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Veröffentlichungsversion / Published Version

Sammelwerksbeitrag / collection article

Zur Verfügung gestellt in Kooperation mit / provided in cooperation with:

Verlag Barbara Budrich

Empfohlene Zitierung / Suggested Citation:

Logar, R. (2011). Violence Against Women: Still a Political Problem Throughout Europe. In R. K. Thiara, S. A. Condon, & M. Schröttle (Eds.), *Violence against Women and Ethnicity: Commonalities and Differences across Europe* (pp. 35-58). Opladen: Verlag Barbara Budrich. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-63353-3>

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Violence Against Women: Still a Political Problem Throughout Europe

Rosa Logar

It is incumbent upon those of us who already have power and prestige to shoulder the responsibility of expanding models, examining our practices, and giving voice to those who are silenced among us. This cannot be done without fear and discouragement: those of us who live in safe contexts experience the risk of speaking out, and we understand more clearly how in the lives of the invisible, the marginal, and the disenfranchised, every move toward safety entails risk and may intensify danger. It is sobering and distressing to realize that, although anti-domestic violence work has promoted greater safety for some individuals, many remain in a position as dangerous and vulnerable as ever (Richie 1996). The words of the Jewish Talmud remind us: It is not your job to finish the work, but you are not free to walk away from it. (Bograd 2007:34)

Introduction

Violence against women, which was made an issue of public discussion by the second wave women's movement in the early 1970s, continues to be a severe problem in Europe. According to a prevalence study carried out in Germany, one out of four women have experienced physical or sexual violence (or both) by current or former intimate partners and this is mirrored across much of Europe (Schröttle and Müller 2004a: 7). In particular, immigrant women of Turkish origin are suffering physical and sexual violence significantly more often than the average female population (Schröttle and Müller 2004b: 27). Violence has massive effects on health, which is already in a poor state among a section of immigrant women, apparently in connection with their difficult social situation, characterised by low wages as well as inadequate and insecure occupational integration (Schröttle and Khelaifat 2008: 19f).

The purpose of this article is to highlight that while it has been possible, to a certain extent, to raise the awareness of violence against women as an is-

sue of social relevance, many problems still remain and not all groups of women benefit from the measures taken so far. Immigrants and minority ethnic women face multiple discrimination, and in recent years they have also been confronted with cultural relativism: violence is perceived as a part of their culture, and thus as a normal occurrence. Parallel to this, increasing attention has been given to violence in immigrant/ethnic minority communities, in particular forms of violence that are attributed to certain cultures such as honour killings or forced marriage. Batsleer et al. 2002 (cited in Thiara 2008: 144) have pointed out that violence for 'cultural' reasons either tends to be ignored (homogenised absence) or overemphasised (pathologised presence). As a result of such contradictory discourses on culture and violence, immigrant and minority ethnic women are becoming stigmatised, they are inadequately protected against violence, and have to overcome considerable barriers in order to find help.

The women's movement has identified violence against women as part of inequality and an indication of men's dominance over women. Although their approach encompassed all forms of violence against women, in practice the women's movement has tended to focus on domestic violence against women and sexual violence in the public sphere. Establishing women's shelters to which women abused by their husbands or partners may turn with their children, as well as phone hotlines for women who have become victims of rape, have been among the first steps taken by the women's movement to respond to the issue of violence against women. Other forms of violence such as trafficking in women, female genital mutilation, sex determination and abortion of female foetuses, violence against women during and after wars and armed conflicts, or violence in the form of forced marriage and dowry murders were put on the agenda of the women's movement only at a much later stage. The Women's Rights are Human Rights campaign, launched by the international women's movement which reached its apex at the United Nations Human Rights Conference in 1993, played an essential role in this respect (see Bunch/Reilly 1994). The views predominant until then were also shaken when rape of women was systematically used as a military technique during the wars in former Yugoslavia in the 1990s (Nikolic-Ristanovic 1999).

