Commitment to Action: Policies to End Violence Against Women in Latin America and the Caribbean. Regional analysis document*. <http://www.latinamerica.undp.org/content/dam/rblac/docs/Research%20and%20Publications/Empoderamiento%20de%20la%20Mujer/UNDP-RBLAC-ReportVCMEnglish.pdf>. Accessed 06 June 2018.
- Valdés, Ximena et al. "Entre la reinención y la tradición selectiva: familia, conyugalidad, parentalidad y sujeto en Santiago de Chile." *Familia y vida privada ¿transformaciones, tensiones, resistencias y nuevos sentidos?* ["Between reinvention and traditional selection: family, marriage, parenting and individuals in Santiago, Chile."] *Family and private life: ¿transformations, tensions, resistance and new meanings*. Eds. Teresa T. Valdés and Ximena Valdés. Flacso. Centro de estudios para el desarrollo de la mujer/ United Nations fund for population activities (UNFPA), 2005. 163-214. [biblio.flacsoandes.edu.ec/catalog/resGet.php?resId=46378](http://biblio.flacsoandes.edu.ec/catalog/resGet.php?resId=46378). Accessed 21 October 2018.
- Waylen, Georgina. *Women in third world politics*. Open UP, 1996.



THE NEED FOR A GENDER APPROACH  
TO CONTRAST VIOLENCE AGAINST WOMEN  
MORE EFFICIENTLY

Dragana Pejović, *University of Novi Sad, Serbia*

*Abstract*

In the Republic of Serbia, the expert community has abandoned the analysis of the legal provisions about gender, since the gender approach is considered to be unnecessary. This is confirmed also by the fact that despite the alarming number of women murdered in family/partner context in Serbia in the last few years, one part of the expert community contested the need for the adoption of the Law on Prevention of Domestic Violence and the introduction of new criminal offenses in the Criminal Code of the Republic of Serbia, which had the goal to prevent and protect women from violence.

Contrary to this position, the women's movement in Serbia has for years advocated the adoption of a law that would regulate action by competent authorities aimed at preventing domestic violence. The women's movement recognized the need for such a law given the large number of victims of domestic violence in Serbia. The goal of this paper is to point out the importance of the application of a gender approach in the analysis of legal solutions related to the issue of combating violence against women.

### *Introduction*

In 2015, 35 women were killed in the family/partner context in the Republic of Serbia, while in 2016 the number of women killed in this way was 33 (Women against Violence Network). In its 2016 Progress Report, the European Commission underlined that the Republic of Serbia should take adequate measures for solving the problem of violence against women (European Commission 62). In that respect, the European Commission emphasized the need to implement the European Council Convention on Preventing and Combating Violence against Women and Domestic Violence,<sup>1</sup> to improve the protection of women from violence and to establish a more efficient mechanism for collecting and exchanging data between state authorities.

On June 1, 2017, the Law on Prevention of Domestic Violence (Official Gazette of the Republic of Serbia No. 94/2016) entered into force in the Republic of Serbia and the Istanbul Convention was implemented (Law on Changes and Supplements of the Criminal Code “Official Gazette of the Republic of Serbia,” No. 94/2016). This introduced four new incriminations in the Criminal Code: female genital mutilation, stalking, sexual harassment and forced marriage. The criminal offenses of stalking (Criminal Code, Article 138a) and sexual harassment (Criminal Code, Article 182a) provoked strong reactions.

This paper addresses the topic of conflicting points of view in the scientific and expert community concerning the Law on Prevention of Domestic Violence and the new incriminations in the Criminal Code. This situation indicates the lack of real understanding, which prevents the proper application of legal solutions in practice. At the same time, the outlined issue points to the need for the strengthening of the cultural aspects concerning gender violence.

---

<sup>1</sup> The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence is often informally referred to as *The Istanbul Convention* since it was adopted in Istanbul in 2011.

*The Law on Prevention of Domestic Violence*

Many years before the adoption of the Law on Prevention of Domestic Violence, the women's movement in Serbia pointed out, by referring to the number of women killed in the family/partner context, that family does not mean a safe place for women and that the state must react. The growth of domestic violence in Serbia was caused by the wars in which Serbia participated in the 1990s, which resulted in the growth of violence in general and in an economic crisis that left the population poor without work. The large number of murdered women and the inadequate response of state authorities and institutions to growing femicide<sup>2</sup> pushed the women's movement to request that the state should adopt laws that would stop family violence. At the same time, the expert community did not demonstrate a special interest to start solving this issue.

In the activities aimed to contrast domestic violence, the women's movement focused first on the victims of domestic violence, because the number of murdered women in the domestic sphere was high. In Serbia, those who represent the expert community interpreted the activities of the women's movement in a negative context. The law that was meant to contribute to efficiently combating domestic violence was seen as a law whose "content sacrifices the family for the sake of women human rights" (Ristivojevic 105). Based on such critiques which were not supported by any argument, the Law on Prevention of Domestic Violence was presented as a caprice of the women's movement, as an attempt to secure a convenient life to women (Pejovic 325).

The Law on Prevention of Domestic Violence aims to compre-

---

<sup>2</sup> The women who were murdered often suffered previous violence from their husbands or other male family members and did not receive adequate protection from the police, social work centers or other competent authorities. It is especially worrisome that women who were later murdered in most cases had not received support from the people in their close surroundings (Petrusic et al. 11).

hensively regulate the mechanism of actions of state authorities and competent institutions in this field in order for them to act unitedly and thus more efficiently to prevent domestic violence (Law on Prevention of Domestic Violence, Article 2).<sup>3</sup> In addition, the goal of the law is to give appropriate protection and support to victims of domestic violence (Law on Prevention of Domestic Violence, Article 2). Hence, this law provides for the urgent measures imposed by police officers if they determine that there is direct danger from domestic violence. Two urgent measures are set forth: of temporary removal of the offender from the apartment, and of temporary prohibition to the offender to contact the victim of violence and to approach her/him (Law on Prevention of Domestic Violence, Article 17). These urgent measures are aimed at preventing violence, which not rarely resulted in the victim's death—the victim very often being a woman. There is an opinion within legal academics/part of the expert community that the urgent measures will irretrievably destroy the family and that therefore they have a negative impact on the family's survival. The allegation that “they prohibit the unification of individuals in a higher entity—family, i.e. they serve to atomize and to split it” (Ristivojevic 110) is an attempt to annul the importance of urgent measures based on the stereotyped opinion about the obligation to keep the family together at any cost. The allegations that “families survive on mutual obligations, and that means on dedicated giving, and not on rights or selfishness” (112) and that family relations are based on forgiving, refraining, and tolerating (112) are unacceptable in the presence of domestic violence. The criticism aimed at the Law on Prevention of Domestic Violence states that “by

---

<sup>3</sup> The cooperation between all competent state authorities and institutions is necessary in the prevention of domestic violence, which is demonstrated in the case of murdered O.L. from Belgrade. On July 5, 2017, O.L. was murdered in front of the Social Work Center in New Belgrade by her husband, who hit her head with a stone in front of their three children. The investigation initiated concerning the murder of O.L. showed the lack of communication between state authorities and institutions (Bogosav, 2017).

putting the exclusive accent on the protection of the human rights of the victim of domestic violence, the Law not only neglects the most important entity which, based on its name, it should protect—the family but, in fact, it harms it” (104). They show that the representatives of the traditional views neglect the provision of the Family Law which provides an obligation of spouses to respect and help each other (Family Law, Article 25). On the contrary and justifiably, feminist lawyers conclude that “models and forms of its existence and survival are part of the patriarchal and traditional views on gender relations, gender patterns, and family relations” (Petrušić et al. 7), which, instead of being destroyed, are supported by part of the expert community in Serbia.

By defining the Law on Prevention of Domestic Violence as an “antifamily law,” which is “extremely dangerous for Serbia” (Djurkovic 2016) and by arguing that “the essence of this law is not to reduce violence, but to reduce relationships and marriages” (Djordjevic 2018), Djordjevic wants to relativize domestic violence and annul its consequences on all members of the family. These opinions explain why domestic violence “for a long time was not considered a serious form of violence in a society but a form of common and socially accepted behavior” (Petrusic et al. 7).

In the context of domestic violence as gender-based violence, a part of the expert community is striving to present domestic violence as a situation that accompanies, i.e., that is a constituent part of family life in Serbia, and that women should adjust to it and accept it as part of everyday life (Pejovic 326).

### *Stalking as a Prelude to the Murder of Woman*

Stalking is most often a prelude to the murder of a woman. This connection has been neglected in Serbia, even though it is confirmed by research (McFarlane et al. 308). Stalking of women by men is interpreted as a “patriarchal mechanism to maintain

social control” (Nikolic-Ristanovic and Kovacevic-Lepojevic 8). For years the women’s movement outlined the dangers and risks deriving from stalking in Serbia and asked for the incrimination of stalking. Stalking was incriminated only in 2017, as an obligation that the state took by the ratification of *The Istanbul Convention*.

The introduction of a criminal offense of stalking (Criminal Code, Article 138a)<sup>4</sup> was also interpreted by the part of the expert community as unnecessary, since this criminal offense is allegedly the same with the criminal offense of endangerment of safety. The individuals who represent the expert community in Serbia pointed out that the only difference between stalking, which is prescribed by *The Istanbul Convention* (Law on Ratification of Convention of Council of Europe on Preventing and Combating Violence against Women and Domestic Violence “Official Gazette of the Republic of Serbia - International Agreements,” No.12/2013, Article 34) and the criminal offense of the endan-

---

<sup>4</sup> Stalking Article 138a of the Criminal Code:

(1) Whoever during a certain period:

- 1) follows another person unauthorized or takes other actions aimed at physically approaching this person against her/his will;
- 2) tries to have a direct contact without the will of another person, through a third party or via communication means;
- 3) abuses the personal data of other person or closely related person to offer goods or services;
- 4) threatens to attack life, body or freedom of another person or his/her closely related person;
- 5) performs other similar actions in the manner that may significantly endanger the life of a person against whom the actions are taken will be punished by fine or imprisonment up to three years.

(2) If the offense referred to in paragraph 1 of this Article caused danger to life, health or body of a person against whom the offense is committed or a person closely related to him/her, the perpetrator will be punished of imprisonment from three months to five years.

(3) If due to the offense referred to in paragraph 1 of this Article a death of another person or a person related to him/her has occurred, the perpetrator will be punished by imprisonment from one to ten years.

germent of safety<sup>5</sup> is that stalking requires a continuity of actions. Therefore, they think that the criminal offense of endangerment of safety already presents an accomplishment of the obligations arising from the ratified Istanbul Convention (Djordjevic 133), whereas at the same time they completely overlook the Rule of Reasoning of the Convention, which explains stalking (Council of Europe 32).

It is indisputable that unlike the criminal offense of endangerment of safety, the criminal offense of stalking requires repeated actions—i.e. continuity of committing actions. Stalking has to extend over a period of time but the specificity of the criminal offense of stalking is that actions by which it is performed are sometimes not illegal on their own but are taken against the victim's will.

The problem in practice, before the incrimination of stalking, was that many actions by which stalking was performed and which were conducted by later perpetrators of murders were actually not recognized as actions of the criminal offense of endangerment of safety. This is confirmed by the failure of the competent state authorities to seriously consider the charges for the endangerment of the safety of the women who were stalked and

---

<sup>5</sup> Endangerment of safety Article 138 of the Criminal Code:

(1) Whoever endangers the safety of any person by a threat that he/she will attack the life or body of that person or a person close to him/her, will be punished by a fine or imprisonment for up to one year.

(2) Whoever commits the offense referred to in paragraph 1 of this Article against more persons or if the offense caused disturbance of citizens or other severe consequences, will be punished by imprisonment from three months to three years

(3) Whoever commits the offense referred to in paragraph 1 of this Article against the president of the Republic, member of parliament, president of the Government, member of the Government, judge of the Constitutional court, judge, public prosecutor and deputy public prosecutor, attorney at law, police officer and person who carries the activities with public importance in the field of information related to the business this person performs will be punished by imprisonment from six months to five years.

later killed.<sup>6</sup> By equating stalking with the endangerment of safety, the expert community demonstrates a lack of understanding of the criminal offense of stalking (Nikolic-Ristanovic and Kovacevic-Lepojevic 3–12)<sup>7</sup> as well as a lack of empathy for the victims of stalking. The introduction of a gender approach aims at the differentiating these two criminal offenses. It would help their understanding and provide an adequate reaction of state authorities and institutions.

As stated above, the major problem in recognizing the criminal offense of stalking is the fact that certain actions by which stalking is committed, may, at first glance, present a gesture or expression of love. In this respect, the sending of emotional letters or text messages, the sending of gifts or the man waiting in front of the apartment or the workplace with flowers would, in a normal situation, represent a nice gesture.<sup>8</sup> However, these

---

<sup>6</sup> One of the examples is the case of late M.DJ. from Belgrade. On July 12, 2017 M.N., ex-partner of M.DJ. strangled their four-year-old child in front of the Social Work Center in Rakovica at the time set for seeing the child. He brought the dead child in his hands and threw him on the ground in front of M.Dj. who came to take over the child. After that M.N. attacked her with a knife. She died from the injuries.

M.N. stalked M.DJ. for years after their separation, however, his actions of domestic violence lasted too long, and the charges for endangerment of safety filed on March 8, 2017, did not receive a court closing. Many calls to the police office in Rakovica ended up with talking aimed to calm down M.DJ. without the appearance of police officers on sight. The case of M.DJ. who was stalked by her ex-partner for years in many ways by following, leaving messages, sending text messages, demonstrate the lack of recognition of stalking under the criminal offense of endangerment of safety and lack of empathy for the victim's situation even in a situation in which her life without any doubt threatened (Bogosav and Todorovic, 2017).

<sup>7</sup> The authors examined the court practice of the states that incriminated stalking and concluded that there is a lack of understanding and confusion between stalking, sexual harassment, and domestic violence, and that this represents the main obstacle for the actions of the competent authorities. In addition, they predicted one decade before the incrimination of stalking will cause a problem among the expert community in Serbia.

<sup>8</sup> The stated actions of the criminal offense of stalking served as bases for



actions may also indicate that the attention is shown by the perpetrator of violence, who wishes to approach intimacy through fear. These actions per se cannot directly be connected to a negative feeling but when a victim of stalking experiences them as a nightmare, as fear, as persecution, these are so upsetting that stalking may be characterized as the psychological raping of a victim (Jovanovic 234).

The main difficulty is that stalking may be performed without direct contact with a victim for example by sending letters or flowers, leaving massages, writing graffiti, etc. This additionally indicates how important it is to understand the concept of stalking and to recognize stalking in time to help the victim. The development of information technologies has enabled cyberstalking, which is also incriminated in the criminal law of the Republic of Serbia. Proving that the act is a criminal offense of stalking is one of the challenges that state authorities, institutions and courts in Serbia must face.

The outlined problems in proving the criminal offense of stalking require organized training which would introduce the gender approach for employees who work on the cases of violence against women, to recognize stalking in time and to provide appropriate support and assistance to the victims.

### *Sexual Harassment as a Mode of Intensive Courtship*

Before being incriminated, the actions of sexual harassment had been regarded in Serbia as a form of intensive courtship. The

---

judgmental texts in the press with untrue information on new incrimination. The news texts have the following headlines “New law You will go to jail for courtship” (Alo, 2017), “Cautious, do not talk dirty jokes to your female colleagues: according to the new law you may end up in a jail” (Informer, 2016), “For courtship you will pay a fine” (Novosti, 2017), “Women, pay a drink only if you do not enjoy courtship: Famous message in a pub in Belgrade” (Telegraf, 2017).

obligation to incriminate sexual harassment (Criminal Code, Article 182a) is also derived from the ratification of *The Istanbul Convention*. Similar to the criminal offense of stalking, its incrimination provoked different reactions in the expert community, and even greater divisions in society.<sup>9</sup> The prohibition of sexual harassment is also prescribed in the Serbian law by the Law on Prohibition of Discrimination (Article 20 paragraph 2)<sup>10</sup> and Labor Law (Article 21).<sup>11</sup>

Sexual harassment may be performed in several manners: verbally, nonverbally, and physically. Verbal behavior included words or sounds, jokes, questions, comments, etc. Nonverbal behavior relates to facial expression, movements of hands, symbols, etc. Physical behavior includes the sexual behavior of the perpetrator and includes also the contact of the perpetrator with the victim's body. Regardless of the type, the behavior has to be of a sexual nature (Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence 35).

All forms of behavior that constitute sexual harassment have the same goal, that is to violate the dignity of a person in the

---

<sup>9</sup> The introduction of the criminal offense of sexual harassment was followed by many untrue articles in daily newspapers. One of these texts was published by the daily newspaper *Informer* on May 29, 2017, in its online edition under the headline "Lovers caution, for pushy flirting from now on you will go to a jail: We discover what is introduced by the new provisions of the Criminal Code For courtship fine for your pocket." After the publishing of this text, the Autonomous Women Center initiated proceedings before the Commission for Appeals of the Press Council against the daily newspapers *Informer* due to the breach of Serbian Journalists Codex, since it informed about the new incrimination in an unclear manner, falsely stating that courtship is incriminated. During the proceedings, the Commission determined that this text breached the Serbian Journalist Codex and public warning was imposed against daily newspapers (cf. Cenzolovka, 2017).

<sup>10</sup> "Official Gazette," No. 22/2009.

<sup>11</sup> "Official Gazette of the Republic of Serbia," no 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017-decision of the constitutional court, 113/2017 and 95/2018-authentic interpretation).

sphere of sexual life, by causing fear and by creating hostile, humiliating, and embarrassing surroundings. These behaviors have to be unwanted by the victim (35-36).

Women in Serbia are often exposed to the type of behavior that is considered a criminal offense of sexual harassment. This behavior did not receive special attention until its incrimination. A woman was supposed to face such a behavior only on the assumption that she is a woman in the spirit of the patriarchal values that are present in Serbia. According to these social behaviors, the best solution for a woman is to close her eyes and to get over this. Especially if this lasts for a long period, it may cause serious psychological consequences.

Even the individuals who represent the expert community find the actions that are considered as sexual harassment to be unimportant and relativize them. Critics indicate that the actions of performance of the criminal offense of sexual harassment are defined too broadly, which means that “even some relatively innocent behaviors” are incriminated (Djordjevic 136), and there is a concern that the courts will be overburdened with such “relatively unimportant crime.” Contrary to this attitude, the fact is that no behavior of sexual nature that damages a person’s dignity in the sphere of sexual life and causes fear, creates hostile, humiliating or assaulting surroundings can be characterized from the victim’s point of view as relatively innocent behavior. The characterization of the criminal offense of sexual harassment as a relatively unimportant crime is irresponsible, if we take into consideration how the value of life of women in Serbia is deflated (Pejovic 331). The relationship toward criminal offense of sexual harassment presents the desirable mode of behavior of men towards women in Serbia but also the need to introduce a gender approach in the interpretation of certain incriminations, to change the existing points of view.