Violence against BAMER¹ women has always been a significant issue in the women's movement against violence: in some European contexts it is

1 In this article, the term BAMER will be used to refer to immigrant women, minority ethnic women, black women, refugees and asylum seekers. Using one single term for these women should not lead to the assumption, however, that they form a homogeneous group. This is not the case: the term BAMER includes different groups in different historical, social and political contexts, and also within the individual groups, diversity is found: for instance, it makes a considerable difference whether an immigrant woman has a secure residence status

evident that these women disproportionately often flee to women's shelters, because they have fewer options, compared to dominant ethnic women. Still, the main discourse continues to underline that women of any ethnic and social origin, of any class and any age, may suffer violence committed by men. On the one hand, this has been important in order to position the issue of violence against women in the political mainstream, but on the other, such a homogenising approach includes the risk of obscuring and ignoring the ethnic and social dimension of violence against women (Crenshaw 1994; Burman and Chantler 2005). Lehman (2008: 85) states that Germany still lacks a systematic intersectional perspective of domestic violence against women which recognises that gender is always linked to other distinguishing categories such as class or ethnic origin (see Thiara and Gill 2010). This applies to both theoretical and practical approaches, and most likely to the entire European region. It is imperative to revise current approaches to ensure that issues for all groups of women affected by violence are addressed. As Bograd emphasises, this is not an abstract discussion of high-brow concepts such as intersectionality but it has very real, life-threatening consequences if the trauma of violence is further aggravated by other forms of discrimination and violence (Bograd 2007: 32). At the end of this article two cases will be described to illustrate how racist prejudice may exclude BAMER women and their children from protection against violence.

Other developments in the discussion of the theme of violence against women give reason for concern, too: the past decade has seen a pronounced shift of the discourse away from violence against women towards domestic violence. This might be read as a positive sign and as extending protection to include other groups of people, and also in the sense of intersectionality, so that victims are no longer solely defined along gender lines, i.e. it is not only women who are affected by violence but also men and other criteria such as age, disability, etc. are also taken into account. Still, this development entails the problem that violence against women is ignored or qualified ('women may also commit violence'), and even the need for support services targeting women is questioned (see, for instance, the campaign to abolish women's shelters initiated by a male sociologist and published via the WELT Online website²). The present tendencies may well be expressions of a new upsurge

or has not been granted a residence permit. Women 'without papers' are among the group of people whose situation is extremely vulnerable, and thus their risk of suffering all possible forms of violence or exploitation is particularly high. In the UK, apart from BAMER (Black, Asian, Minority Ethnic and Refugee; see IMKAAN 2009), the abbreviation BME (Black and Minority Ethnic women) is also used; it especially refers to South-Asian, African and African-Caribbean communities (see Thiara 2008).

2 Welt Online: <http://debatte.welt.de/kommentare/146073/wir+brauchen+frauenhaeuser>, 30 July 2009 (text in German)

of family values, accompanied by a disregard for women's rights: it is held that the family should be protected, not women as individuals. Even representatives of women's organisations have started to contribute to the gender-neutral approaches to the problem and tend to use terms such as domestic violence or violence in families instead of violence against women in the hope of finding greater acceptance and of obtaining financial support more easily.

As a result, the category of gender is made invisible, and violence against women as a specific form of violence is denied. This tendency is contrary to agreements under international law which underlines that violence against women is a violation of human rights and that states have to take measures to prevent, investigate and punish it (United Nations 1992: para 9).³ In its general recommendations, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) adopts a clear position, stating that 'the definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately' (United Nations 1992: para 6). This definition explicitly characterises violence against women as a specific form of violence which women suffer because of their gender and by which women are affected especially often. It is an important definition which, regrettably, is not observed to an appropriate extent at national level and is rarely used to explain why violence against women differs from other forms of violence and why specific interventions are needed in order to eliminate violence against women. Its weakness is that it is one-dimensional and presents gender as the sole reason for violence while disregarding other mechanisms of discrimination and oppression. Still, there are other developments in international law that increasingly take into account the complexity of multiple discrimination and violence. For instance, the CEDAW Committee's General Recommendation 26 on women migrant workers adopted in 2008 addresses the problem of specific and multiple discriminations that labour migrants face (United Nations 2008). The Committee's recommendations relate to both the political and economic empowerment of migrant workers and their protection against violence and access to justice, and the states that have ratified CEDAW are obliged to implement these recommendations.