### *Conclusion*

The change in the legislation of the Republic of Serbia that was supposed to decrease violence against women did not bring results. In Serbia, 26 women were killed in the family/partner context in 2017, while 30 women were killed in 2018.<sup>12</sup> Women are still exposed to attacks in their families that end up by the loss of life. Such a situation shows how traditional the society in Serbia is, where the opinion that “a woman is always guilty for the violence she suffers, that she should remain ‘silent’ and be ‘loyal’ to a family etc.” (Petrusic et al. 10) is widespread. This is especially dangerous since these attitudes are present in legal science and promoted by individuals who represent the expert community in Serbia. Such a situation requires the implementation of a gender approach in legal science to highlight the cultural aspects of the problem, especially when taking into consideration the violence against women since the current patriarchal constructions are contrary to the established rights and the fundamental freedom of women. The presence of a gender approach in the inter-

---

<sup>12</sup> To illustrate the brutality of these attacks we will mention two recent cases.

On March 14, 2019, Dj.L. beat up his girlfriend I.F. in their apartment. Dj.L. was suspecting that I.F. was cheating on him, which was a motive for the attack. He beat up the girl with his hands, legs and a wooden bar, he cut her face and hands with a knife and after that, he burnt parts of her body with an iron. I.F. suffered severe rib fractures, a chest contusion, lung contusion, her lung tissue was broken and she suffered many cuts and burns on her face, hands, and legs. Her friends say that Dj.L. was always jealous and that he was controlling the movement of I.F. Doctors succeeded to save the life of I.F. (E.B. 2019).

On June 10, 2019, D.J. shot his wife T.J. in her chest while he was walking with their eleventh-month-old child. After the attack, he shot himself in the head. T.J. had suffered for years from her husband’s violence to the point that at the beginning of 2019 she decided to leave him and to return to her parents’ apartment. D.J. could not stand the fact that T.J. reported him for domestic violence and initiated divorce proceedings. There was a measure of prohibition to approach his ex-wife that lasted until the end of May but was not prolonged after that period. While the measure was in force D.J. did not approach T.J. Doctors saved the life of T.J. while D.J. died from injuries (Blic 2019).

pretation of legal solutions in the field of violence against women would contribute to the understanding of legal solutions and their more efficient application in practice, all this with the goal to prevent and combat violence against women in Serbia.

### *Works Cited*

- Blic. “‘Teodora, Love, Let’s Go To Buy You Something.’ Wife rejected to go with him so he SHOT her, policemen cover the wounds with a t-shirt.” *Blic*, 12 June 2019. [www.blic.rs/vesti/hronika/teodora-jovanovic-teodora-jovanovic-novi-beograd/rmjx69d](http://www.blic.rs/vesti/hronika/teodora-jovanovic-teodora-jovanovic-novi-beograd/rmjx69d). Accessed 15 June 2019.
- Bogosav, B. and Todorovic, S. “Cry for help that was not heard tragic reports and letters that were written by a murdered wife reveal how the monster tortured her for years.” *Blic*, 16 July. [www.blic.rs/vesti/hronika/vapaji-koje-niko-nije-cuo-potresne-prijave-i-pisma-koje-je-pisala-ubijena-zena/5f60k4p](http://www.blic.rs/vesti/hronika/vapaji-koje-niko-nije-cuo-potresne-prijave-i-pisma-koje-je-pisala-ubijena-zena/5f60k4p). Accessed 15 December 2018.
- Bogosav, B., 2017. “Four years waiting for justice and not getting it cruelly killed maja djordjevic went from years through a hell” *Blic*, 17 July. [www.blic.rs/vesti/hronika/cetiri-godine-cekala-pravdu-i-nije-je-docekala-zverski-ubijena-maja-djordjevic/85nb9wt](http://www.blic.rs/vesti/hronika/cetiri-godine-cekala-pravdu-i-nije-je-docekala-zverski-ubijena-maja-djordjevic/85nb9wt). Accessed 15 December 2018.
- Bogosav, B., 2017. “Murder on new belgrade the report revealed all the omissions of the social work center.” *Blic*, 18 July. [www.blic.rs/vesti/hronika/ubistvo-na-novom-beogradu-iz-vestaj-otkrio-sve-propuste-centra-za-socijalni-rad/qv8lgqc](http://www.blic.rs/vesti/hronika/ubistvo-na-novom-beogradu-iz-vestaj-otkrio-sve-propuste-centra-za-socijalni-rad/qv8lgqc). Accessed 03 November 2018.
- Cenzolovka. “Autonomous Women Movement against Daily Newspapers Informer.” 12 July 2017. [www.cenzolovka.rs/etika/autonomni-zenski-centar-protiv-dnevnog-lista-informer/](http://www.cenzolovka.rs/etika/autonomni-zenski-centar-protiv-dnevnog-lista-informer/). Accessed 03 November 2018.
- Criminal Code of the Republic of Serbia (“Official Gazette of the Republic of Serbia,” No. 85/2005, 88/2005 - correc-

- tion, 107/2005 - correction., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014 and 94/2016).
- Djordjevic, Djordje. "New incriminations and their harmonization with other provisions of the Criminal Code of Serbia." Reform processes and chapter 23 (*one year later*)-*criminal law aspect*. Ed. Bejatovic Stanko. 2017. 129-139.
- E.B. "He thought that Ivana was cheating on him" Behind horrible violence in Novi Sad there is a horror story about sick jealousy. *Blic*, 14 March 2019. [www.blic.rs/vesti/hronika/mislivo-je-da-ga-ivana-vara-iza-divljackog-iziviljavanja-u-novom-sadu-krije-se-horor/wx8r1ym](http://www.blic.rs/vesti/hronika/mislivo-je-da-ga-ivana-vara-iza-divljackog-iziviljavanja-u-novom-sadu-krije-se-horor/wx8r1ym). Accessed 15 June 2019.
- European Commission. 2016. Commission Staff Working Document Serbia 2016 Report. [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_serbia.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_serbia.pdf). Accessed 15 December 2018.
- Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence 2011. <https://rm.coe.int/16800d383a>. Accessed 03 January 2019.
- Family law ("Official Gazette of Republic of Serbia," No. 18/2005, 72/2011 – other law and 6/2015).
- J., M., M. M., D. 2016. "Caution, do not talk dirty jokes in front of female colleagues: According to the new law, because of that you may end up in jail!" *Informer*, 11 November 2016. <http://informer.rs/vesti/drustvo/299493/oprez-ne-pricajte-masne-viceve-koleginicama-prema-novom-zakonu-zbog-toga-mozete-zavrstiti-na-robiji>. Accessed 05 November 2018.
- Jovanović, Sladjana. "New incriminations in the function of protection of women from violence." Reform processes and chapter 23 (*one year later*)-*criminal law aspect*. Ed. Bejatovic Stanko. 2017. 228-240.
- J.Ž.S. "For courtship fine against your pocket." 2017, *Novosti*, 31 May 2017. [www.novosti.rs/vesti/naslovna/drustvo/aktuel-No.290.html:668081-Za-udvaranje-kazna-podzepu](http://www.novosti.rs/vesti/naslovna/drustvo/aktuel-No.290.html:668081-Za-udvaranje-kazna-podzepu). Accessed 10 November 2018.

- Labor Law (“Official Gazette of Republic of Serbia,” No. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 – decision of the Constitutional court and 13/2017).
- Law on Prevention of Prohibition of Domestic Violence (“Official Gazette of Republic of Serbia,” No.94/2016).
- Law on Prohibition of Discrimination (“Official Gazette of Republic of Serbia,” no 22/2009).
- McFarlane, J. M., Campbell, J. C., Wilt, S., Sachs, C. J., Ulrich, Y., & Xu, X. “Stalking and intimate partner femicide.” [http://ncdsv.org/images/HomicideStudies\\_StalkingAndIntimate-PartnerFemicide\\_11-1999.pdf](http://ncdsv.org/images/HomicideStudies_StalkingAndIntimate-PartnerFemicide_11-1999.pdf). Accessed 02 January 2019.
- Nikolic-Ristanovic, Vesna, and Kovacevic-Lepojevic Marina. “Stalking: concept, characteristics and social answers.” *Temida*. 2007. 3-12. [www.doiserbia.nb.rs/img/doi/1450-6637/2007/1450-66370704003N.pdf](http://www.doiserbia.nb.rs/img/doi/1450-6637/2007/1450-66370704003N.pdf). Accessed 03 January 2019.
- Pejović, Dragana. “Importance of gender approach in legal science.” *Feminist theory is for everybody*. Eds. Adriana Zaharijevic and Katarina Loncarevic. 2019. 323-335.
- Petrusic, Nevena, Zunic, Natalija, and Vilic Vida. *Criminal offense domestic violence in court practice new tendencies and challenges*. Belgrade, Mission of OEBS in Serbia, 2018.
- Ristivojevic, Branislav. “Family criminal law birth in Serbia: family as its first victim.” Reform processes and chapter 23 (*one year later*)-*criminal law aspects*. Ed. Bejatovic Stanko. 2017. 104-113.
- Women against Violence Network 2016 “Femicide-murder of women in Serbia, Quantitative-narrative report for 2015”. [www.zeneprotivnasilja.net/images/pdf/FEMICID-Kvantitativno-narativni\\_izvestaj\\_za\\_2015\\_godinu](http://www.zeneprotivnasilja.net/images/pdf/FEMICID-Kvantitativno-narativni_izvestaj_za_2015_godinu). Accessed 30 October 2018.
- Women against Violence Network 2017 “Femicide-murder of women in Serbia, Quantitative-narrative report for 2016”. [www.zeneprotivnasilja.net/images/pdf/FEMICID-Kvantitativnonarativni\\_izvestaj\\_za\\_2016\\_godinu](http://www.zeneprotivnasilja.net/images/pdf/FEMICID-Kvantitativnonarativni_izvestaj_za_2016_godinu). Accessed 12 November 2018.

Women against Violence Network 2017 “Femicide-Murder of Women in Serbia. Quantitative-narrative report for 2017” [www.zeneprotivnasilja.net/images/pdf/FEMICID\\_Kvantitativnonarativni\\_izvestaj\\_za\\_2017\\_godinu](http://www.zeneprotivnasilja.net/images/pdf/FEMICID_Kvantitativnonarativni_izvestaj_za_2017_godinu). Accessed 06 December 2018.

Women against Violence Network 2019 “Femicide-murder of women in Serbia, Quantitative-narrative report for 2018”, [www.zeneprotivnasilja.net/images/pdf/FEMICID\\_Kvantitativno-narativni\\_izvestaj\\_za\\_2018\\_godinu](http://www.zeneprotivnasilja.net/images/pdf/FEMICID_Kvantitativno-narativni_izvestaj_za_2018_godinu). Accessed 12 April 2019.



LOCATING CHANGE:  
QUEER/FEMINIST CONSTRUCTIONS OF SPACE

Katrin Wieden, *University of Linköping*

*Abstract*

Queer/feminist activists build *safe spaces* to counter discrimination and to practice utopian ways of living together (Hayner, 2017). They try to break heteronormative hierarchies and hence use rules that secure marginalized positions. Yet these rules often rely on performativity (Butler, 1988) and thus foster binary thinking in favor of prominent and uncontradictory locations (Anthias, 2013), such as femininity and homosexuality, while marginalizing contradictory locations such as gender-non-conformity and sexual fluidity. To build sensitive/anti-discriminatory queer spaces, we must therefore understand the powerlines within these spaces and discuss how they are enacted and perceived/read/related to heteronormativity and to contradictory locations.

Using Anthias' intersectional model and Robinson's locations of change, I analyze heteronormative narrations in the wider society and anti/discriminatory approaches in queer/feminist spaces in Berlin, Germany. I discuss ways in which queer/feminist spaces mirror heteronormative power hierarchies, exclude certain queer locations, and introduce new approaches to change. I ask: How does queer/feminist activism relate to/disengage from rape culture? Which power lines structure queer/feminist spaces? Which assumptions of sex/gender/sexual desire, society, and psychology underpin them? How do queer/feminist spaces approach change?

### *Introduction*

Change is an inherent aim of feminist theory (Robinson, 2000). Currently, developments in society marginalize non-heteronormative biographies, narratives and thinking (Penny, 2014 and 2016). An awareness of and resistance to this violence and discrimination begins to grow in the wider society.

Within this research paper I thus aim to discuss how queer/feminist safe spaces approach intersectionality and envision change.

Taking a post-constructionist approach, I will first introduce the background in which these are embedded to then discuss how queer/feminist spaces approach intersectionality (Anthias, 2013), which assumptions underpin them and finally how change is conceptualized with reference to prominent conceptualizations in feminist theory.

### *Rape Culture, The Istanbul Convention and Queer/Feminist Spaces*

To map the context of queer/feminist spaces, I will first outline the concept of rape culture with the aim to discuss *The Istanbul Convention* as a tool in mainstream society and to finally point out the specific need of queer/feminist approaches to change.

Rape culture is a concept, no longer restricted to queer/feminist discourse but discussed in mainstream society and politics as highlighted by *The Istanbul Convention* (Council of Europe). It describes a set of cultural beliefs engrained in the wider society, according to which, first, coercion is to be considered normal, and consent is not required, following the binary narration by which women are always victimized and men allowed to transgress boundaries. Second, women are demanded to take responsibility for men's transgressions, so that to keep their chastity record "safe" (Penny, 2014; Peluso, 2016). These cultural be-

liefs manifest in *rape myths* (O’Neal, 2019; Phipps et al., 2018), such as statements like “women enjoy being raped” (Phipps et al., 2018) or assumptions about “blurred lines around consent” (Phipps et al., 2018), thus questioning women’s credibility. They hinder plaintiffs bringing forward allegations and cooperating in investigations, thus corrupting legal protection and explaining low conviction rates (O’Neal). Hence, they re/strengthen a culture of normalized transgressions and *victim blaming* (Penny)—that is, they strengthen rape culture.

In rape culture, queer locations such as sexual fluidity or gender-non-conformity are most vulnerable to violence (Henry, 2016; Diamond, 2005). Sex/gender/sexual desire is framed binarily and narrations consider men and women and relations between them. People not fitting into these stereotypical norms, are perceived as leaving safe societal scripts (Diamond, 2005) and are being blamed for occurred transgressions. This process also concerns other non-privileged locations, based on dimensions such as race, ethnicity or ableism (Diamond, 2005). It distorts post-coercion care and hinders healing (Johnson, 2017). The general mechanisms of normalization and victim-blaming thus marginalize queer locations and due to an ignorance of their existence, queer people are often perceived as transgressing safe societal scripts, making these locations most vulnerable to violence.

The Council of Europe<sup>1</sup> thus developed *The Convention on preventing and combating violence against women and domestic violence*, also known as *The Istanbul Convention*.<sup>2</sup> To counter violence, specific policies for the protection of women have been developed and agreed on by 47 member states to date. By explicitly aiming at protecting women and narrating domestic violence

---

<sup>1</sup> Distinct from the European Union, the Council of Europe, founded in 1949, has 47 member states and aims to ensure human rights, democracy and the rule of law in Europe (Council of Europe).

<sup>2</sup> Opened for signature on 11 May 2011, in Istanbul Turkey. At time of writing, signed by 46 countries and the European Union.

as affecting women, however, *The Convention* is framed within the main discourse which narrates women as a homogenous group of victims and furthermore neglects male victimhood. This is at odds with empirical accounts on male victimhood, the diversity of womanhood\* and domestic violence (Dank et al., 2014). Gender, sex and sexual desire based violence does not stop at narrated gender dimensions. *The Istanbul Convention* thus remains within the mainstream narration and fosters ideas of female victimhood and homogeneity, neglecting further vulnerabilities.

Queer/feminist activists hence take a more intersectional approach to fighting rape culture when constructing *safe spaces*. Originally developed as women's and youth refuges in social work to protect traumatized people and those in vulnerable locations (Hayner, 2017), queer/feminist spaces today include queer people generally. They may take different shapes, such as bars, community centers or book clubs. They all have in common an aim to protect queer locations and to bring about change.

However, a debate is growing around how these spaces can be protective for marginalized positions, while simultaneously being inclusive. People in non-binary locations, such as gender or sexual fluidity and trans\*, partly face exclusion from queer/feminist safe spaces. Trans\* women are demanded to stay out of women's rest rooms and bisexual people are asked not to behave *heterosexually* (tea-riffic, 2014; Borchert, 2017). In doing so, these spaces thus reenact discriminating rules and violence.

This analysis will thus discuss the underlying causes, by asking how queer feminist activists include intersectional approaches and how spaces find different ways to approach change.

### *Methodology*

As narrations in rape culture and queer/feminist spaces include bodily and spatial components, I chose to approach the analysis from a postconstructionist point of view.

Postconstructionism is one of the various feminist epistemological entries and methods (Lykke, 2010). It was developed by drawing on insights from de/constructionist thinking methodologies. These pointed out that discourse shapes matter, to a certain extent, and therefore also sex/gender are no primordial artefacts but co/products of their social and cultural environment. However, in opposition to de/constructionist trains of thought, postconstructionist scholars reject unidirectional influence and instead view matter and discourse as constantly co-constituting one another (Barad, 1998; Lykke, 2010). Postconstructionism thus draws on de/constructionist technologies, but considers the corporeality of matter (Alaimo, 2008).

In its discussion of gender/sex relations, this approach widens the analytical perspective towards psychological and/or biological insights.

### *Research Material*

In Berlin, queer/feminist spaces have a long tradition (Hutton, 2018) and over time recurrently showed as a hub for LGBTTIQA\* in Germany and Europe. Currently, Berlin offers a variety of queer/feminist spaces and discussions. One of the most prominent issues is the opening towards different queer locations and the sensitivity to marginalized dimensions such as ethnicity and race within queer/feminist circles (Brülls, 2018; Kracher, 2017). Discussions range from identity politics to a naïve neglect of discrimination (L'amour Lalove, 2017; Kracher, 2017).

Within this context, queer/feminist activists have developed different concepts, fuelled by discussions in queer/feminist communities and media to tackle these issues. Broadly, two approaches to conceptualizing change can be recognized. The first one focuses on protecting vulnerable locations by introducing a safe space while the second approach aims at societal transformation more generally.

To discuss these two approaches, this analysis will discuss two “manifestos” of queer/feminist spaces in Berlin as well as articles that highlight the related discussions. The first approach is highlighted by *SilverFuture*, a queer bar, proclaiming to be “For Kings and Queens and Criminal Queers”, while *Gegen*, a party taking place at the fetish club “KitKatClub”, proclaims a more transformative approach to change.

In support of the wider discussions, I will refer to articles published in blogs and (queer) journals, extending and conceptualizing the narrations within which safe spaces are located.

### *Research Questions*

In asking the overarching question of how intersectionality is approached in queer/feminist spaces and how change is being conceptualized, I more specifically pose the following questions: Which power lines structure queer/feminist spaces? Which assumptions of gender, sex and sexual desire, society and psychology underpin them? How does queer/feminist activism relate to/disengage from mainstream narrations? Where is change located?

### *Methods*

Postconstructionist approaches offer different tools to take on board these questions. Since I study context and locations there-in, tools accounting for space and time are needed. Situated in a broader and historically shaped mainstream context, also queer/feminist spaces are of temporal nature. Subjects move between spaces, they come from various contexts and draw on different biographical histories. This is especially so in cosmopolitan hubs such as Berlin.

I have thus chosen two analytical frameworks that help in dissecting intersectionality and conceptualizing change by accounting for space and time.

The first concept is by Floya Anthias and analyses intersectionality. She introduces the concept of *translocations*, which considers moving subjects and conflicting power dimensions. In focusing on power relations instead of specific, often disadvantaged, categories, Anthias rejects essentialism. Given this enhanced fluidity, her approach allows to dissect societal relations more widely. Moreover, considering time and space enables one to uncover non-salient and *contradictory locations*. For example, a dimension may allocate privileges in one context but be negatively viewed in a different one. Additionally, locations within a context can be composed by conflicting dimensions, such as privileged cis-sex but marginalized homo-sexual desire in mainstream society. The concept of contradictory locations is thus of specific advantage when analyzing locations in both rape culture and safe spaces. The timely component finally takes into account the historical shaping, the attached power relations, and the options for change of both locations and discourses.

The second concept locates change in space and time. Jenny Robinson views change explicitly as a political transformation of power and sex/gender relations, thus in tune with Anthias's concept of intersectionality. She discusses three different approaches to change to highlight how it is commonly conceptualized and how it shapes our understanding and perspectives on possible action.

She first draws on Luce Irigaray's anti-empiricist, while nonetheless realist approach. Irigaray assumes an inherent difference between masculinity and femininity with an overarching infiltrating masculine narration, which is not graspable. It would nonetheless incorporate any attempts to change and hence constrain imagining change, wherefore being real and present. Only a revolution as a complete reshaping would bring about change, locating change in a distant future.

Judith Butler, on the contrary, describes change as constantly happening, locating it in a performed present. Society would be in permanent change and one could empirically engage in discourse. Gender narrations would be real in that they shape our

perception but nonetheless unreal as they are merely constructed and constantly reenacted. Butler therefore supports a de/constructionist approach and assumes constant small changes as an option, opposed to a general revolution.

Finding a middle ground between these two approaches, Julia Kristeva reconceptualizes masculinity and femininity by drawing on psychoanalytical concepts of the *semiotic* and the *symbolic* instead. She considers a hegemonic masculine discourse but does not believe in a strictly binary framing and thus allows post-constructionist entry-points for change.

In her understanding, drawing on psychoanalysis, the *semiotic* refers to bodily and emotional components, while the *symbolic* aligns with discourse and rationality. These spheres would constitute women as well as men. Only through discourse would women be constructed as merely semiotic and men as merely symbolic. Epistemologically, Kristeva assumes they could be empirically studied and are real. Thus she considers both, matterly components or an *agential realism* (Barad, 1998), while nonetheless being aware of the structuring components of discourse (Lykke, 2010; Butler, 2011). Kristeva thus locates change in the present and as constantly happening through interaction and intrapsychic balancing, while also considering revolution a possible option. This is as she highlights the structuring and securing notions of power relations, which can be influenced by men and women alike. While they would structure the present, changing them would have a revolutionary effect. In opposition to Irigaray and Butler, her consideration of semiotic and symbolic hybridity allows different locations of change.

In conclusion, all approaches have in common a focus on discourse while accounting for corporeality (Alaimo, 2008). Anthias's conceptualization of translocations allows to consider contradiction within locations, structured along power relations while being a flexible and context-sensitive tool. Robinson offers the idea of locating change in space in time, thus ideally equipping one for an analysis of how spaces of change are being con-



structured. Change will hence be discussed in relation to Irigaray's, Butler's and Kristeva's approaches.

### *Power Relations and Locating Change*

In opposition to mainstream society, queer/feminist spaces question an alignment of sex/gender/sexual desire along heteronormative lines and are intrinsically open to non-heteronormative locations. However, in their attitude towards this openness they take different approaches.

*SilverFuture* for example explicitly rejects "homo- or transphobic attitude(s)" ("SilverFuture" Start) thus considering the interplay of gender/sexual desire as well as the interplay of sex/gender. *Gegen*'s manifesto in turn is addressed at queers, but does not specifically mention certain dimensions, hence being wider in scope. The latter additionally includes the dimension of political/economic powers by explicitly referring to markets.

In the following section, I will thus first discuss *SilverFuture*'s approach which can be related to binary discussions, to then analyse *Gegen*'s vision of change.

### *Intersectionality in Binary Queer/Feminist Spaces*

*SilverFuture*'s concept states to be "open for queer people of all kind of gender identities and sexualities" ("SilverFuture"). It specifically rejects certain discriminatory behavior (see above). In only naming homophobic tendencies concerning sexual desire, *SilverFuture* however supports a binary framing, which reproduces mainstream narration. Identifying the most prominent discriminatory tendencies in society and aiming to construct a protective space from them, it may secure uncontradictory locations but produces *contradictory* locations. Binary framings allocate sexual fluidity in a *contradictory* location (Anthias, 2008) by

reading it along dichotomic lines that view fluidity as an interplay of homosexuality and heterosexuality.

This tendency nurtures discussions on the following question: For whom are queer/feminist spaces? The blog Tea-riffic argues, that *cis-heterosexual performance* should not take place in queer spaces, Schwarzrund asks *bisexual* people read as heterosexuals to (partly) hide their relationship in queer spaces and Anneli Borchert reenacts transdiscrimination by demanding Transwomen with Penises not to enter women's restrooms.

### *Which Assumptions Underpin Binary Queer Spaces?*

How may queer/feminist activists and spaces reenact discrimination? What are their ontological assumptions? To map these, I will discuss them in reference to different contexts and knowledge sources, such as intersectionality (Anthias, 2013), psychological insights and ontology.

First and foremost, these discussions assume that sexual desire would always translate into binary *performance* (Butler, 1988) and subjects would need to be aware of this. People are hence demanded to check how they or their partner could be read in a binary, mainstream framing to then abstain from *performing* heterosexually. However, this only concerns sexually fluid and gender/sex-non-conforming people as they and their behaviour may not permanently be read within the same binary spectrum. Doing so thus allocates them in contradictory locations and (partly) excludes them.

On a cultural level, these discussions assume an overarching heteronormative discourse that grants people who are read as heterosexuals certain advantages. Thus, it is assumed, people who can be read as heterosexual would have a space in mainstream society where they may live without discrimination based on gender/sex/sexual desire. While passing may save from certain discriminations, this approach denies historical and relational

context (Anthias, 2013). For example, the people one interacts with in mainstream society may be aware of someone's sexual fluidity/gender-non-conformity. Additionally, mainstream society more widely is perceived as an ideal space for passing people, neglecting the strictly binary and homogenizing dimensions, it engages in. Steve Seidman hence argues that analytically working with a *concept of compulsory heterosexuality* in mainstream society stays within binary narrations and fosters dichotomy. Instead, mainstream narrations of heterosexuality should be deconstructed to open space for a wider discourse and consideration of hidden hierarchies and intersections.

From a psychological perspective, do these discussions assume a fragmentation of identity together with a demand for enhanced social monitoring (Sanderson, 2009)? While identity today is conceptualized as shifting, also according to context, the current discourse demands people to split the image of their sexual desire/sex and gender along binary lines. In queer contexts, certain parts of their identity may be lived out, while others would belong to mainstream society. Thus, the intrapsychic construction of a coherent identity is not possible.

The often discussed exclusion of cis-men from queer spaces (e.g. tea-riffic) additionally neglects current psychological insights in intimate relationships by engaging in individualist thinking and *out-group homogenization* (Licata, 2012; Sanderson, 2009). Partners in intimate relationships often share part of their identities. They do not view each other as two completely distinct individuals but instead (to varying degrees) identify with one another, which is often illustrated by partly overlapping circles. Hence, the homogenizing assumption that rape culture would privilege cis-men generally neglects empathic, intimate relationships and shared experiences of people who draw on different locations and experiences. In addition, queer spaces aim at empowering queer people and hence should also empower them to choose who they want to engage with. Finally, it engages in essentializing assumptions of gender/sex and hinders change (Irigaray, 1985).

From a philosophical or ontological perspective does demanding queer/people to identify themselves along binary lines rely on an antiquated assumption of dichotomous gender/sex dimensions? It is related to radical lesbians' concept of *woman identified woman* and Irigaray's assumption of an overarching masculine discourse. The latter would distort women and hence only allow them to deviate from a specific norm if doing so stabilizes the main narration. Both neglect the positions of gender-non-conforming people and pathologize them as allies of a patriarchal system.

*Othering* people who do not fit the binary norm within queer contexts is common strategy, as Susan Stryker outlined. Due to a "fabrication" (Stryker 86) of *nature*, transwomen have been excluded from lesbian and women circles in the 1980s and 1990s. More specifically, Hayward suggests that trans\* questions the construction of binarity and human boundaries and thus homogenizing gender/sex and sexual desire is used to exercise power. Binary narrations hence draw on mainstream mechanisms, described by Audrey Lorde as the *Master's tools*, a strategy leading to what is described in psychological research as *competitive victimhood* (Young, 2016). By assuming that resources allocated to marginalized groups, such as space or attention, would be scarce and needed to be shared, marginalized groups compete against one-another to secure these. *Othering* sexual fluidity and gender/sex-non-conformity hence is a tool to gain power, used by non-contradictory locations.

From an intersectional perspective, *binary* queer spaces hide certain locations. In focusing on gender/sex/sexual desire, discussions within binary safe spaces may cover other dimensions but still draw power from their privileged position on them (Anthias, 2013). Just as Kimberlé Crenshaw shows, people may use their privileged positions on non-salient dimensions to shape context in their favour, building up new hierarchies. In the current example, these dimensions include ableism, class, and migration, as well as queer spaces' context.

Ability in discussions around binary queer spaces concerns the assumption that non-disabled people would be psychologically abled. They are expected to range high on dimensions such as self-concept clarity (Crocetti, 2016), social monitoring (Sanderson, 2009), agency (Martin, 2003) and intellect (Sternberg, 2004) to successfully navigate in a binary framing of queer spaces. In addition to competence, this denies differences in experiences, mental health and personality. As an example, low scores in social anxiety (Turner et al., 1989) are expected so that one may engage in discourse and argue for one's own location. Non-disabled people who do not fit these expectations are thus marginalized in binary (queer) spaces.

Class plays a role in that discourse and often draws on concepts from classified contexts, such as academia (e.g. performativity by Butler), allocating power to educated people who may use their cultural capital to access these (Bourdieu, 1989). This may partly explain why queer spaces are criticised to be excluding people who are not fully aware of or engaged in specific current discourses (L'amour LaLove, 2017). As Levine-Rasky shows, class differentiation is stabilized through people stratifying towards others of their same class, or *people like them*.

Class furthermore intersects with ability in privileging people who may draw on discourses in different languages to access material, but also in that access to education in a meritocratic society is based on competence. Only abled people may therefore acquire symbolic capital.

While a debate on including migration as a dimension in queer/spaces arises (Brülls, 2018), part of this dimension remains covered. Binary is structured along the (geographically) closest mainstream narrations and varying conceptualizations of gender/sex/sexual desire are neglected. Therefore, people who have been marginalized in different contexts are not included in a queer space which mirrors the most prominent mainstream context. This fosters colonial mechanisms of demanding people to narrate varying conceptualizations and experiences along lines of a privileged binary (mainstream) discourse (Tlostanova et al., 2016).

### *How Is Change Conceptualized?*

Change is hence conceptualized in line with Irigaray's assumption of an overarching and infiltrating masculine discourse. Thinking about change may be distorted, allocating it in a distant future. Spatially separate contexts would need to be constructed.

However, the mechanisms within these spaces rely on Butler's concept of *performativity*. Instead of envisioning a utopian future free of a masculine discourse for all human beings, a different approach is practiced in the present by mirroring mainstream narrations.

I argue that it is specifically this interface of different conceptualizations of change, assuming an overarching discourse and simultaneously aiming at change in the present, which leads to tensions and marginalizes *contradictory* locations.

The framing of binary queer spaces thus fails to go beyond the given illustration of mainstream narrations and thus unluckily reproduces and fosters them. In assuming that protecting homo-sexual behaviour would include discriminated aspects of sexual-fluidity, the latter is perceived as an interplay of homosexuality and heterosexuality. Gender/sex-non-conformity is neglected generally. In mirroring the mainstream discourse, these discussions fail to *disidentify* (Muñoz, 1999) from it.

Jose Muñoz therefore proposes to find a different, *third* way to bring about change. He suggests to seek and produce spaces of transformation and imagination. Some scholars argue that this is a technique used by hierarchically advantaged locations to dis-identify from responsibility for discriminatory tendencies (Tlostanova, 2016), *othering* (Stryker, 2009) non-privileged locations. However, I argue that there are different aims and underlying values in these two contexts. While privileged narrations form categories to secure hierarchy and power relations, queer dis-identification aims at leaving these categories and supports egalitarianism (Licata, 2012). I will therefore now turn to Gegen's transformative approach to disengage from a mainstream discourse.

### *Intersectionality in Transformative Queer/Feminist Spaces*

The Gegen's manifesto considers the context in which queer spaces are located in more widely. They do not conceptualize *queer* and considered dimensions specifically. However, they refer to *power mechanisms*, suggesting an intersectional approach (Anthias, 2013). In doing so, they may account for an interplay of dimensions but reject their specific essentialization.

Considering the context dimensions are embedded in, Gegen specifically names "religions, societies and markets" (Gegen) as *powers* which allow certain narrations but exclude others. More specifically, Gegen discusses the economic power of markets to appropriate queer spaces. Over time, queer spaces would have been incorporated. This is in line with wider accounts on a neo-liberal society (Foucault) which aligns any deviance and attempts to change to a logic of markets.

Additionally, Gegen refers to "youth cultures" as the context in which queer spaces and change usually take place. This can be seen as a historical reference, but one may also argue that a dimension of age is constructed as intersecting with queer dimensions in the context of change, thus engaging in ageist assumptions of the latter.

In conclusion, the Gegen's manifesto is inherently open to queer dimensions and includes additional power dimensions as well as the societal context these are enacted in. It remains unclear however, in how far an ageist idea of change and queer is supported.

### *Which Assumptions Underpin Transformative Queer Spaces?*

Gegen takes an individualist approach to queer spaces, by referring to the psychological mechanisms and power relations one is embedded in. More specifically, they create a space wherein the individual is encouraged/demanded to question these power

relations. The individual is thus in the center of discourse, while agency in bringing about change in a wider context is assumed and supported.

Practically, Gegen proposes *Hallucinatory love* as a way to counter *hate* “as antagonistic identitarian mechanism.” This engages with the psychological concept of *collective emotions* (Licata, 2012), which may be raised by contexts or group-based identities. In line with psychological research, it is assumed that emotions, especially with a positive valence, underpin motivation and may initiate action as well as change.

Identity is perceived as generally incoherent and instable. It would be hard to grasp, described as “unrecognizable” (Gegen). In opposition to binary spaces, Gegen assumes that identity is generally fragmented and the party’s context would only highlight this to help in mapping fragments and power relations.

### *How Is Change Conceptualized?*

Gegen, despite assuming an overarching and infiltrating discourse, thus aims at change through individual experiences and reflection.

Their manifesto, written as a prosaic text, draws on theoretical concepts and emotions, proposing a rhizomatic approach (Deleuze & Guattari, 1992). Change here is not seen as unidirectional and towards a clearly defined goal, but instead an open approach on many different levels/with different individuals. This opens space for a flexible process, allowing different locations to be included and heard beyond dichotomy, as was also suggested by Sean Guynes in highlighting the specificity of non-binary trans\*. Arguing for the need to engage with one’s own power relations, an inclusive process, which is sensitive to the enfolding of power hierarchies, may be initiated.

While considering a mainstream discourse’s infiltrating capabilities, Gegen assumes that change can gradually be created over



time locating it in presence and thus very close to Butler's conceptualization. This is supported by arguing for the integration of change in society more generally as opposed to separated and temporal safe spaces.

In considering intra-psychological aspects of change, they partly build on Kristeva's integrating approach but go further by discussing change beyond binary framings of sex/gender/sexual desire. They more generally consider people to be embedded in a variety of power lines and as universally sharing psychological mechanisms, which draws on modern empirical psychological theory instead of dichotomous psychoanalysis.

In conclusion, Gegen's transformative conceptualization of queer/feminist spaces is wide in scope, taking a rhizomatic approach which locates change in the present. Additionally, they propose to engage with context by building a space that allows to question the broader contextual constraints, such as markets.

### *Conclusion*

All in all, the analysis of queer/feminist spaces highlights the variance in queer/feminist activism and thinking.

On one hand, binary spaces assume an overarching discourse that needs to be opposed and rejected to bring about change, aspiring a distant future. Even if a utopian image thereof is not created. An intersectional analysis could show how binary narrations produce contradictory locations, such as sexual flexibility and gender/sex-non-conformity. Covering specific dimensions such as ableism or class, power to foster these narrations in favor of privileged locations may be acquired. Binary spaces thus focus on securing certain locations at the expense of others.

Transformative queer/feminist spaces in turn are more open by not defining dimensions and instead consider people generally to be situated on different power lines, which need to be addressed within a wider infiltrating discourse. Taking a rhizomatic

approach to change, their approach is closest to Kristeva's and Butler's, while deviating from them in its rejection of the discussion of gender dimensions.

In conclusion, both spaces encounter change by drawing on common conceptualizations of change (Robinson, 2000), but nonetheless substantially deviate from these: A strict alignment with either of the traditional lines could not be found and additionally, transformative spaces go beyond Kristeva's integrative approach. Conceptualizations of change to fight rape culture hence draw on a variety of theoretical and disciplinary notions.