In other words, the point is not to abandon the approach of gender-related violence but to expand it. Women experience violence and discrimination because they are women, but at the same time also because they are immi-

3 CEDAW Committee General Recommendation 19, para 9: 'Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation'.

grants, or minority ethnic women, or because they are poor, or for other reasons. Such multiple discrimination results in very specific forms of discrimination and oppression which have to be identified, pointed out and changed. In particular, it is important to ask one question again and again: 'Who is excluded and why?' (see Kanuha 1996, quoted in Bograd 2007: 33).

New interventions to respond to violence against women: who benefits and who is excluded

In the past two decades, many European countries have increased their efforts to prevent violence against women and in particular domestic violence (European Commission 2008; Hagemann-White 2008; Council of Europe 2008b; Federal Chancellery and Federal Ministry for Women 2008). These have included, for example: the Zero Tolerance campaign was launched in 1992 in Scotland and has continually been advanced and also specifically addresses young people (Federal Chancellery 2008: 263ff.); in 1997 Austria adopted an act under which the police is obliged, in cases of imminent danger, to make a perpetrator leave the home immediately and to prohibit his return to the flat and its neighbourhood for a period of seven days⁴ (Logar 2000); in Spain an act covering a wide range of provisions took effect in 2004 and includes women's protection against violence (Organic Law 2004, quoted in: Council of Europe 2007b: 163); in 2005 Bulgaria saw the adoption of an act on the protection against domestic violence, according to which victims may apply for civil law protection orders under which perpetrators must keep away from certain places (Council of Europe 2007a: 97); in 2007 Germany's Federal Government adopted the second Action Plan on Violence against Women, which also includes interventions to respond to violence against immigrant women and women with disabilities (Bundesministerium für Familie, Senioren, Frauen und Jugend 2007); in Sweden, the new offence of gross violation of a woman's integrity was defined in 1998, under which repeated acts of violence against a partner are punished more severely than individual acts (Council of Europe 2007: 177).

This small number of examples is not sufficient by far to illustrate the numerous changes and improvements in the prevention of violence against women that have taken place. Regarding assistance and support to women

4 The act has seen several amendments so far and when the second Act on Protection Against Violence entered into force in June 2009 the period of eviction under orders issued by the police was extended to two weeks. The new act also includes a number of other relevant improvements regarding protection against violence; see Logar 2009.

and their children, many new centres have been established and new programmes implemented which include, for instance, national women's telephone helplines, proactive counselling by intervention centres, mobile support or independent domestic violence advisors. The women's movement against violence has succeeded in counteracting the marginalisation of this issue and helped to integrate it in political programmes and legislation. Research activities focusing on violence against women have also increased, although research at university level is lagging behind and there are very few university institutes and chairs that focus on gender and violence.

In recent years, international organisations such as the Council of Europe have also intensified their activities in this field. For instance, the United Nations published a study on violence against women (United Nations 2006). The Council of Europe launched the campaign Stop domestic violence against women, which was implemented from 2006 to 2008, and at present, the Council is discussing the introduction of a legally binding Draft Convention on preventing and combating violence against women and domestic violence (CAHVIO 2009). At the level of the European Union, legislation aimed at preventing gender-related violence exists only in individual areas such as sexual harassment at work or trafficking in women, but there are numerous activities and recommendations (soft law) that reflect an intensified commitment and the European Union's triggering function in this regard (Kantola 2006; Krizsan and Popa 2009).