### *Works Cited*

- Alaimo, Stacy. "Trans-corporeal feminisms and the ethical space of nature." *Material feminisms*. Eds. Stacy Alaimo and Susan Hekman. Indiana UP, 2008. 237-264.
- Anthias, Floya. "Hierarchies of social location, class and intersectionality: Towards a translocational frame." *International Sociology* 28.1 (2013): 121-138.
- Barad, Karen. "Getting real: Technoscientific practices and the materialization of reality." *Differences: a journal of feminist cultural studies* 10.2 (1998): 87-91.
- Borchert, Anneli. "Die Sache mit den Safe Spaces – Warum ich keine Schwänze auf Frauentoiletten haben will." *Die Störenfriedas*, 29 January 2017, <https://diestoerenfriedas.de/die-sache-mit-den-safe-spaces-warum-ich-keine-schwaenze-auf-frauentoiletten-haben-will>. Accessed 15 April 2019.
- Bourdieu, Pierre. "Social space and symbolic power." *Sociological theory* 7.1 (1989): 14-25.
- Brülls, Maike. "'Frauen\*, Queers, People of Color' - Partybetreiberinnen über 'hoe\_mies'" *taz.de*, taz Verlags- und Vertriebs GmbH, 5 August 2018, [https://taz.de/Partybetreiberinnen-ueber-hoe\\_mies!/5520689](https://taz.de/Partybetreiberinnen-ueber-hoe_mies!/5520689). Accessed 16 May 2019.

- Butler, Judith. "Performative acts and gender constitution: An essay in phenomenology and feminist theory." *Theatre journal* 40.4 (1988): 519-531.
- . *Gender trouble: Feminism and the subversion of identity*. Routledge, 2011.
- Council of Europe. *Council of Europe*, <https://www.coe.int/en/web/portal>.
- . *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, November 2014.
- Crenshaw, Kimberle. "Demarginalizing the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory, and antiracist politics [1989]." *Feminist Legal Theory*. Routledge, 2018. 57-80.
- Crocetti, Elisabetta and Marloes PA Van Dijk. "Self-concept clarity." *Encyclopedia of Adolescence* (2016): 1-5.
- Dank, M. et al. "Dating Violence Experiences of Lesbian, Gay, Bisexual, and Transgender Youth." *J Youth Adolescence* 43 (2014): 846–857. <https://doi-org.ezproxy.ulb.ac.be/10.1007/s10964-013-9975-8>.
- Deleuze, Gilles, and Felix Guattari. *A Thousand Plateaus: Capitalism and Schizophrenia*. Trans. Brian Massumi. Continuum, 1992.
- Diamond, Lisa M. "'I'm straight, but I kissed a girl': The trouble with American media representations of female-female sexuality." *Feminism & Psychology* 15.1 (2005): 104-110.
- . "Female bisexuality from adolescence to adulthood: results from a 10-year longitudinal study." *Developmental psychology* 44.1 (2008): 5.
- Foucault, Michel. „Die Geburt der Biopolitik. Geschichte der Gouvernementalität II - Geschichte der Gouvernementalität II,“ Frankfurt am Main, Suhrkamp Verlag (1978/2015).
- Gegen. "Gegen Gegen. Against Yourself. Around Queer Narratives" *Gegen Berlin*, <http://gegenberlin.com/about-us>. Accessed 25 April 2019.

- Gottman, John. "Die Vermessung der Liebe." *Vertrauen und Betrug in Paarbeziehungen*. Klett-Cotta, 2014.
- Guynes, Sean. "Trans-, Trans\*, Trans, Transgender, Transsexual, Andriod (sic!), or Starfish?" Sean Guynes, 2 November 2015, <https://seanguynes.com/2015/11/02/android-and-starfish>. Accessed 17 May 2019.
- Hayner, Jakob. "Bringt euch in Sicherheit! Wenn der Alltag zum Schutzraum wird" Patsy L'Amour laLove (Ed.), *Beißreflexe, Kritik an queerem Aktivismus, Autoritären Sehnsüchten, Sprechverboten*. Querverlag, 2017.
- Henry, Nicola. "Theorizing wartime rape: Deconstructing gender, sexuality, and violence." *Gender & Society* 30.1 (2016): 44-56.
- Hutton, Alice. "Gay Life in Berlin Is Starting to Echo a Darker Era" *The Atlantic*, Emerson Collective, 25 December 2018, <https://www.theatlantic.com/international/archive/2018/12/germany-berlin-gay-life/578653>. Accessed 17 May 2019.
- Irigaray, Luce. *Speculum of the other woman*. Cornell UP, 1985.  
 —. *This Sex Which Is Not One*. Trans. Catherine Porter and Carolyne Burke. Cornell UP, 2008.
- Johnson, Nicole L., and MaryBeth Grove. "Why us? Toward an understanding of bisexual women's vulnerability for and negative consequences of sexual violence." *Journal of Bisexuality* 17.4 (2017): 435-450.
- Kracher, Veronika. „Viele falsche Freundinnen machen noch keinen Feminismus“, *Jungle World*, Jungle World Verlags GmbH (Deutschland), 23 February 2017, <https://jungle.world/artikel/2017/08/viele-falsche-freundinnen-machen-noch-keinen-feminismus>. Accessed 1 August 2019.
- Kristeva, Julia. *Desire in language: A semiotic approach to literature and art*. Columbia UP, 1980.  
 —. *Powers of horror*. Vol. 98. California UP, 1982.  
 —. *Tales of love*. Columbia UP, 1987.  
 —. *Julia Kristeva, Interviews*. Columbia UP, 1996.  
 —. *Nations without nationalism*. Columbia UP, 1993.

- L'amour Lalove, Patsy. „Beissreflexe.“ *Kritik an queerem Aktivismus, autoritären Sehnsüchten, Sprechverboten*. Querverlag (2017).
- Levine-Rasky, Cynthia. “Intersectionality theory applied to whiteness and middle-classness.” *Social identities* 17.2 (2011): 239-253.
- Licata, Laurent, and Audrey Heine. *Introduction à la psychologie interculturelle*. De Boeck, 2012.
- Lorde, Audre. “The master’s tools will never dismantle the master’s house.” *Feminist postcolonial theory: A reader* 25 (2003): 27.
- Lykke, Nina. *Feminist studies: A guide to intersectional theory, methodology and writing*. Routledge, 2010.
- Martin, Jack, Jeff Sugarman, and Janice Thompson. *Psychology and the question of agency*. SUNY Press, 2003.
- Muñoz, José Esteban. *Disidentifications: Queers of color and the performance of politics*. Vol. 2. Minnesota UP, 1999.
- O’Neal, Eryn Nicole. “‘Victim is Not Credible’: The Influence of Rape Culture on Police Perceptions of Sexual Assault Complainants.” *Justice Quarterly* 36.1 (2019): 127-160.
- Peluso, Natalie M. “Sex-Radical Feminists.” *The Wiley Blackwell Encyclopedia of Gender and Sexuality Studies* (2016): 1-3.
- Penny, Laurie. *Unspeakable things: Sex, lies and revolution*. Bloomsbury Publishing, 2014.
- . *Everything Belongs to the Future*. Tor. com, 2016.
- Phipps, Alison, et al. “Rape culture, lad culture and everyday sexism: Researching, conceptualizing and politicizing new mediations of gender and sexual violence.” *Journal of Gender Studies* 27.1 (2018): 1-8.
- Radicalesbians, Y. *The woman identified woman*. New England Free Press, 1970.
- Robinson, Jenny. “Feminism and the spaces of transformation.” *Transactions of the Institute of British Geographers* 25.3 (2000): 285-301.
- Sanderson, Catherine A. *Social Psychology*. John Wiley and Sons, 2009.

- Schwartz, Salomon, H. et al. "Refining the theory of basic individual values." *Journal of Personality And Social Psychology* 103.4 (2012): 663-688.
- Schwarzrund. "Hetten-Flecke und echte Queerness." *Schwarzrund*, 16 Sept. 2014, <https://schwarzrund.de/hetten-flecke-und-echte-queerness>. Accessed 1 August 2019.
- Seidman, Steven. "Critique of compulsory heterosexuality." *Norm-struggles: Sexualities in contentions*. Eds. Lena Martinsson and Eva Reimers. Newcastle, 2010.
- SilverFuture. "Willkommen im Silverfuture! / Welcome to Silverfuture" *SilverFuture*, <http://silverfuture.net/cms>. Accessed 15 July 2019.
- Sternberg, Robert J., and Paul B. Baltes, eds. *International handbook of intelligence*. Cambridge UP, 2004.
- Stryker, Susan. "My Words to Victor Frankenstein. Above the Village of Chamounix-Performing Transgender Rage." *Kvin-der, Køn & Forskning* 3-4 (2009).
- Tea-riffic. "Warum ich mir vorstellen könnte, mich auch mal als Bi-Ally zu positionieren" *Tea-riffic*, 9 September 2014, <https://teariffic.de/2014/09/09/warum-ich-mir-vorstellen-konnte-mich-auch-mal-als-bi-ally-zu-positionieren>. Accessed 15 July 2019.
- Tlostanova, Madina, Suruchi Thapar-Björkert, and Redi Koobak. "Border thinking and disidentification: Postcolonial and post-socialist feminist dialogues." *Feminist Theory* 17.2 (2016): 211-228.
- Turner, Samuel M., et al. "An empirically derived inventory to measure social fears and anxiety: the Social Phobia and Anxiety Inventory." *Psychological Assessment: A Journal of Consulting and Clinical Psychology* 1.1 (1989): 35.
- Young, Isaac F., and Daniel Sullivan. "Competitive victimhood: A review of the theoretical and empirical literature." *Current Opinion in Psychology* 11 (2016): 30-34.

GENDER BASED VIOLENCE TOWARD WOMEN  
AND SEXUAL HARASSMENT:  
IDEOLOGICAL AND SOCIO-COGNITIVE MOTIVES  
BEHIND VICTIM BLAMING

Alice Lucarini,<sup>(1)</sup> Caterina Suitner,<sup>(1)</sup> Riana Brown,<sup>(2)</sup>  
Bruno Gabriel Salvador Casara,<sup>(1)</sup> Eric D. Knowles,<sup>(2)</sup>  
<sup>(1)</sup>*University of Padova*, <sup>(2)</sup>*New York University*

*Abstract*

In the past years, Western society has been invested by a new phenomenon, the #MeToo movement, born with the aim of spreading awareness in the public opinion about the increasing number of sexual harassment and violence episodes against women. Although this movement encountered a large number of supporters, many people strongly questioned its credibility and that of the women who reported sexual misconducts and assaults. The aim of this work is to focus on two major issues that women often face when they experience sexual harassment or assault. Through an in-depth screening of previous scientific studies, it first analyzes the variety of factors that prevent women from denouncing sexual misconducts. Second, it focuses on the ideological and socio-cognitive motives that could explain people's harsh reaction against the victims who report, addressing three main underpinnings—namely, System Justification theory, benevolent sexism and conservatory ideology. Through the analysis of both psychological and sociological contributes, we discuss the present issues and underline the socio-cultural component of gender-based violence toward women.

*Gender Based Violence toward Women and Sexual Harassment: Definition, Numbers and Implications*

Violence against women has been defined by the World Health Organization (World Health Organization 2) as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” As underlined in the WHO’s definition, violence against women could often assume a sexual connotation, including acts ranging from minor forms of sexual harassment to violent offenses such as rape. Indeed “any sexual act, attempt to obtain a sexual act, or other act directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting” is defined as sexual violence (World Health Organization 2). In psychological terms “sexual harassment” is outlined as an unwanted sex-related behavior, which the recipient perceives as offensive or as a threat of people’s well-being (Fitzgerald Swan & Magley 5-28.) and can be investigated through instruments and specific measures, such as the Sexual Experiences Questionnaire (SEQ; Fitzgerald, Gelfand & Drasgow 425-445).

Literature has shown how, for a long time, any kind of sexual harassment in all its forms has been described as part of a broader system of sexual terrorism (Davis 133; Kissling 451-460), and has been perceived by people as something that is just an inevitable part of women’s life (Tuerkheimer 167). In 2018, the American organization Stop Street Harassment produced a report including about 2000 participants, showing that this phenomenon is still, over twenty years after Tuerkheimer’s article, a dramatic issue that keeps affecting women’s lives. Indeed, according to Stop Street Harassment’s data in the USA 81 percent of women (vs. 43 percent of men) said they have experienced some form of sexual harassment or assault in their lives. Also in Europe sexual harassment against women is a widespread phenomenon in a



disparate amount of contexts, such as public places, work environments, and domestic settings. The European Union Agency for Fundamental Rights's report of 2014 highlights that of 42,000 women across 28 EU member states, an estimated 83–102 million women have been sexually harassed in one or more occasions since the age of 15 (European Union Agency for Fundamental Rights). And what about Italy? In the “bel paese” too numbers regarding the incidence of this phenomenon seem to speak for themselves and look dramatically high. Indeed, according to the Italian National Institute of Statistics (ISTAT) almost one third of women in Italy (31,5%, corresponding to 6 million 788 thousand women between 16 and 70 years old) has experienced some form of physical or sexual violence. Moreover, 3% (652,000 women) has been raped and 3,5% (746,000 women) has experienced attempted rape.

The reported data confirm that sexual harassment is something incredibly likely to happen to women in very diverse contexts, and this has brought many women to strongly fear for their safety. Indeed, according to the European Union Agency for Fundamental Rights half of all women in the EU (53 percent) avoid certain situations or places, at least sometimes, for fear of being physically or sexually assaulted (FRA, 2014). FRA's results are strongly coherent with Mellgren, Andersson and Ivert's study (262-281), in which the authors show that sexual harassment (described in their survey as a range of kinds of unwanted sexual contacts) has led the victimized women to some behavioral adjustments, such as avoiding specific places, changing their body language and their clothing style. The consequences of being sexually harassed have been classified in a meta-analysis by Williness, Steel and Lee (127-162), who identify three classes of negative outcomes related to a) the job b) the psychological and c) the health well-being sectors. Finally, even considering the numbers and the statistics showing the diffusion and pervasiveness of this problem, the risk that it is underestimated or normalized is still very high (Mellgren, Andersson & Ivert 262-281).

*The Dramatic Challenge of Reporting Violence and Assaults*

Often the traumatizing baggage that victims carry consequently to a sexual harassment or an abuse, is not limited to the moment in which such traumatic event is experienced, rather it expands over time, assuming different forms. One of the most severe forms that contribute to prolong the victim's profound pain is the fact that she has to face the decision of whether she has to expose herself and report what happened or not.

Scholars have long been interested in the dynamics that keep victims of sexual abuses from speaking about their traumatic experiences in the attempt to determine what are the barriers they have to face and what keeps them from revealing the abuse. The strong interest in this topic is due to the fact that preferring not to report can be addressed as a relevant social problem. Considering Italy, only 11,4% of Italian women and 17% of foreign women who have experienced violence decide to report (ISTAT). Also in the US, the amount of victims who prefer to remain silent is dramatically high. According to estimates by the US Equal Employment Opportunity Commission, 80% of people who have experienced harassment, never file a formal complaint about it (U.S. Equal Employment Opportunity Commission). And of course, this numbers may be an under-estimation of reality. We may therefore ask: Why is the level of reporting so low? Among the reasons that ward off victims to report, Cohen and Kyckelhahn identify the discouraging evidence that most of the reported assaults go unpunished. Indeed, often the act of reporting is experienced as an extremely negative event for the victims (Khan, Hirsch, Wamboldt, Mellins 432-460), probably also because of the difficulties in conducting investigations in a way which is sensitive to the victims' needs (Frazier & Haney, 1996). Other reasons include negative social reactions (Ahrens 1-34), fear of not being believed (Sable, Fran, Mauzy, Gallagher 157-162), and the perception of common and silent acceptance and of carelessness (Mellgren, Andersson, & Ivert 262-281). Further, Khan, Hirsch, Wamboldt

and Mellins (432-460) argue that the act of labelling, telling and reporting means something different to victims than to authorities or policy-makers, since for the assaulted person these actions are a way to turn the experience from something ambiguous to something concrete and suddenly real. Further, the authors also identify three classes of social risks, to which victims are exposed when they decide to denounce, that is a) “identity risks” or concerns about the negative impacts on their identities (i.e., being deprived of their agency; experiencing social failure); b) “interpersonal risks” (i.e., conflicts with ingroup members, including the perpetrator, if known; fear of losing their group affiliations); c) the so-called “college project-related risks” (i.e., derailing their current or future goals). Another of the most shared obstacles that strongly interfere with the victim’s decision not to report are the feelings experienced by the victim after the harassment or the abuse. Specifically, several studies have focused on the feeling of shame, guilt and embarrassment, which the victims internalize after the event (Sable, Danis, Mauzy, & Gallagher 157-162; Weiss 286-310; Zinzow & Thompson 711-725; Khan, Hirsch, Wamboldt and Mellins 432-460). These feelings often lead to self-blame and a misperception of the responsibility for what happened which, consequently, lead victims to decide that the proportion of the costs and the level of stress would overcome the benefits of reporting (Khan, Hirsch, Wamboldt and Mellins 432-460). Hence, negative feelings are a powerful barrier that often strongly contribute to the decision not to report. Indeed, probably the victim perceives the act of not reporting as the harsh but necessary price to pay in order to keep, at least from the outside, their lives intact.

*The #MeToo Movement and its Attempt to Give Voice to the Victims of Sexual Harassment and Assault*

The #MeToo movement is a form of on- and off-line collective action born in the USA and aimed at spreading awareness

about the dramatically high incidence of sexual abuses and harassments, often toward women. Hence, after its spreading, it did not take long since the #MeToo phenomenon became more than a hashtag, evolving in a real protest, which allowed many victims to finally voice their experiences of sexual predation. Eventually, people, especially women, who experienced trauma and suffered for being abused felt represented, empowered and, above all, no more isolated and alone in their personal battles. The movement seemed also to succeed in its aim of affecting people's attitude toward the burning issue of sexual harassment, as shown by a report produced by the data company YouGov (Waldersee, 2018). The organization highlighted the effect of the #MeToo phenomenon on British people, making them more open to talk about sexual harassment. Indeed, after a year of #MeToo six in ten Britons (60%) say that the movement has made people more open to talk about sexual harassment. Just 2% thinks it has made them less open. This atmosphere of support brought many women to find the strength to report sexual abuses and harassments, even those that took place several years before the moment of their report. However, during its rise the #MeToo movement did not only find support and approval. Indeed, while the hashtag was spreading and the denunciations were popping up, people also started to advance many criticisms toward the movement and its sustainers. Some people started to wonder if it had gone too far and even those who had always supported women's rights, just like the feminist author Margaret Atwood, started to trigger disapproval against it (Crilly, 2018). Among the various kinds of criticisms targeting the movement, a large body of them addressed the wide time gap occurring between the moment of the harassment and its report. A part of the public opinion (women included) showed harsh positions when referring to women who suddenly decided to denounce their perpetrators. Several public figures claimed that the #MeToo movement transformed sexual assault into a trend (Bauman, 2018), suggesting that some women are using the #MeToo movement to gain "significance"

through “victimhood” (Caffier, 2018), while also addressing the movement as a witch-hunt (Livsey, 2018). Hence, the credibility of these women and of the movement itself started to be strongly questioned, leading to an environment of doubt and uncertainty, spinning all over around.