Progress has thus been made in a number of fields regarding the prevention of violence against women and domestic violence. Still, it must not be overlooked that the extent of violence against women continues to be high and that it has not been possible so far to reduce, let alone eliminate, violence against women. In the absence of systematic evaluation and monitoring, it is difficult or impossible to derive statements on the effects of measures taken.

Who then benefits from the new measures and who might be excluded? Below, this question will be discussed with regard to BAMER women, and it will be shown that they benefit from the new measures to a small extent only and that new tendencies and discourses such as cultural relativism or the minoritisation of violence (Burman and Chantler 2005) involve risks for these women. Problems have been identified in the following areas: 1) The protection of BAMER women has hardly been considered in political programmes and measures such as plans of action, which primarily focus on domestic violence; 2) New measures are found especially with regard to protection against violence under civil law and criminal law, while social and economic rights, which are necessary to be able to leave a violent relationship, have hardly been considered; 3) Restrictive alien laws and discrimination of BAMER women contribute to their dependence on violent perpetrators and

this especially affects women who have no legal residence status; 4) There are gaps in the support system, and for BAMER women these gaps are especially wide since their access to support is often difficult, and they are excluded from several types of assistance; 5) As a result of the tendency towards and the discussion of the cultural relativism of violence, combined with the existing prejudice against BAMER women, government authorities that are in charge of protecting women against violence do not take adequate protection measures and thus BAMER women do not get as much protection as women from the majority population.

It is not possible in the context of this article to address problem areas such as insufficient or non-existent laws on protection against violence, lack of or inadequate implementation and evaluation, as well as the continuing problem, underlined again and again, that violence against women is not punished in a large number of cases (see, e.g., Hester 2003, quoted in Humphreys and Charter et al. 2006; Kelly, Lovett and Seith 2009).

National plans of action lack comprehensive measures to prevent violence against BAMER women

A study conducted on behalf of the Council of Europe which investigated the implementation of Recommendation 2002–5 on the protection of women against violence has shown that an increasing number of states have adopted plans of action on violence against women in recent years (Hagemann-White 2008). The quality of the plans of action and their implementation cannot be analysed in detail here, but there is reason for doubt about the effectiveness of many action plans which often are just noble words. In this chapter, the extent to which plans of action take account of the situation of BAMER women will be discussed. What is typical of the majority of action plans is that they are still focused on the areas of domestic violence and sexual violence (Hagemann-White 2008: 9), with only very few also dealing with other forms of violence mentioned in the Council of Europe Recommendation (2002: 5): violence in institutions, forced marriage, violence in situations of conflict, murder in the name of honour, female genital mutilation and failure to respect freedom of choice with regard to reproduction. This indicates a trend towards marginalisation of forms of violence that are regarded as typical of other cultures and it is a questionable contradiction to the overriding emphasis on violence in BAMER communities that is often found but does not lead to what might be expected, namely intensified measures against violence laid down in plans of action. This may be the result of an attitude

that sees violence as an inherent characteristic of certain cultures, which thus cannot be changed. And it points to the view that the women concerned are passively putting up with violence so that interventions would be useless anyway (Burman and Chantler 2005: 63). Such attitudes are a form of discrimination as a result of which support and assistance are not made available.

Even where the situation of BAMER women is discussed and included in action plans it is interesting to note the ways in which this is done. For instance, an analysis of Germany's second Plan of Action to combat violence against women acknowledges the fact that especially women of Turkish and East European origin are suffering physical and sexual violence considerably more often, and in more severe forms, than the average German female population and that these women are also affected by specific forms of violence, such as forced marriage (Bundesministerium für Familie, Senioren, Frauen und Jugend 2007: 7). It is also pointed out that there is a greater need for support and a number of model projects are listed. The necessity of integration is frequently pointed out and the wish that immigrants should integrate themselves through learning German is also evident. Experience of violence, however, tends to be regarded as an individual phenomenon or is linked to certain cultures. The Plan of Action does not mention structural problems and discrimination or racist prejudice against immigrants, which are additional barriers when they are seeking protection and support. Furthermore, the barriers created by lack of residence rights or lack of social and economic security are not addressed, and the chapter on support services does not mention the need for specific centres for immigrant women affected by violence.