*People’s Skepticism toward Reported Gender Violence and their Strategies to Blame the Victim*

As previously argued, since the #MeToo movement went viral, many people, especially women, voiced their #MeToo experiences, often generating a harsh reaction in a dramatically large slice of the population. Indeed, in September 2018, YouGov, on behalf of *The Economist* (The Economist), replicated a poll conducted in 2017 about the consequences of sexual assault and sexual misconduct, to assess whether a year of #MeToo had changed people’s attitude toward the topic of sexual harassment. Results showed dramatic evidence: the share of American adults who think that women who complain about sexual harassment cause more problems than they solve has grown from 29% to 31% in one year. Another shocking result regards people’s attitudes toward unreported or unpunished sexual harassment. The percentage of Americans who think that false accusations of sexual assault are a bigger problem than attacks which go unreported or unpunished, has grown from 13% in 2017 to 18% in 2018. We believe that this worsened attitude could probably be interpreted as a consequence of the growing diffidence toward the numerous cases of late reports advanced since the #MeToo spread. One important limit of the movement is that there is no trial, neither the accuser nor the accused are protected by the institutions, letting public opinion be the reference for managing the instances. If this movement does not find an institutional response, its positive propulsive action will turn into very negative intergroup fight between genders. This is very risky, as the victim a) is not pro-

tected by state force in charge of maintaining safety and preventing eventual future retorsions from the perpetrator, b) does not receive psychological support from the institutions, c) does not inform public agency in charge of filing statistical reports about women safety. Moreover, this movement is also risky for the accused as no legal actions or defense is possible given that there is no charge. However, literature shows that people are concerned about the fake-reporting of sexual harassment cases, which is extremely rare, typically ranging only around 2 and 5 percent (Spohn, White & Tellis 161-192). Hence, since data show that sexual harassment does not usually tend to be faked, there should be other reasons that prevent victims from reporting immediately and, eventually, it seems that most people do not accept them. Little is known whether fake reporting is similarly unlikely in online accusations, and this doubt is reducing the general trust in women.

Research has shown that the community responses to sexual violence are crucial for determining the victims' well-being and that the public's failure to recognize it has severe consequences for the victims. Indeed, when victims sense that they are not believed or that their trauma is not qualified as legitimate, they can feel even more powerless, stigmatized and ashamed (Campbell 702). Denying the victims' credibility is a real and serious issue, but why is this tendency so common and persistent among the public opinion? Literature has highlighted several factors that prevent people from believing victims. We will address three main underpinnings, namely a) system justification, b) sexism & gender power asymmetry and c) political ideology.

### *The Role of System Justification*

The System Justification process (SJ, Jost & Banaji 1-27) can be addressed as one of the crucial factors that contribute in denying the victim's credibility. Indeed, according to SJ theory people

protect the status quo and, consequently, tend to perceive existing social inequalities as fair, legitimate and “just the way things are” (Jost & Banaji 1-27). The tendency to justify the system is a pervasive and non-conscious cognitive mechanism that people adopt mostly because experiencing or witnessing inequality is distressing (Wakslak, Jost, Tyler & Chen 267-274). Hence, for people it is often easier to remedy this emotional distress, by justifying systemic inequalities rather than challenging them. Literature has also developed the concept of gender-specific system justification (GSJ), namely the belief that men and women have equal opportunities and that existing status differences between males and females are fair and legitimate (Jost & Kay, 498) and there is a line of literature which has associated the concept of GSJ to rape myths, as a specific socio-cognitive factor which plays a determinant role in the justification of sexual misconducts toward women. Indeed, according to a socio-cognitive perspective, rape myths are false stereotypic beliefs with the purpose of shifting the blame from the perpetrator to the victim (Burt 217). Literature has identified several categories of rape myths. Examples are myths focused on blaming the victim, like the belief that women instigate men to rape by the way they dress or behave. Another category of rape myths are myths focused on exonerating the perpetrator, as the idea that men’s sexual drives are overwhelming and, once triggered, they can’t stop or be held responsible for their actions and disbeliefs in claims of rape, e.g. that most charges of rape are unfounded. Other rape myths focus on the belief that rape is something that women can potentially enjoy, rather than a violent act. Rape myths have been proved to be a powerful weapon to discredit women’s accusations, as they trigger the victim’s blaming and, consequently, diminish people’s willingness to support victims and to adequately punish perpetrators (Eyssel & Bohner 1579-1605). Chapleau and Oswald (204-218) showed that GSJ was a strong and positive predictor of rape myth acceptance. Results suggest that rape myths are system justifying for women. Indeed, believing that men and women have

the same opportunities to succeed suggests that gender inequality is the result of women's failure in competing with men. This idea is connected to the belief that if a man sexually attacks a woman, it is because of her failure to behave properly around men, which, being the dominant group, are not expected to adjust their behavior. So, the more men (and women) think that their status is deserved, the more likely they will adhere to rape myths.

### *Benevolent Sexism*

Previous literature argues that sexual harassment and other coercive behaviors are part of a more general hostility toward women (Glick & Fiske 491; Pryor 163-169). Indeed, research shows that hostile attitudes toward women are associated with sexual harassment proclivity (Pryor, Giedd & Williams 69-84) and victim blaming (Cowan 238-246). However, sexism may not only manifest itself as hostility toward women, but also in a more blurred and ambiguous component, as in the case of benevolent sexism. Hostile sexism (HS) is defined as a negative and derogatory attitude toward women, whereas benevolent sexism (BS) is a set of interrelated attitudes which portray women as stereotyped and idealized figures, who behave consistently with traditional female roles (e.g., wives, mothers...). People who embrace this attitude perceive women as needy creatures that have to be cherished and protected by men (Glick, Diebold, Bailey-Werner, & Zhu 1323-1334).

There is an extensive line of research that associates not only HS, but also BS to a higher tolerance for sexual abuses. Also Russell and Trigg (565-573) highlight that ambivalent sexism and hostile sexism are important factors in the identification of tolerance of sexual harassment. Durán, Moya & Megías 470-478) show that participants with high scores on BS were also more likely not to consider a hypothetical forced sexual intercourse between husband and wife to be rape, as participants tend to justify



forced sex, interpreting it as a right of the husband and a duty for the wife. Hence, as shown by previous researches, although BS can be apparently viewed as less dangerous than its counterpart HS, these two ideologies are complementary parts of the same construct and share the same risk for women, namely justifying and endorsing traditional gender roles and the power asymmetry between men and women (Glick and Fiske 491); and it is but a short step from BS ideology to the acceptance of male control and male decision making over women.

### *Political Orientation: The Conservative Ideology*

Conservative ideology is a political and social philosophy associated with the promotion and the endorsement of traditional social values. People who embrace this ideological asset pursue the maintenance of social stability and often seek to safeguard traditional institutions (Heywood 62-94). People who hold this particular political asset generally show high scores in a series of relevant psychological constructs, such as social dominance orientation (SDO; Sidanius & Pratto 315–332) and right-wing authoritarianism (RWA; Altemeyer 47-92). There is indeed a strong correlation between these constructs and overall measures of conservatism (Feather 1132) to the point that research has highlighted that the acceptance of rape myths and the endorsement of more negative attitudes toward rape victims are positively associated to these two beliefs (Hockett, Saucier, Hoffman, Smith, & Craig 877-897). In the same study, the authors also found RWA to be associated to negative attitudes toward rape victims.

Not only has psychological research investigated the link between conservative ideology and lower tolerance for sexual harassment's accusation, rather this same connection has emerged at a structural level, from American national polls, especially after the Kavanaugh Case, in the Fall of 2018. Indeed, in October 2018 America's public opinion was shocked by a case of sexual mis-

conduct allegations against the US member of the Supreme Court Brett Kavanaugh. Right in correspondence with his promotion, the current Supreme Court judge was accused by psychology professor Christine Blasey Ford of having been sexually harassed by him, over 35 years ago, in the early 1980s (Brown). An Ipsos' poll, taken in October 2018 (Ipsos) collected people's attitudes toward this political scandal and toward the idea of Kavanaugh being promoted anyway. In a split-sample exercise, half of the respondents were asked whether Kavanaugh should be confirmed as the next Supreme Court judge in light of the recent allegations of sexual misconduct. Results of the poll showed that a large slice of Republicans (49%) supported his candidacy, believing that his role of judge of the US Supreme Court should be confirmed regardless of the accusations, compared to just a 10% of Democrats. The same question was asked also to the other-half sample, however this time disclosing that the alleged sexual assault occurred more than 35 years ago, when Kavanaugh was 17. Among those that heard this version of the question, the number of Americans who supported his confirmation is 10-percentage points higher (35%), while the number of those who opposed his confirmation is 10-percentage points lower (37%). Furthermore, when asked whether they would vote for a political candidate accused of sexual harassment/assault, the majority (57%) of Democrats said no, while the majority of Republicans seemed more moderate and said it would depend on the specific allegations (62%).

Also, US president Donald J. Trump, the current most representative stronghold of conservative ideology, took a strong position in the Kavanaugh case and didn't skip harsh criticisms toward Foy, doing strong victim blaming against her, mining the woman's credibility and portraying her confession as nothing but a desperate call for public attention. Further, in 2016 President Trump himself, a month before his presidential election, was accused by several women of sexual harassment and, as for Kavanaugh, his reaction was directed to discredit the accusers, to the point that at a campaign event in North Carolina he declared:

“Well, did you hear about it 12 years ago? Did you hear about it five years? No, no, we never—we just heard about it recently. [...] And the reason she didn’t write it 12 years ago is very simple. It never happened, it never happened. It’s a lie” (Beckwith). Hence, in the light of the fact that both theoretical and chronicled facts agree in highlighting conservative people’s tendency to discredit victims and to do higher victim blaming, it looks like people’s political ideology is another relevant factor that determines people’s position in sexual abuses cases.

### *Discussion*

The aim of the present work was to provide, through an in-depth screening of the scientific literature, a broad perspective to the phenomenon of gender-based violence toward women. The decision of referring to women as targets of harassments and assaults is due to the fact that, at the moment of writing this paper, both national and international data on that topic were coherent in underlining the disproportion in sexual violence incidence among men and women, remarking that the latter are the major targets of violence and abuses. With this statement we do not want to support the idea that other social targets could not experience sexual violence and abuses. Indeed, although gender-based violence toward women is a dramatic and pervasive phenomenon, it is not a synonymous of gender-based violence, but rather a sub-class of it.

In the present paper, we decided to focus mainly on two major issues that women often face when they experience sexual harassment or sexual assault. First of all, we discussed the reasons which ward off victims to report. Indeed, as previously argued, only a small portion of women presses charges against their perpetrator. Analyzing both psychological and sociological contributes in the current scientific literature we could underline a variety of risks that prevent women from reporting. Literature regarding this issue has highlighted that the act of reporting is a complex

social phenomenon, as it is affected both by features of the legal and social system (e.g. difficulties in conducting sensitive investigations, frequent unpunishment of reported assaults), as by interpersonal and psychological factors (e.g. experiencing negative emotions and identity risks). Although it emerges clearly from scientific works that this phenomenon is characterized by high complexity, on the other side public opinion persists in reacting to it in a very simplistic way, often questioning and discrediting the victim's narrative. Examples of this tendency were brought up by the spreading of the #MeToo phenomenon, which contributed to enhance the number of sexual harassment and abuses reported to the police and the authorities. This is indeed the second issue which this paper aimed at analyzing, namely understanding which mechanisms people engage in to justify sexual harassments and abuses and to discredit the victims. From a screening of the literature we could address at least three main underpinnings that could explain people's harsh reaction against the victims who report. First, we analyzed the role of a cognitive process, the system justification as a mind asset that has proved to foster people's harsh reactions toward victims of sexual harassment and abuses. Second, we considered two ideological assets, namely two forms of sexism, hostile sexism and benevolent sexism. Finally, we discussed the link between conservative ideology and victim blaming. Previous literature outlined that presenting high levels in these two forms of sexism leads people to a higher tolerance with respect to sexual harassment and a higher justification of the mistreatment of women, since these latter are portrayed as subordinates to men. Endorsing a conservative ideology too is a factor that has been associated with negative attitudes toward female rape victims, and this has been proved both by previous scientific literature and by national pools and chronicle articles.

In the light of what emerged from the present review of both scientific articles and news reports we could argue that sexual violence against women can be addressed as a product of the cultural asset of a society. Indeed, the support of a patriarchal

societal asset favors the endorsement of these cognitive and ideological biases and, consequently, people's persistence in justifying sexual violence toward women. This never-ending circle, in which the society promotes those biases and the latter prompt the perpetration of violence, contributes in maintaining women's lack of freedom of choice over their bodies and their sexuality.

### *Works Cited*

- "After a year of #MeToo, American opinion has shifted against victims". *The Economist*, 15 October 2018, <https://www.economist.com/graphic-detail/2018/10/15/after-a-year-of-metoo-american-opinion-has-shifted-against-victims>. Accessed 15 June 2019.
- Ahrens, Courtney E. "Being silenced: The impact of negative social reactions on the disclosure of rape." *American Journal of Community Psychology* 38.3-4 (2006): 31-34.
- Altemeyer, Bob. "The other 'authoritarian personality'." *Advances in Experimental Social Psychology*. Academic Press, 1998. 47-92.
- Beckwith, Ryan Teague. "Read Donald Trump's speech attacking his accusers." *Time*, 14 October 2016, <http://time.com/4532181/donald-trumpnorth-carolina-accusers-speech-transcript/>. Accessed 18 April 2019.
- Brown, Emma. "California professor, writer of confidential Brett Kavanaugh letter, speaks out about her allegation of sexual assault." *The Washington Post*, 16 September 2018, [https://www.washingtonpost.com/investigations/california-professor-writer-of-confidential-brett-kavanaugh-letter-speaks-out-about-her-allegation-of-sexual-assault/2018/09/16/46982194-b84611e8-94eb3bd52dfe917b\\_story.html?noredirect=on&utm\\_term=.aa66c239b9e5](https://www.washingtonpost.com/investigations/california-professor-writer-of-confidential-brett-kavanaugh-letter-speaks-out-about-her-allegation-of-sexual-assault/2018/09/16/46982194-b84611e8-94eb3bd52dfe917b_story.html?noredirect=on&utm_term=.aa66c239b9e5). Accessed 18 April 2019.
- Burt, Martha R. "Cultural myths and supports for rape." *Journal of Personality and Social Psychology* 38.2 (1980): 217.

- Caffier, Justin. "Tony Robbins Made Controversial #MeToo Comments, Angering His Own Fans." *Vice*, 24 March 2018, [https://www.vice.com/en\\_ca/article/d35897/tony-robbins-made-controversial-metoo-comments-angering-his-own-fans](https://www.vice.com/en_ca/article/d35897/tony-robbins-made-controversial-metoo-comments-angering-his-own-fans). Accessed 18 April 2019.
- Campbell, Rebecca. "The psychological impact of rape victims." *American Psychologist* 63.8 (2008): 702.
- Chapleau, Kristine M., and Debra L. Oswald. "A system justification view of sexual violence: Legitimizing gender inequality and reduced moral outrage are connected to greater rape myth acceptance." *Journal of Trauma & Dissociation* 15.2 (2014): 204-218.
- Cohen, Thomas H., and Tracey Cohen. "State Court Processing Statistics, 2006: Felony Defendants in Large Urban Counties, 2006." *Bureau of Justice Statistics*, Bureau of Justice Statistics Bulletin, May 2010, <https://www.bjs.gov/content/pub/pdf/fdluc06.pdf>. Accessed 14 May 2019.
- Cowan, Gloria. "Women's hostility toward women and rape and sexual harassment myths." *Violence against Women* 6.3 (2000): 238-246.
- Crilly, Rob. "Margaret Atwood triggers online row with criticism of #MeToo movement." *The Telegraph*, 16 January 2018, <https://www.telegraph.co.uk/news/2018/01/16/margaret-atwood-triggers-online-row-criticism-metoo-movement/>. Accessed 18 April 2019.
- Davis, Deirdre. "The harm that has no name: Street harassment, embodiment, and African American women." *Ucla Women's LJ* 4 (1993): 133.
- Durán, Mercedes, Miguel Moya, and Jesús L. Megías. "It's his right, it's her duty: Benevolent sexism and the justification of traditional sexual roles." *Journal of Sex Research* 48.5 (2011): 470-478.
- EEOC. "Sexual Harassment." *EEOC*, U.S. Equal Employment Opportunity Commission, 2018, [www.eeoc.gov/laws/types/sexual\\_harassment.cfm](http://www.eeoc.gov/laws/types/sexual_harassment.cfm). Accessed 27 January 2019.

- European Union Agency for Fundamental Rights. "Violence against Women: an EU-Wide Survey." *European Union Agency for Fundamental Rights*, March 2014, [fra.europa.eu/sites/default/files/fra\\_uploads/fra-2014-vaw-survey-main-results-apr14\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf). Accessed 15 May 2019.
- Eyssel, Friederike, and Gerd Bohner. "Schema effects of rape myth acceptance on judgments of guilt and blame in rape cases: The role of perceived entitlement to judge." *Journal of Interpersonal Violence* 26.8 (2011): 1579-1605.
- Feather, Norman T. "Protestant ethic, conservatism, and values." *Journal of Personality and Social Psychology* 46.5 (1984): 1132.
- Fitzgerald, Louise F., Michele J. Gelfand, and Fritz Drasgow. "Measuring sexual harassment: Theoretical and psychometric advances." *Basic and Applied Social Psychology* 17.4 (1995): 425-445.
- Fitzgerald, Louise F., Suzanne Swan, and Vicki J. Magley. "But was it really sexual harassment?: Legal, behavioral, and psychological definitions of the workplace victimization of women." Ed. William O'Donohue. *Sexual Harassment: Theory, Research and Treatment*. Allyn & Bacon, 1997. 5-28.
- Glick, Peter, and Susan T. Fiske. "The ambivalent sexism inventory: Differentiating hostile and benevolent sexism." *Journal of Personality and Social Psychology* 70.3 (1996): 491.
- Glick, Peter, et al. "The two faces of Adam: Ambivalent sexism and polarized attitudes toward women." *Personality and Social Psychology Bulletin* 23.12 (1997): 1323-1334.
- Heywood, Andrew. "Conservatism." *Political Ideologies: An Introduction*. Red Globe Press, 2017. 62-94.
- Hockett, Jericho M., et al. "Oppression through acceptance? Predicting rape myth acceptance and attitudes toward rape victims." *Violence against Women* 15.8 (2009): 877-897.
- Ipsos. "The #MeToo Movement: One Year Later." 2017-2018 Ipsos, 29 October 2018, <https://www.ipsos.com/it-it/metoo-movement-one-year-later>. Accessed 17 February 2019.
- ISTAT. "La violenza contro le donne dentro e fuori la famiglia." Presidenza del Consiglio dei Ministri, Dipartimento

- per le Pari Opportunità, 5 June 2015, <https://www.istat.it/it/archivio/161716>. Accessed 15 June 2019.
- Jost, John T., and Aaron C. Kay. "Exposure to benevolent sexism and complementary gender stereotypes: consequences for specific and diffuse forms of system justification." *Journal of Personality and Social Psychology* 88.3 (2005): 498.
- Jost, John T., and Mahzarin R. Banaji. "The role of stereotyping in system-justification and the production of false consciousness." *British Journal of Social Psychology* 33.1 (1994): 1-27.
- Khan, Shamus R., et al. "I Didn't Want To Be 'That Girl': The Social Risks of Labeling, Telling, and Reporting Sexual Assault." *Sociological Science* 5 (2018): 432-460.
- Kissling, Elizabeth Arveda. "Street Harassment: The language of sexual terrorism." *Discourse & Society* 2.4 (1991): 451-460.
- Livsey, Anna. "Liam Neeson says harassment allegations are now 'a witch-hunt.'" 13 January 2018, *The Guardian*, <https://www.theguardian.com/film/2018/jan/13/liam-neeson-says-harassment-allegations-have-become-a-witch-hunt>. Accessed 5 May 2019.
- Mellgren, Caroline, Mika Andersson, and Anna-Karin Ivert. "'It happens all the time': Women's experiences and normalization of sexual harassment in public space." *Women & Criminal Justice* 28.4 (2018): 262-281.
- Pryor, John B., and Lynnette M. Stoller. "Sexual cognition processes in men high in the likelihood to sexually harass." *Personality and Social Psychology Bulletin* 20.2 (1994): 163-169.
- Pryor, John B., Janet L. Giedd, and Karen B. Williams. "A social psychological model for predicting sexual harassment." *Journal of Social Issues* 51.1 (1995): 69-84.
- Russell, Brenda L., and Kristin Y. Trigg. "Tolerance of sexual harassment: An examination of gender differences, ambivalent sexism, social dominance, and gender roles." *Sex Roles* 50.7-8 (2004): 565-573.
- Sable, Marjorie R., et al. "Barriers to reporting sexual assault for women and men: Perspectives of college students." *Journal of American College Health* 55.3 (2006): 157-162.



- Sidanius, Jim, and Felicia Pratto. "Social Dominance Theory: A New Synthesis." *Political Psychology: Key Readings*. Eds. John T. Jost and Jim Sidanius. CRC Press, 2004. 315–332.
- Spoehn, Cassia, Clair White, and Katharine Tellis. "Unfounding sexual assault: Examining the decision to unfound and identifying false reports." *Law & Society Review* 48.1 (2014): 161-192.
- Stop Street Harassment. "The Facts behind the #MeToo Movement. A National Study on Sexual Harassment and Assault." *Stop Street Harassment*, Feb. 2018, [www.stopstreetharassment.org/wp-content/uploads/2018/01/Full-Report-2018-National-Study-on-Sexual-Harassment-and-Assault.pdf](http://www.stopstreetharassment.org/wp-content/uploads/2018/01/Full-Report-2018-National-Study-on-Sexual-Harassment-and-Assault.pdf). Accessed 29 June 2019.
- Tuerkheimer, Deborah. "Street harassment as sexual subordination: The phenomenology of gender-specific harm." *Wis. Women's LJ* 12 (1997): 167.
- Wakslak, Cheryl J., et al. "Moral outrage mediates the dampening effect of system justification on support for redistributive social policies." *Psychological Science* 18.3 (2007): 267-274.
- Waldersee, Victoria. "MeToo has made us more open to talking about sexual harassment, say majority of Britons". *YouGov*, 2 November 2018, <https://yougov.co.uk/topics/politics/articles-reports/2018/11/02/metoo-has-made-us-more-open-talking-about-sexual-h>. Accessed 5 May 2019.
- Weiss, Karen G. "Too ashamed to report: Deconstructing the shame of sexual victimization." *Feminist Criminology* 5.3 (2010): 286-310.
- Willness, Chelsea R., Piers Steel, and Kibeom Lee. "A meta-analysis of the antecedents and consequences of workplace sexual harassment." *Personnel Psychology* 60.1 (2007): 127-162.
- World Health Organization. "Global and Regional Estimates of Violence against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence." *World Health Organization*, 2013, [apps.who.int/iris/bitstream/handle/10665/85239/9789241564625\\_eng.pdf;jsessionid=C9EBF539FF36DDA838FF64BFBFF2A664?sequence=1](http://apps.who.int/iris/bitstream/handle/10665/85239/9789241564625_eng.pdf;jsessionid=C9EBF539FF36DDA838FF64BFBFF2A664?sequence=1).

Zinzow, Heidi M., and Martie Thompson. "Barriers to reporting sexual victimization: Prevalence and correlates among undergraduate women." *Journal of Aggression, Maltreatment & Trauma* 20.7 (2011): 711-725.

POLITICAL ORIENTATION  
AND THE FREQUENCY OF #MeToo TWEETS  
IN US STATES

Bruno Gabriel Salvador Casara, Caterina Suitner,  
Alice Lucarini, *University of Padua*

*Abstract*

The #MeToo movement has been spreading on social media since October 2017 to denounce the widespread presence of sexual assault and harassment of women. With the use of this hashtag, women who were sexually offended exposed their perpetrators to the public judgment. Although the movement gained a lot of popularity, it also encountered the criticism of a part of the population, characterized by specific political values. We here tested this account, analyzing the presence of public messages on this topic sent on Twitter (“tweets”) in United States. The analysis of 1315 geo-localized tweets with the #MeToo hashtags and 3020 geo-localized tweets from a random sample of U.S. tweets shows that the more a State is liberal, the more #MeToo tweets we have, even when the frequency follows the general frequency of tweets by each single state. This study provides support for the relation between political ideology and the communication of women’s rights. Data are discussed in terms of possible socio-cognitive processes underpinning the association between political ideology and sensitivity to violence against women.

*Violence Against Women and Political Attitudes*

According to the World Health Organization violence against women, and in particular sexual violence, is an important global and public health issue and many of the cases of sexual harassment and assault are enacted against women by men. In particular, global estimates report that 1 in 3 women has experienced either intimate and non-intimate partner violence, and 38% of women murders are committed by their intimate partner (WHO 200).

Approaching this phenomenon from a socio-psychological perspective, we can argue that this massive imbalance in numbers concerning gender-based violence is related to a social patriarchal asset, which promotes an asymmetry in status and power between women and men, in favor of the latter. Sexual harassment is indeed one of the many manifestations of power imbalance between men and women and several theories have focused on the role played by political orientation in gender-based violence. Specifically, conservative worldviews, right-wing attitudes, and social dominance orientation lead to a higher tolerance towards aggressions against women (Begany and Milburn 119; Sibley and Duckitt 160; Christopher and Wojda 65).

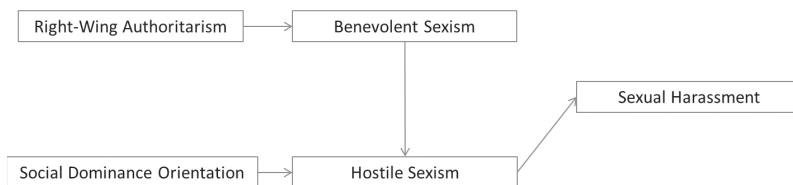
Gender roles are not only norms that are acquired very early in life through socialization but they are also deeply rooted (Witt 253). With respect to gender roles, the normative standards governing them are often characterized by unfairness and imbalance, as they prompt the primacy of one social category (males) over the other (females). Psychological studies have highlighted that higher acceptance and proclivity to sexual aggression are among the by-products of traditional gender role norms, and specifically, of the endorsement of the masculine ideology and of the unequal status between men and women (for a review see Murnen, Wright & Kaluzny 359). Importantly, this patriarchal worldview is tightly linked to a conservative political ideology.

In line with the Dual-process model proposed by Duckitt and Sibley (98), conservative supporters are characterized by

two main motivational goals that are fueled by two different worldviews. In particular, the so-called Right-Wing Authoritarianism (RWA) is the latent psychological construct sustained by a view of the world as dangerous. People with high RWA are threat-driven motivated in establishing and maintaining group or social security; therefore, they act in order to preserve the social order, social cohesion, traditional values and mores (Sibley, Wilson, Duckitt 160). The second conservative worldview regards the competitive nature of society and leads to the so-called Social Dominance Orientation (SDO), a motivational support for group-based dominance and superiority. People with high levels of SDO tend to endorse more prejudices towards minorities that are seen as inferior and as a threat for the maintaining of in-group status and resources.

The path that connects RWA and SDO to more tolerance towards or—in the most extreme cases—justification of sexual violence and harassment has several ramifications. One of these ramifications can be identified in the RWA and SDO association with different types of sexism, namely Benevolent and Hostile Sexism (BS and HS, respectively). Developed for the first time in the 1990s by Glick and Fiske (491), this conceptualization of sexism takes into account the ambivalent nature of modern sexism with its two-fold nature. On the one side, a positive attitude toward women envisages them as delicate creatures to be defended, protected, and loved by men. This benevolent view provides a subtle form of sexism, imbued with a patronizing and dominating role for men, which constrains women in a position of weakness and subsidiarity. On the other side, hostile sexism is a blatant manifestation of sexism, which sustains men's power and fights any possible attempt by women to challenge the established hierarchal order. Women are perceived as a potential threat and gender equality is envisaged as the usurpation of men's power. For BS, the motivation in maintaining stability expressed by RWA highlights a vision of interdependency between men and women, therefore men with higher RWA are prone to

BS. HS is instead a product of SDO, in this case, men with high SDO are particularly sensitive to competitiveness in gender relations, and HS is expressed as an explicit hostility towards women's requests. Interestingly, BS is associated to HS and the latter is strongly associated to likelihood in sexual harassment (Sibley, Wilson, Duckitt 160, see Figure 1).



*Figure 1. Sibley, Wilson and Duckitt's Sexual Harassment Model*

Another way in which RWA and SDO anticipate tolerance for sexual harassment is their association with specific erroneous beliefs, such as Rape Myths. Examples of these myths are that rape is impossible without the consent of women or that rape is the result of uncontrollable men's passions (Burt 217). These beliefs are directly connected with the justification of sexual harassment and violence as the mythology surrounding rapes tends to blame the victims, absolve the perpetrators, and minimize the aggression, thus functioning as a cultural tool for moral disengagement. Finally, it is important to highlight the effect of the so-called confirmatory bias (Wason 129) that is a common trait in a large variety of attitudes, and it is particularly crucial in information societies, where information is extremely diverse, vast, and easily obtained. Due to the so-called confirmatory bias, people would more likely search, retrieve, analyze and remember information that is in line with previous attitudes. This means that the liberal and progressive instances of feminist movements or collective actions associated with left-wing supporters would tend to be ignored by conservative supporters.

*The #MeToo Movement as an Attempt to Promote Social Change toward Gender Equality*

The willingness to fight violence against women is not only a goal for national governments and policy makers, rather it is relevant also for the general population, triggering a circular phenomenon, where collective action can prompt policies to reduce sexual harassment, and safe and fair contexts can promote policies to sustain collective actions. An example of a collective action born with the aim of addressing gender-based violence toward women is the #MeToo movement. Although its origin can be traced back to 2006, when Tara Burke first coined the slogan “me too,” this movement became popular in the US in the fall of 2017. The American actress Alissa Milano encouraged women to spread the #MeToo hashtag on Twitter, with the aim of increasing awareness in the public opinion about the massive amount of sexual harassment and violence episodes against women. Since its spreading, the #MeToo movement became a real stronghold—first mainly in the US, then worldwide—for thousands of women, who have experienced episodes of sexual harassment, making them able to find the strength to report. Furthermore, in a wider perspective, the movement became also an opportunity for all those people engaged in the battle for gender equality, feeding their willingness to fight for the empowerment and rights of women.

Although the #MeToo movement can be considered a successful and persistent example of attempts to reach a more equal status for women and men, in its path it has also encountered much criticism. Indeed, people are generally resistant to change, especially when it aims to modify the current social context (Jost, Pelham & Carvallo 586) and this resistance often turns into protests and disapproval, especially against those reforms and movements that appear to challenge social assets. Indeed, social change is often perceived as a threat and this is generally true above all for the most conservative members of a society. For example, the republican President of the US Donald Trump publicly spoke against the #MeToo movement

(Rucker et al., 2018) and a survey of *The Economist* showed that Republicans are more skeptical about sexual harassment after a year of #MeToo campaigns. Regarding the gender-based violence issue, research has shown that conservative and highly sexist people are more tolerant toward this theme (Hockett, Saucier, Hoffman, Smith, & Craig 877; Russell and Trigg 565). Indeed, sexist people are more willing to protect traditional values and social roles related to gender (Glick and Fiske 491) and to rationalize gender inequality (Napier, Thorisdottir & Jost 405). Conservative ideology appears to serve a palliative function in facing gender inequality (Napier & Jost 565). Probably the tendency to rationalize social inequalities lies in the fact that the reactions against social change do not always culminate into active opposition, rather they can also be achieved by dismissing or even neglecting those collective actions. Moreover, people with different political attitudes hold different worldviews: right-wing supporters tend to see the world as a competitive and dangerous jungle (Duckitt and Sibley 113) and they are consequently motivated in maintaining social stability, security, and the power toward minorities. As the #MeToo movement is a pro-minority and liberal protest, it is plausible that it represents a hub of counter attitudinal information for conservatives, who want to preserve their worldview. For these reasons, we expect conservatives to be more likely to neglect this protest. To test this hypothesis, we focus on the United States, the country where the movement was born and that has been affected the most by its spread, deeply influencing people's perceptions on the topics of sexual harassment. Investigating this tendency could lead to a better understanding of the dynamics behind the opposition to this movement.

### *Using Twitter to Assess "Off-Line" Reality*

As previously reported, according to the so-called confirmation bias, people are prone to ignore counter-attitudinal information. Given that the #MeToo movement shares information that chal-



lenge conservative attitudes and worldviews, we hypothesized a connection between political orientation at the state level and US people's engagement with the #MeToo movement. Specifically, we expect this collective action to be more present within states characterized by a more liberal attitude.

To achieve this goal, we decided to use Twitter as a research tool. Twitter is an American on-line news and social networking service, on which users can post, share and interact through short-characters messages, known as "tweets." Twitter can be viewed as a sort of public online plaza, as all of its contents are publicly available even for non-registered users. Twitter has proved to be a resourceful social media, since it can be viewed as a mirror of the "off-line" reality, being a powerful vehicle to assess people's engagement in several issues. There is indeed a wide and growing line of research that has explored how Twitter analyses predict social reality in an increasing number of fields, such as personality (Pratama & Sarno, 2016), stock market (Bollen, Mao & Zeng 1), health conditions (Micheal and Dredze 265), crime (Gerber 115) and elections (Tumasjan et al. 178).

In the context of this study, a main distinctive feature of Twitter is the possibility to use hashtags, a type of metadata tag that works as a thematic collector to help users easily find messages with a specific theme or content. Even if usually data on Social Media are noisy and hard to interpret, collecting tweets with a specific hashtag permits us to assume that the frequency of #MeToo Tweets is a proxy of interest toward that movement. Furthermore, since the #MeToo movement itself went viral right on Twitter, we expect that using information on the frequency of #MeToo tweets can be a sharp strategy to assess people's interest in the movement across US states.

### *Hypothesis*

We expect an association between political orientation and the frequency of #MeToo tweets. Specifically, we expect that a higher proportion of liberal vs. conservative supporters within a state

is positively associated to a higher frequency of #MeToo tweets. This hypothesis is in line with the fact that the #MeToo movement is mainly a liberal feminist collective action whose ideological values are in contrast with conservative worldviews (Duckitt and Sibley 113), therefore conservatives are expected to be less interested in supporting, sharing or even discussing #MeToo tweets. For testing our hypothesis, we used the frequency of the general production of tweets.

### *Method*

By using the statistical software R (R Core Team) we collected tweets posted within the US. To download the tweets, we used R's "Rtweet" specific package (Kearney). Tweets were collected within a specific timeframe ranging from October 28, 2018 to November 7, 2018 and we also divided them in two classes. The tweets either contained the hashtag #MeToo (N=1315) or were randomly sampled from the entire tweet production in that same time and space frame (N=3020). All the tweets were geo-localized and then categorized, using the "Revgeo" package (Hudecheck), as belonging to 49 States. Tweets from Alaska and Hawaii were excluded due to the geo-localization limitations of the software. The political orientation of each US state was calculated using the US Dailies Data Source from Gallup from 2016.

No institutional ethical approval was necessary for carrying out this data analysis, as the selected datasets are public and freely available to users. In addition to that, the Twitter data collection did not need any kind of approval, since in Twitter all the posts are public and visible also for non-registered users and tweets can be freely mined using Twitter's application programming interface.

A partial Pearson's  $r$  confirmed the relation between political orientation and #MeToo Tweets frequency (H1) ( $r=-.38$ ,  $p<.01$ , see Figure 2).

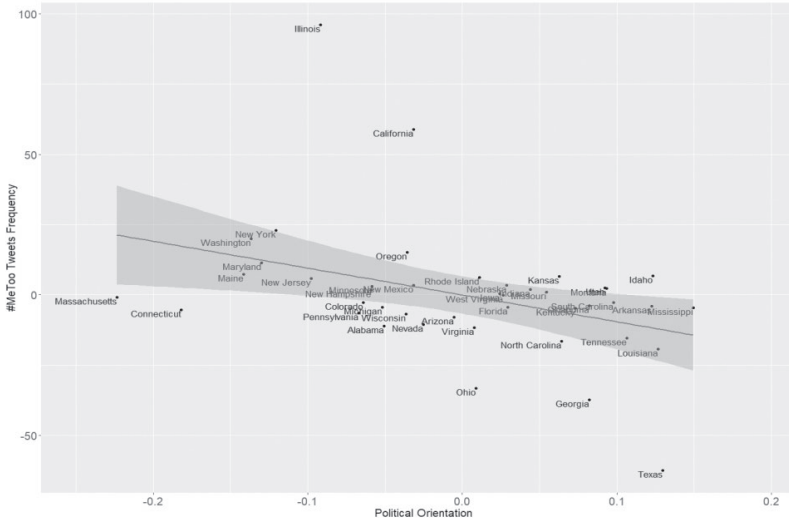


Figure 2. Partial correlation plot between #MeToo Tweets Frequency and Political Orientation

### Discussion

The present study supported our hypothesis that there is a link between political orientation and the pervasiveness of a feminist collective action, specifically people are more likely to tweet #MeToo messages in more liberal States. As previously anticipated, these results are in line with the so-called Dual-Process Model account (Duckitt and Sibley 98) and confirmation bias. Indeed, the #MeToo movement can be considered as a specific form of liberal, progressive on- and off-line collective action aiming at fighting for empowering a minority (in this specific case women) and at changing an unequal social system. According to the Sibley and Duckitt model, conservatives perceive attempts to challenge the social system and to favor minorities as a threat to their worldview. Moreover, our hypothesis that in the States where right-wing supporters are more present, the stories shared with #MeToo are more likely to be dismissed were confirmed.