It has to be conceded as a positive point of Germany's Plan of Action, however, that the situation of immigrant women suffering violence has in fact been recognised as a focal issue. Still, the way in which this area is treated is less than perfect. The Plan pursues an individualised approach and does not see the problem in all its aspects and only certain fragments are covered. The focus is placed on individual deficits, while deficits in the system are hardly made visible. It is implied that immigrants have to change, not the system. Pursuing such approaches certainly is not limited to Germany, as the analysis by Roggebrand and Verloo (2007) of the Netherlands' immigration policy shows.

Similar problems can be found in the UK's new National strategy to end violence against women and girls. Imkaan, a second tier organisation representing minority ethnic domestic violence support services in the UK, welcomes the National strategy which encompasses many fields but also has concerns: while the strategy mentions problems such as forced marriage and

honour-based violence it lacks reference to the extremely vulnerable situation of BAMER women who want to leave a violent relationship and have no recourse to public funds (Imkaan 2009: 2).

Thus, the national action plans and policies lack comprehensive approaches to the situation of BAMER women. The intersectional aspects of experience – of discrimination and violence – are insufficiently taken into account, which may result in inadequate measures and lack of support for BAMER women and their children. Therefore it is of vital importance to integrate in national plans of action and other policy documents comprehensive measures for BAMER women and their children who have suffered violence, and to orient them towards the specific needs of different groups (immigrant women with precarious residence status, refugee and asylum seekers immigrant women without residence permits). For the latter group the barriers to seeking help are high because when they turn to government authorities they may be identified as people who live in the country illegally and eventually be deported.

Gaps in the statutory protection against violence

In recent years, many European countries have adopted laws on protection against violence that include measures under civil and criminal law such as civil law injunctions and barring orders against perpetrators, or defining marital rape and stalking as criminal offences. This undoubtedly is a positive development and shows that domestic violence against women is no longer considered a private matter but its prevention is regarded as a duty of the State. The process of adopting statutory protection measures has not yet been concluded and deficits regarding statutory regulations and their implementation can still be seen in many countries (Council of Europe 2007c; European Commission 2008; Council of Europe 2008a).

Measures under civil law and criminal law aimed at protection against violence are absolutely necessary but prevention has to go beyond that. Complementary measures are needed so that the women affected and their children actually have access to these rights and may benefit from them. Intervention centres that support victims, mobile counselling services or independent domestic violence advisors have proved to be essential in order to enable women to make use of their rights. However, support services such as those mentioned above are not available in many countries and regions because the corresponding laws were passed without ensuring the financial means needed for implementation.

Another problem is that statutory measures are not harmonised and may even be contradictory. This may be the case with regard to the protection of children against domestic violence. Hester (2006) developed the Three Planet Model (Planet A: violence against the partner; Planet B: violence against children; Planet C: fathers' rights) to illustrate this situation. This shows that if the three areas dealing with the problem of domestic violence are treated as separate issues, as a result children, because of family law provisions, may insufficiently be protected after the mother has separated from a violent partner and may be exposed to further violence. Therefore, it is essential for protecting children against violence that statutory measures are aligned and that, in accordance with the 1989 United Nations Convention on the Rights of the Child, the rights of children to physical and mental health should supersede the father's right to have contact with his children.