Future experimental research is needed to specifically address the causality issue, whether it is political orientation prompting collection action, vice-versa or if a circular process is at work.

### *Limits and Future Directions*

As anticipated while discussing the results, the most critical limit of the present study is its correlational nature. Indeed, we are not able to scientifically assume that there is a causality relation between the constructs assessed and it is possible that other unmeasured factors may have played a role in the relations between our variables. It is also important to consider both benefits and limits of the big data retrieved from social media such as the #MeToo Tweets. In fact, big data allow, on the one hand, to access extremely large samples of data from all around the World, overcoming a common limit of classic experimental procedures in social sciences related to the generalization of the findings. On the other hand, however, the features of big data raise several challenges for social research. First, the volume of big data storage is not only extremely vast and data are generated extremely rapidly. Hence, when we analyze a big data set, the data source is often already exponentially growing. For this reason, it will be important to replicate the findings of this study with a preregistered protocol that should take into account more tweets and for a wider timeframe. Another challenge of big data collection regards its variety. In this study, we have focused on the frequency of #MeToo tweets from the US, but these data are far more complex and richer. Indeed, tweets also offer semantic content, as #MeToo tweets can have different meanings (e.g. they can support or criticize the movement). Moreover, tweets are also characterized by media variety, as tweets can contain texts, images, links and videos. In order to overcome these limits future studies, should analyze the content of the tweets and try to implement methods for the analysis of images and videos.

Moreover, another future development is to empirically test the specific relation between RWA and SDO with on- and off-line activism behaviors. The relationship between political orientation and feminist collective action should be investigated in a broader manner, in order to understand which specific ideological or cognitive barriers prevent people from recognizing the urge of fighting gender-based violence and of changing the current and unequal social system.

### *Works Cited*

- Begany, Joseph J., and Michael A. Milburn. "Psychological predictors of sexual harassment: Authoritarianism, hostile sexism, and rape myths." *Psychology of Men & Masculinity* 3.2 (2002): 119.
- Bollen, Johan, Huina Mao, and Xiaojun Zeng. "Twitter mood predicts the stock market." *Journal of Computational Science* 2.1 (2011): 1-8.
- Bontempo, Robert, Sharon Lobel, and Harry Triandis. "Compliance and value internalization in Brazil and the US: Effects of allocentrism and anonymity." *Journal of Cross-Cultural Psychology* 21.2 (1990): 200-213.
- Burt, Martha R. "Cultural myths and supports for rape." *Journal of Personality and Social Psychology* 38.2 (1980): 217.
- Christopher, Andrew N., and Mark R. Wojda. "Social dominance orientation, right-wing authoritarianism, sexism, and prejudice toward women in the workforce." *Psychology of Women Quarterly* 32.1 (2008): 65-73.
- Duckitt, John, and Chris G. Sibley. "Right wing authoritarianism, social dominance orientation and the dimensions of generalized prejudice." *European Journal of Personality* 21.2 (2007): 113-130.
- . "A dual-process motivational model of ideology, politics, and prejudice." *Psychological Inquiry* 20.2-3 (2009): 98-109.

- Gerber, Matthew S. "Predicting crime using Twitter and kernel density estimation." *Decision Support Systems* 61 (2014): 115-125.
- Glick, Peter, and Susan T. Fiske. "The ambivalent sexism inventory: Differentiating hostile and benevolent sexism." *Journal of Personality and Social Psychology* 70.3 (1996): 491.
- Hockett, Jericho M., et al. "Oppression through acceptance? Predicting rape myth acceptance and attitudes toward rape victims." *Violence against Women* 15.8 (2009): 877-897.
- Hofstede, Geert. "Cultural dimensions in management and planning." *Asia Pacific Journal of Management* 1.2 (1984): 81-99.
- Hudecheck, Michael. "Revgeo: Reverse Geocoding with the Photon Geocoder for OpenStreetMap, Google Maps, and Bing." <https://cran.r-project.org/package=revgeo>. Accessed 18 June 2019.
- Jones, Robert P., et al. "How Americans View Immigrants and What They Want from Immigration Reform: Findings from the 2015 American Values Atlas." Public Religion Research Institute, 2016.
- Jost, John T., Brett W. Pelham, and Mauricio R. Carvalho. "Non-conscious forms of system justification: Implicit and behavioral preferences for higher status groups." *Journal of Experimental Social Psychology* 38.6 (2002): 586-602.
- Kearney, Michael W. "rtweet: Collecting and analyzing Twitter data." *Comprehensive R Archive Network*. <https://cran.r-project.org/package=rtweet>. Accessed 18 June 2019.
- Miller, Joan G., Matthew Wice, and Namrata Goyal. "Contributions and challenges of cultural research on the development of social cognition." *Developmental Review* 50 (2018): 65-76.
- Murnen, Sarah K., Carrie Wright, and Gretchen Kaluzny. "If 'boys will be boys,' then girls will be victims? A meta-analytic review of the research that relates masculine ideology to sexual aggression." *Sex roles* 46.11-12 (2002): 359-375.
- Napier, Jaime L., and John T. Jost. "Why are conservatives happier than liberals?" *Psychological Science* 19.6 (2008): 565-572.
- Napier, Jaime L., Hulda Thorisdottir, and John T. Jost. "The joy of sexism? A multinational investigation of hostile and benev-

- olent justifications for gender inequality and their relations to subjective well-being.” *Sex roles* 62.7-8 (2010): 405-419.
- Newport, Frank. “Five Key Findings on Religion in the U.S.” *Gallup.com*, Gallup, 24 May 2019, news.gallup.com/poll/200186/five-key-findings-religion.aspx. Accessed 18 May 2019.
- Paul, Michael J., and Mark Dredze. “You are what you tweet: Analyzing twitter for public health.” *Fifth International AAAI Conference on Weblogs and Social Media* (2011): 265-272.
- Pew Research Center. “Views about Abortion by State - Religion in America: U.S. Religious Data, Demographics and Statistics.” *Pew Research Center’s Religion & Public Life Project*, 11 May 2015.
- Rozee, Patricia D., and Mary P. Koss. “Rape: A century of resistance.” *Psychology of Women Quarterly* 25.4 (2001): 295-311.
- Rucker, Philip, et al. “Defending Kavanaugh, Trump Laments #MeToo as ‘Very Dangerous’ for Powerful Men.” *The Washington Post*, WP Company, 26 Sept. 2018.
- Russell, Brenda L., and Kristin Y. Trigg. “Tolerance of sexual harassment: An examination of gender differences, ambivalent sexism, social dominance, and gender roles.” *Sex Roles* 50.7-8 (2004): 565-573.
- Sibley, Chris G., Marc S. Wilson, and John Duckitt. “Antecedents of men’s hostile and benevolent sexism: The dual roles of social dominance orientation and right-wing authoritarianism.” *Personality and Social Psychology Bulletin* 33.2 (2007): 160-172.
- Team, R. Core. “R: A language and environment for statistical computing.” *R Foundation for Statistical Computing, Vienna, Austria*. <https://www.R-project.org>. Accessed 18 May 2019.
- The Data Team. “After a Year of #MeToo, American Opinion Has Shifted Against Victims.” *The Economist*, 15 October 2018, <https://www.economist.com/graphic-detail/2018/10/15/after-a-year-of-metoo-american-opinion-has-shifted-against-victims>. Accessed 18 May 2019.
- Tumasjan, Andranik, et al. “Predicting elections with twitter: What 140 characters reveal about political sentiment.” *Fourth*

*International AAAI Conference on Weblogs and Social Media* (2010): 178-185.

Wason, Peter C. "On the failure to eliminate hypotheses in a conceptual task." *Quarterly Journal of Experimental Psychology* 12.3 (1960): 129-140.

Witt, Susan D. "Parental influence on children's socialization to gender roles." *Adolescence* 32.126 (1997): 253-260.

World Economic Forum. "Global Gender Gap Report 2018." *Global Gender Gap Report 2018*, <http://www.reports.weforum.org/global-gender-gap-report-2018/>. Accessed 18 May 2019.

World Health Organization. "Violence against Women." *World Health Organization* (2017), <http://www.who.int/news-room/fact-sheets/detail/violence-against-women>. Accessed 18 May 2019.



THE CUSTODY OF CHILDREN IN DIFFICULT SEPARATIONS:  
THE HARD TASK OF SOCIAL WORKERS  
IN FRIULI-VENEZIA GIULIA AND VENETO

Federica Anastasia, *University of Trieste*

*Abstract*

This study, part of a wider project conducted with Mariachiarra Feresin and Patrizia Romito, still underway, focuses on social work practice in children's custody in separations with domestic violence (DV), with the aim to analyze the knowledge, opinions, practices and possible prejudices of social workers in the Regions of Friuli-Venezia Giulia and Veneto. Results highlight the concealment of violence against women and of witnessed violence (WV) and the consequent blame for women and non-credibility of women, with serious risks to the well-being and safety of women and children. Professionals in general ignore *The Istanbul Convention* and often ignore DV and apply mediation as a rule; they do not consider the increase in risk of DV in post-separation; they present ex-partners and parents as separated; they force bi-parenting. Results show that the perpetrators' patterns of power and control continue during such mediation. In conclusion, without a specific training for services, the safety of women and children is put at risk.

### *Introduction*

“Maze... a large number of rules, instructions etc. which are complicated and difficult to understand.”  
(Longman Dictionary 1083)

The image of the labyrinth aptly renders the tangle that emerges from my qualitative research. The analysis that I present here aims to highlight the crucial knots, address the goal of unraveling the tangle, investigate the various issues and, finally, reflect on possible solutions, at least partial.

### *The Istanbul Convention and Patrizia Romito's Observations*

Gender Violence is violence against women and children, identified by *The Istanbul Convention* as a violation of human rights and a form of discrimination. It establishes that:

Parties shall: refrain from engaging in any act of violence against women and ensure that State authorities take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence. (9); place the right of the victim at the centre (10); promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices (11); due account of the rights and needs of child witnesses of all forms of violence (15); ensure that, in the determination of custody and visitation rights of children, incidents of violence are taken into account; exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children (16); prohibit mandatory alternative dispute resolution processes, including mediation and conciliation. (21)

*The Convention* specifies some important points that are essential for understanding its mission, specifically:

- a. “Violence Against Women”: a human rights violation and a form of discrimination against women; all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such

- acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;
- b. “Domestic Violence”: all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim;
  - c. “Gender”: the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men;
  - d. “Gender-Based Violence Against Women”: violence that is directed against a woman because she is a woman or that affects women disproportionately;
  - e. “Victim” : any natural person who is subject to the conduct specified in points a and b;
  - f. “Women”: girls under the age of 18. (8)

Regarding domestic violence, a new element is here introduced: the act of violence perpetrated is no longer referred only to the abused woman, but also includes family and couple dynamics. It will no longer be possible to separate the abusive subject—husband, partner, father—from the children who, indirectly involved, suffer and live in an atmosphere of intimidation and offenses.

Different studies highlight a worrying situation. According to FRA, in Europe, 1 in 3 women experienced intimate partner violence (IPV) during their lifetime (21). ISTAT 2015 shows that in 65% of cases of IPV, there is witnessed violence and in 25% of cases children are directly involved (4). In witnessed violence the child experiences directly or indirectly domestic violence on reference figures (CISMAI 17). Contrary to what is believed by many professionals, even those working in social services, the post-separation context is at risk of continuing or even increasing violence (Kelly 44). This could become a fertile ground for the use of violence concealment techniques.

Romito defines “strategies,” such as “complex maneuvers, general methods to hide male violence and allow the maintenance of the status quo, privileges and male domination,” and “tactics,” such as “tools that can be used in a transversal in various strate-

gies, without being specific to violence against women.” We can speak of “system” and “strategies to maintain it,” when different acts converge towards the same purpose, even without the full awareness of the actors involved” (56). Strategies considered in Romito are “Legitimation”: male violence is visible, but considered legitimate, it is not called “violence” but it is socially accepted and shared; and “Negation”: when it is impossible to legitimize extreme forms of violence, one chooses different ways of concealment, which make non-intervention and non-position-taking lawful (108).

Moreover, Romito considers the following tactics: “Euphemising”: labeling a phenomenon in an imprecise and misleading way, in order to mask its gravity and responsibilities; “Dehumanising”: erasing and depriving a person of identity, making it no longer human; “Blaming the victim”: assigning the responsibility to the victim, and consequently the guilt, of her condition, whatever it is; “Psychologising”: using some psychological theories, aimed at delegitimizing those responsible for violence; “Naturalising”: passing as natural behaviors that are not; “Separating”: dividing and separating various forms of violence (57). Lastly, identifying and confronting violence against women require radical actions and changes in our society (Romito 179).

### *Research & Method*

This research is part of a broader doctoral project by Mariachiara Feresin on children’s custody in difficult separations, which appeared in Italian in 2017 on the *Rivista di Criminologia, Vittimologia e Sicurezza*. Specifically, this study focuses on social workers in local services. This topic so far has not been sufficiently investigated, particularly in Italy. We employed a qualitative-explorative research methodology and semi-structured interviews for data collection. *“The goal of qualitative studies is to provide clarity and understanding to complex psychosocial*

*issues*” (Marshall 522). Qualitative investigations are probably one of the most natural research methods. The aim is the understanding of social life, through the use of well-defined analytical techniques (Babbie 26-28). Furthermore, this allowed us: to investigate in depth a theme; to bring out the participants’ points of view, specifically the meaning they attribute to the experiences. It enabled us to better understand the system of attached values, as well as to prepare useful material to increase knowledge and to create the basis for subsequent concepts and theories.

One of the strengths of this qualitative field research is the possibility to investigate in depth the social reality, by “immersing” into it, with flexibility. There are different epistemological approaches, and we proceeded with a more inductive approach, accompanied by an in-depth study of the theories, models and existing literature.

### *Research & Aim*

The main aim of this research is first of all to explore the dynamics of social workers’ practice regarding the custody of children, in so-called “difficult” separations. Secondly, it analyzes the knowledge, opinions, practices and prejudices of the social workers who work in these situations.

Previous research has highlighted the existence of tactics and social strategies to conceal violence against women and children. Moreover, a further goal of this study will be to explore the use of strategies and tactics to conceal violence in the speech of social workers (Romito 56).

### *Sample Selection*

Our research sampled 15 subjects, social workers, Table 1 describes their demographic and professional characteristics.

*Table 1. Sample description*

	<b>Sex</b>	<b>Age (average)</b>	<b>Work Experience (average-years)</b>
<b>Male</b>	1	45	11
<b>Female</b>	14	40 (30-60)	14 (5-34)

As shown in Table 1, 14 in 15 social workers (SW) were women; the average age was 40 years. Most of them (12/15) were married with children (11/15). Regarding the service in which they worked, 10 SW were involved in the children protection area, 3 SW in the family counseling center and 2 SW in a second level team.

### *Procedure*

My part of the research involved the area of Friuli-Venezia Giulia and Veneto regions and was carried out according to different phases:

- I. Preparation of the interview's grid for themes.
- II. Preparation of an information page of the project, presented to the local services.
- III. Preparation of the Informed Consent Form, according to the Ethics Code.
- IV. Project presentation to social workers and ask for participation.
- V. Telephone contact with services, to introduce the project. The explanation of the research and anonymity have already taken place since the first telephone contact.
- VI. Individual date with each of the 15 participants.
- VII. Data collection.
- VIII. Analysis: Identification of categories; inter-subjective comparison.

The contacted local services agreed to participate and collaborate.

Interviews were conducted by recording, after an explanation of the research and the signing of informed consent. I remained also available to be contacted for any doubts, questions or curiosity.

### *Data Collection*

According to Kvale: “The qualitative interview is a form of professional conversation that follows rules and uses specific techniques, in an exchange of opinions based on the honesty between two people who are confronted on a topic of common interest, producing knowledge” (Kvale 47).

Data collection was conducted using a semi-structured interview, recorded and transcribed, starting with an opening question, following a themes’ grid, and letting the participants express their points of view, their thoughts also with respect to issues that may have been initially not expected (Kaufman 37-60). The qualitative interviews are based on an interaction between interviewer and interviewee, in which the interviewer has a general idea of what they want to investigate and the topics to be discussed, but they do not have a series of closed questions to ask with a specific order. In order to proceed naturally and fluently, an in-depth knowledge of the questions and issues is required by the interviewer. The conversation continues by exploring the themes that were brought up by the interviewee. Each question is followed by a careful listening to the answers, an “in progress” meaning analysis. The interviewer has to be able to listen, think and talk almost simultaneously (Babbie 349). During the interviewer-interviewee interaction, empathy and self-observation, in-depth knowledge, “in progress” analysis and ability to manage silence, without judgment, in a welcoming attitude are necessary. Kaufmann states clearly:

A person's opinion is not a homogeneous block. The opinions gathered through interviews are multiple for the same question, even contradictory, and structured in a non-random way at different levels of consciousness. (...) To reach the essential information, the interviewer has to approach the style of conversation without letting himself go to a real conversation: the interview is a job, which demands a continuous effort. (51)

One of the main strengths of this method is flexibility. Moreover, it allows reaching a deep knowledge of the social processes. Among its main weaknesses is that it cannot be representative of the population.

After the literature analysis and in-depth discussions with the research team, it was possible to create the interview grid. Its topics were: child custody, violence against children, witnessed violence, violence against women, the post-separation violence, family mediation, the parental alienation syndrome (PAS), bi-parenting, the role of social services and the network between services, training and reports.

After the opening question: "The scope of my research is the custody of children, in difficult separations, can you tell me a little bit about your experience?", I continued following the general outline prepared previously. For each interview, I wrote a general, pre-interview comment, and then a post-interview comment, taking note of any particularities, salient notes, concerns and other descriptive data.

The data collection, overall, for the 15 interviews took 20.5 hours (excluding travel time). Transcriptions required around 150 hours and 308 total pages. After that, I carefully reread the transcripts, proceeding to a first analysis, consisting in identifying categories. Furthermore, I created a list of the different categories. For each transcript I highlighted and numbered the different parts according to these categories. Then, I gathered them for thematic groups and connected all the parts of the text referring to the same category, in order to detect possible patterns and relations between concepts. Descriptive analysis derived from these results, discussed with my supervisor and team, in order to com-



pare analysis and results, according to the triangulation principle (Robson 269).

### *Analysis*

Content analysis, cross-case and case-oriented analysis, both for the transcripts of the interviews and the documents, followed these steps:

- impregnation;
- definition of the coding units;
- analysis of the category's construction;
- central category's identification;
- testing and evaluation of reliability through different cover;
- research of the "negative case";
- development of the model and interpretation.

### *Ethical Considerations*

The data were collected, recorded, transcribed and analyzed according to the Ethics Committee of the University of Trieste. Participation in the research was voluntary and anonymous; confidentiality and informed consent have been guaranteed. The research followed the ethical guidelines by the report of the World Health Organization, and by the Italian Association of Psychology for research in Psychology.