Thus, comprehensive, well-aligned statutory measures are needed to ensure effective protection against violence (see United Nations 2008; Council of Europe Task Force 2008). In addition, thorough implementation, secure access to law, and regular evaluation of measures are important elements to ensure that laws are more than fig leaves, adopted to have something to show when reports have to be written.

Residence laws versus anti-violence laws

To what extent do BAMER women and their children actually benefit from the new measures of protection against violence? This primarily depends on their status of residence: the less secure it is or the less information on this aspect of their situation women have, the less likely it is that BAMER women will turn to the police or justice authorities to seek protection. Women who do not have a legal residence title are almost always reluctant to contact authorities because they cannot expect protection but may face sanctions and deportation. Because of the provisions of alien law, women may become (more) dependent on the abuser if they are not granted residence rights independent of their partners, and recently, the corresponding regulations have become more restrictive in many countries.

A few examples will illustrate the situation: the UK applied the one-year rule for many years- women entering the country had to remain in marriage with their spouse for at least one year before they could apply to stay in the UK permanently and thus divorce him without having to leave the country. This also applied when a woman was abused by her husband. Women's or-

ganisations such as Southall Black Sisters⁵ repeatedly pointed to the detrimental effects of this regulation for women depending on their partners with regard to their leave to remain in the UK. Eventually a few concessions were introduced from which women suffering violence could benefit under certain conditions. However, it was not possible to prevent the extension to two years of this regulation in 2003. In addition, under the no recourse to public funds requirement, persons coming to the UK have to be supported by their spouses and are not entitled to social benefits, which makes it very difficult or impossible for women in violent relationships to leave their violent partners (Kelly and Sen 2007).

In Germany also women have to live with their husbands for two years before they may apply for an independent residence permit, which at first grants residence for one year only.⁶ For women suffering violence a hardship regulation was introduced. However, it includes the requirement that massive acts of violence must have been committed and that they must have been reported to the police.

In Austria, the residence status of immigrant women who have no sufficient income of their own depends on their husbands for five years.⁷ Exceptions applying to women suffering violence are also granted in Austria but the requirements for this are strict and cannot easily be met. For instance, women must have applied for an interim injunction because of the violence committed. The chances of being granted an interim injunction are good especially in those cases in which eviction orders have previously been issued by the police. However, many immigrant women are reluctant to turn to the police and rather resort to relatives, friends or a women's shelter. This significantly reduces their chances of obtaining an interim injunction.

In order to be granted an independent residence permit for Austria, women have to overcome other obstacles as well. Their stay in the country must not involve expenses for the state, and therefore they cannot take up state financial support. In addition, they have to prove an accommodation in accordance with local custom as well as a minimum monthly income of EUR 770 for themselves. As many immigrant women do not have employment or (have to) work in low-wage jobs it is difficult to prove such an income. Childcare duties are not taken into account and immigrant women thus have to prove an income at the required level independent of the question of how old their children are, if childcare services are available and whether the

5 Southall Black Sisters http://www.southallblacksisters.org.uk/campaign_oneyearrrule.html
31 July 2009

6 Section 31 of the Act on Residence

7 Section 27 of the Act on Settlement and Residence

woman in question will find employment at all. Here immigrants face multiple discriminations: as women, as mothers and because of their origin.

Asylum seekers have no access to the labour market in Austria, and they are not entitled to welfare assistance either. As the laws have been restricted also in Austria in order to prevent ‘immigration by marriage’, not even asylum seekers who have married an Austrian are granted residence permits following the marriage. They have to leave Austria and apply for a residence permit in their country of origin. This is in fact impossible for asylum seekers, and when they are in a violent marriage they are forced to continue living with their husbands because it is not possible for them to ensure their existence independently.