### *Results*

The analysis revealed results, divided into the following categories:

- Forced fathering
- Bi-parenting

- Mediation as a rule
- Mediation at the service of violent fathers
- Confusion between “conflict” and “violence”
- Blaming the mothers
- Women and children are not believed
- Social workers’ working conditions

### *Forced Fathering*

In the father-and-son/daughter relationships context emerges the theme of the so-called father-child meetings, which sometimes become forced meetings between fathers and children, a fertile ground for episodes of violence. In these situations the meaning of the children’s right to bi-parenting seems to be forgotten, becoming the duty instead of the right. As the following quotation shows, there is still confusion between right and duty, and children seem neither to be listened to, neither to be considered, even when they clearly express that they do not want to see a parent:

Social Worker (SW) 10: “The child did not want to see dad and he/she does not want to!

(question) In your opinion, why do you push the child to see the father, even if the child does not want to?

Because there is a right of the child, however, when the child is small, he/she does not yet know how much ...”

It clearly emerged that the focus is more on the adult than the child. Moreover, the, so called “Best Interest of the Child” of the International Convention of the Rights of the Child are essentially ignored (2). From the stories of other interviewees as well, there emerges the problem related to the “fathers who disappear”: shared custody (only theoretically), mothers’ blaming and struggles to have meetings with the children, except, then, to disappear, literally, not to give anymore self-information, dis-interest, not being present: “...this child, who has a very serious

form of diabetes, interested a lot in meeting his dad, went to appointments, and his father did not come!” (SW8)

### *Two-Parent Families*

Historically, the custody of children in cases of separation and divorce was to mothers. So, the legislator, through Law 54/2006, established the shared custody as a rule, in order to reinforce the principle of two-parent families. The exclusive custody to one of the parents is envisaged only as an exception, limiting it theoretically to situations where the application of the shared custody may be prejudicial to the interest of the child. In the experience reported by the interviewees, shared custody is the dominant practice:

“There are also situations of exclusive custody, even if, at this moment, the Court tends to never use this formula [...] this is an exclusive custody that was born in a late way [...] it was clear that there could not be a shared custody... then, other exclusive custodies don't come to my mind right now.” (SW5)

The principle of two-parent families, which starts as the child's right, gradually becomes an adult's right, losing the substantial as well as the formal sense of the principle itself, making it difficult to implement effectively, and with the reversal of the couple's conflict in the parenting functions. The results show also the critical issues of judicial procedures, with courts and lawyers that push towards shared custody. As stated in *The Istanbul Convention*, shared custody is incompatible with situations of intimate partner violence, even after separation, as described in the quote below (16):

“...the father opposed, the child was terrified...we too were terrified! I went in to interrupt the visit, because it didn't have to go on like this, to protect the child; then, the father had gone out, he was outside, he was constantly ringing the bell and calling the name of the child [...]

I had called the police, because we couldn't send him away...even the educator couldn't take the baby because we feared that he would follow them in the street." (SW12)

In this case, it is legitimate to ask what the point of forcing the child to "protected" visits (protected only theoretically) is. It highlights the doubt that, having put the label "conflict," scarcely investigated the possibility of violence, opens the way to shared custody, perhaps without the necessary awareness on the possible risks for the child and the mother: "...several times we have called the police, to protect the child. Once we interrupted a protected meeting because dad said that psychologists and people who take care of you are people who must be killed. We called the police to release the child, who was terrified, petrified" (SW12). In conclusion, an interviewee remembers clearly what the meaning of the principle of two-parent families should be: a right of the child, which should not be imposed as a duty (or as a right of the parent): "A two-parent family is definitely the right of all children! It's right that they have a relationship with both parents, but when a child doesn't want to meet a parent, don't force it! Because if a child doesn't want, there is a reason!" (SW5).

### *Mediation as a Rule*

Family mediation is one of the key tools introduced with Law 54/2006 on shared custody, in order to implement the principle of bi-parenting. The results show a paradox between, on the one hand, the existence of criteria and requirements for using mediation (*The Istanbul Convention* prohibits the use of mediation in case of violence), and, on the other hand, what happens in the practice (21). Mediation is imposed, even by courts and lawyers, on each couple or former couple. From the interviews it emerges that the effort to contextualize and consider what can happen when one of the partners is violent seems to be missing, even to verify in depth if there was DV. The division of tasks and roles in

social services sometimes looks confused. So, mediation as a rule increases the risk of mediation abuse.

“... because all cases should go through the transition with the mediation ...” (SW2).

In the following quotation, a social worker, without specific training as a mediator, made a mediation with the lawyers. Family mediation by definition should not be pursued if the lawyers are involved, otherwise we talk about indirect negotiation or arbitration.

“...personally, I tried, with a good result, a mediation with lawyers! Mom and Dad obviously were never sitting close together...” (SW1)

Currently, family mediation is not always conducted by a trained mediator. The use of some family mediation techniques is widespread among the services, independently of having a specific training or not. Sometimes this happens also due to a lack of resources.

### *Mediation at the Service of Violent Fathers*

The use of family mediation in a violence context could be risky, especially in an ex-partners meeting. In this context, the strategy of separation is common, as described in the following quote:

“When a couple separated, we must always bring them back and focus on their parenting...when there is a strong conflict is the only way.” (SW4)

There is incongruity here: when there is a “strong conflict,” mediation should be prohibited and shouldn’t be at the service of violent fathers:

“Mediation is a great tool for working on parenting and safeguarding the father figure.” (SW8)

In the following interview, the interviewee is the only one who clearly specifies that violence situations are not mediable:

“Family mediation, in my opinion, is a fantastic tool, however, mediation needs certain characteristics [...] So, for example, in situations of sexual abuse, violence or mistreatment, these are all conditions in which couples are not mediated. In the sense that there is a difference in level of power within the couple!” (SW13)

### *Confusion Between Conflict and Violence*

The interviews highlight an improper language use, connected with a basic confusion, essentially the tendency to call “conflicts” or “quarrels” those that are instead episodes of violence, as emerges from the description of the same interviewee. This happens even for expert social workers.

“... in a highly conflicting situation ... she was hit hard.” (SW15)

As the following data show, the word *conflict* is also used in a case of attempted stabbing of the woman:

“... they were fighting, there was a quarrel, the child told us, the father took a knife and threw it on the mother, and the child protected his mother, and the knife arrived on his hand, so, he has a scar on his hand! ... Mom took a lot of beatings and this time ... the knife!” (SW10)

It is specifically a euphemism, since conflict and quarrel can be symmetrical, but not violence!

### *Blaming Mothers*

A version of the mother who denounces the father for revenge can be found in the PAS (Romito, 79). The false accusation of abuse would be part of the mother’s strategies to exclude the father and this is what emerges also from the results of this research.

The majority of social workers who have been interviewed believes in PAS, adhere to it, sometimes in a confused way, and in most cases considers it a “female prerogative”:

“You should think (addressing the mother) of the damage you do to your child, because children love their parents, even if they are ... when a child says: “my father sucks,” most of the time it is because he is manipulated by his mother! [...] the PAS exists a lot! In my opinion, it’s in the women, in the desire to eliminate the other.” (SW8)

To conclude, I consider it important to highlight the unscientific nature of PAS and the risk that this supposed theory brings with it: the denial of the frequency, the gravity and the responsibilities of children’s sexual abuse.

### *Women and Children Are Not Trusted*

The following quotation highlights complex beliefs and attitudes expressed by social workers, who sometimes consider the woman as not credible and, in fact, stand as judges of a situation that perhaps they do not know enough: “... the woman reports him for the sexual abuse on the child! ... the child tells her that at night the father goes into the room, touches her, private parts, tells her “do not say anything to your mother” ... So, of course we never believed, partly because we know him, partly’ because the things she tells are so absurd...” (SW8). Here the social worker minimizes the violence and takes a judgmental attitude, claiming that the woman exaggerates, and “exploits”: “...I don’t want to say that you tell me lies when you say that he raises his hands ... but we are careful when we talk about women violence, that image that is all pounded, massacred ... we are at an exploitation of the phenomenon, a lot of times” (SW1). In the following quotation, the interviewee takes for granted that abuses reported by women are “false abuses,” but provide no evidence of this analysis. There seems to be no doubt that child abuse may

have occurred: "...temporary inhibition of father-child meetings ... Sometimes we took the responsibility of doing them without decree! Once against the opinion of the neuropsychiatrist, who claimed that the woman was scared. It was a false abuse, and very small children .. this dad was out to lunch, we organized the meetings" (SW8). The results show a poor knowledge of violence. Studies highlight that the 60-70% of child sexual abuse are intra-family (Eurispes 175) and false complaints of child sexual abuse are estimated between 2%-8% (Romito 79).

### *Working Conditions of Social Workers*

During the interviews, the working conditions of social workers emerged as an unexpected category. They are involved daily in very difficult situations, taking unpopular decisions and facing marginalization, violence, poverty. This would require resources, collaboration and even an enhancement of their role. Unfortunately these conditions are not always respected. Although no direct question addressed this issue, the interviews show a complex picture: risks and dangers, in which the social workers may incur in their work, are the element that occurs most often in the interviews: threats, verbal and even physical assaults, persecution and stalking, sources of fear and concern.

#### The threats:

"I received death threats, they (violent partners) are extremely heavy to handle! ... I think I have rooted them in DNA now! So, once a dad showed up with a bullet, he showed it to me, and he said, 'Now I have to decide, if it's for me or for you!' ..." (SW1)

"The mother wished me to die during the day, to die in a car accident (...) the tension, anyway it is so much" (SW1)

#### Stress, isolation and then, persecutions and physical assaults:

"...this person has psychological problems [...] then he gets angry, he unloads me of everything, you are useless, absurd services, ... endless



phone calls, then, he appears outside the office, he follows you, shows you and makes you appear..." (SW6)

"...let's start from the assumption that reporting these things here scares a lot! ... but it really scares!" (SW1)

"He was a man who scared me ... I had the impression that if I liberalized these father-son visits something happened, then it's my fault, because then, they tell you 'I wouldn't do it, but if you want, then you are willing to respond if he puts his hands on his son,' and you say 'no!...' (SW6)

No wonder that social workers are afraid. They clearly perceive the "new" difficulties of their work, which would require a different approach and a more careful protection.

"...a new way of working should be found ... being able to find new ways of working to face new complexities, we are implementing old schemes for new problems. The service of social workers' assistance would be needed, they should establish it in the area." (SW15)

The results highlight a sense of solitude in facing, practically, psychologically and emotionally, some complex problems. Threats and persecutions emerge, not supported by a configuration of the professional role that remains scarcely defined and by a scarce social authority. The fear of people's reactions and re-primations seems to make social workers feel like a "no man's land." It is legitimate to ask whether working in a context of frequent violence and fear, cannot influence the type of judgment: how to evaluate the sense and the gravity of what happens to their users, given that the bar, the boundary between "right/wrong," "legitimate/non-legitimate" regarding what happens to the social workers themselves, is raised? The operators themselves end up tolerating, especially from male users, behaviors and actions that should have zero tolerance. The risk is that the criteria by which they evaluate how much they can bear, has an impact on the criteria they use compared to what users can endure.

### *Discussion*

The main aim of this research is to explore the dynamics of social workers regarding the custody of children in difficult separations, often characterized by DV, in particular, to analyze the knowledge, opinions, practices and possibly prejudices of the social workers who work in these services. The analysis highlights a worrying situation. Specifically, we found a lack of clarity and knowledge of violence against women, without specific training in their academic studies or during their working career. The best interest of children is not considered and *The Istanbul Convention* is not applied. Prejudices and patriarchal culture seem pervasive, and, as consequence, domestic violence is ignored in cases of post-separation and children custody. Women and children are not trusted. The woman's blame often emerges: she doesn't protect the child if she doesn't move away, and, at the same time, she is not a "good wife" a "good woman" if she walks away, trying to protect herself and her children. The objective difficulty in denouncing the violent partner is often ignored, and the woman is considered not credible. The children emerge as instrumentalized in the parental conflicts. The interviews reveal how the institutions seem to often protect the adult instead of protecting the child. There is scarce recognition and even active concealment of violence against women. And this takes place in forcing fathering very often and abusing of family mediation, even in case of violence. *The Istanbul Convention*, which prohibits the use of Family Mediation in the case of violence, is unknown. Strategies and tactics of concealment of violence (Romito, 56) are applied in social services and during mediation. Furthermore, the analysis highlights a confusion between "conflict" and "violence." Consequently, the danger and the risk for victims of violence are high, and decisions and practices could be harmful to women and children. Greater awareness is needed, specially about the difficulties and risks of post-separation; goals, applicability and limits of shared custody and family mediation and the absence of

scientific support of the PAS. Furthermore, recognizing bi-parenting as a right of the child and not a duty is fundamental, in order to direct the intervention in this sense, considering domestic violence.

### *Limits*

This qualitative-exploratory research presents the limits of non-generalizability to the population. Its strengths, however, lie in having allowed investigation in depth of the social phenomenon of the response of social-health services to violence against women.

### *Conclusion*

The results show a complex and intricate situation. Different critical issues emerged, despite the commitment and passion that many social workers put into their work – a heavy and sometimes even dangerous job. First of all, strategies of concealment of violence emerged from the interviews. The best interest of the child was essentially ignored. Secondly, *The Istanbul Convention* was completely ignored and not applied. This is a big issue, specially because the protection of children involves the interruption of violence against them and their mothers. Furthermore, there were some critical issues related to the bi-parenting principle, as established by child custody law (L.54/2006), using mediation as a rule, even in case of domestic violence. Finally, a great network between professionals involved in these situations is fundamental. Commitment and passion are not enough and a cultural change is necessary. Therefore, more specific and in-depth training is required, in order to improve knowledge, awareness and best practices of safety for victims of violence. It is important to call things by their own name. Only by bringing to light what is

there, can we intervene, change, improve and operate from the perspective of justice and well-being.

### *Works Cited*

- Associazione Italiana di Psicologia, (AIP). *Codice Etico per la Ricerca in Psicologia*, 2015, <http://www.dsu.univr.it/documenti/Avviso/all/all636315.pdf>. Accessed 09 January 2020.
- Babbie, Earl. *Ricerca sociale*. Maggioli Editore, 2008.
- Bailey, Kenneth D. *Metodi della ricerca sociale*. Il Mulino, 1982.
- Bandura, A. "Moral disengagement in the perpetration of inhumanities." *Personality and Social Psychology Review* 3.3 (1999): 193-209.
- Cardano, Mario. *La ricerca qualitativa*. Il Mulino, 2011.
- CISMAI 2017. Requisiti minimi degli interventi nei casi di violenza assistita da maltrattamento sulle madri, 2017, <http://cismai.it/requisiti-minimi-degli-interventi-nei-casi-di-violenza-assistita>. Accessed 09 January 2020.
- Council of Europe – Istanbul Convention, 2011, [www.coe.int/t/web/conventions/full-list/-/conventions/treaty/210](http://www.coe.int/t/web/conventions/full-list/-/conventions/treaty/210). Accessed 09 January 2020.
- Eurispes. *1° Rapporto Nazionale sulla Condizione dell'Infanzia, della Preadolescenza e dell'Adolescenza*, <https://eurispes.eu/ricerca-rapporto/1-rapporto-nazionale-sulla-condizione-dellinfanzia-della-preadolescenza-e-delladolescenza-2000/>. Accessed 09 January 2020.
- European Union Agency for Fundamental Rights. *Violence against women: an EU-wide survey Main results*, 2014.
- Feresin, Mariachiara, and Anastasia, Federica, and Romito, Patrizia. "La mediazione familiare nei casi di affido dei figli/e e violenza domestica: contesto legale, pratiche dei Servizi ed esperienze delle donne in Italia," *Rivista di Criminologia, Vittimologia e Sicurezza* 9.2 (2017): 13-28.
- Il labirinto dell'impresa sociale. Avanzi. Sostenibilità per Azioni,

- <https://goo.gl/images/jMexhv>, [www.avanzi.org](http://www.avanzi.org). Accessed 09 January 2020.
- ISTAT. *La violenza contro le donne dentro e fuori la famiglia*, 2015, [https://www.istat.it/it/files/2015/06/Violenze\\_contro\\_le\\_donne.pdf](https://www.istat.it/it/files/2015/06/Violenze_contro_le_donne.pdf). Accessed 29 October 2019.
- . *La violenza e i maltrattamenti contro le donne dentro e fuori la famiglia*, 2006, [https://www.istat.it/it/files//2011/07/testo\\_integrale.pdf](https://www.istat.it/it/files//2011/07/testo_integrale.pdf). Accessed 09 January 2020.
- Kaufmann, Jean C. *L'intervista*. Il Mulino, 2007.
- Kelly, Liz, and Sharp, Nicola, and Klein, Renate. "Finding the Costs of Freedom. How women and children rebuild their lives after domestic violence." *Solace Women's Aid*, 2014.
- Kvale, Steinar. *Interviews: An Introduction to Qualitative Research Interviewing*. SAGE Publications, 1996.
- Labirinto, <https://it.wikipedia.org/wiki/Labirinto?oldid=79071635>
- Legge 54/2006, [www.camera.it/parlam/leggi/060541.htm](http://www.camera.it/parlam/leggi/060541.htm)
- Longman Dictionary of Contemporary English – New Edition, ed. Pearson, 2012, p.1083.
- Marshall, Martin N. "Sampling for qualitative research." *Family Practice* 13.6 (1996): 522-525.
- Pond, Rachel, and Morgan, Mandy. "Protection, Manipulation or Interference with Relationships? Discourse Analysis of New Zealand Lawyers' Talk about Supervised Access and Partner Violence." *Journal of Community & Applied Social Psychology* 18 (2008): 458-473.
- Robson, Colin. *Real World Enquiry: A Resource for Social Scientists and Practitioner-Researchers*. Blackwell, 1993.
- Romito, Patrizia. *A deafening silence. Hidden violence against women and children*. Policy Press, 2008.
- United Nations General Assembly Session 44. *Resolution 25. Convention on the Rights of the Child*, 1989, A/RES/44/25 20 November 1989. Retrieved 22 August 2008.
- Walker, Lenore E. *The Battered Women*. Harper & Row, 1979.
- WHO. Ad Hoc Committee on Health Research Relating to Fu-

- ture Intervention Options. *Investing in health research and development*. Geneva: World Health Organization, 1996, [www.salute.gov.it](http://www.salute.gov.it) [www.who.it](http://www.who.it), (document TDR/GEN/96.1). Accessed 09 January 2020.
- . Standards and operational guidance for ethics review of health-related research with human participants, World Health Organization, 2011, <https://www.who.int/ethics/research/en/>. Accessed 29 October 2019.
  - . *World Report on Violence and Health*, OMS – Switzerland, 2002.