These examples illustrate that many BAMER women who suffer violence have no choice but to stay with the abuser, as they would otherwise risk their very existence, especially if they are asylum seekers or depend on their husbands or have no legal residence status because the laws on residence and asylum are getting increasingly restrictive. A study carried out in Scandinavia, which interviewed immigrant women living in women’s shelters, arrived at the same conclusions:

In this report, we have used the women’s narratives to illustrate how abused foreign women are literally trapped between law and life, as the report title indicates. The women can either choose to stay in violent marriages until becoming eligible for permanent residence. Or they can leave their abusive husbands and hope to be among the few elected who are granted residence permits – both potentially life-threatening options. If the women stay in the violent marriage, they expose themselves and their children to great danger, as most women in the report talk of brutal violence. If they leave their husbands, they risk expulsion and possibly exposing themselves to violence and, in the extreme, honour killing by their own or their husband’s families. Alternatively, they risk ending up in prostitution or being married off to old men and/or generally having to live in wretched circumstances, unable to support themselves. In other words, the women are locked in a no-win situation, and the Nordic countries’ legislative provisions fail to offer the necessary protection.’ (The Danish Research Centre on Gender Equality 2005: 63)

A violent man may use the insecure residence status of his partner to put her under pressure and to intimidate her. He may threaten to inform the authorities and in this way makes her keep quiet about the violence committed. And if women make public the fact that they are suffering violence, violence committed by a partner may be replaced by violence on the part of the state. A group of British researchers conclude that violence against women is tolerated by the state in order to control access to citizenship – ‘what this illustrates is that what is most important to the state is to regulate citizenship even at the expense of terrible abuse to women. In this sense, the state can be seen

to be an active partner in the violence against women' (Burman and Chantler 2005: 65).

This approach by the state is a violation of the obligation under international law to protect all women who have suffered violence and to make possible for them a life free of violence. The current Council of Europe activities to draft a legally binding Convention on preventing and combating violence against women recognizes BAMER women's right to a life free of violence. The Interim Report reads:

Thus women and children of foreign nationality who have been, or who are, victims of such violence could be granted a specific legal status in their host country, particularly in respect of the right of residence and the right to work, so as to enable them to lead a life free of violence (Council of Europe 2009: para 45).

It will be of great importance over the coming two years that women's and human rights organisations engage in lobbying to ensure that not only the Interim Report but also the final text of the Convention will definitely oblige states to grant to women and children affected by violence residence rights that are independent of those of the perpetrator, and as well as rights that secure their livelihood so that they are indeed in a position to lead lives free of violence and without having to fear for their existence.

Lack of social and economic rights

As has already been mentioned, anti-violence laws alone are not enough, nor are new regulations for residence permits, if women are not granted social and economic rights that permit them and their children a life under their own control. The Council of Europe Recommendation 2002–5 says that the member states shall take necessary measures 'to ensure that women are able to exercise freely and effectively their economic and social rights' (Council of Europe 2002: para II).

In recent years, numerous legal reforms have taken place, but only in few cases have they included social and economic rights for women who have become victims of violence. Frequently, provisions have not been harmonised, and while women may turn to the courts and apply for orders under which their violent partner has to leave their home immediately, the legal processes that are necessary to obtain maintenance take weeks or months. Interim injunctions and eviction orders do not feed women and children, therefore it is essential to include in the anti-violence laws also provisions that ensure immediate maintenance payments and grant those concerned non-bureaucratic access to welfare assistance until maintenance is paid. Spain's

legislation (Organic Law 2004, quoted in: Council of Europe 2007b: 163) is a good practice example in this regard. It defines special courts for cases of violence against women, which are competent not only for ordering protection measures but also for settling maintenance claims. Other provisions of the act prevent discrimination at work of women experiencing violence and guarantees them labour rights as well as financial support.

The majority of recent new acts also lack provisions under which women affected by violence and their children are granted the right to affordable housing. Being unable to find adequate, affordable housing is the most frequent reason why women stay in shelters for longer periods or return to precarious living conditions after they stay in the shelters. Violence often means losing one's home, therefore many women are forced to go on living with the perpetrator, also after a separation (Council of Europe 2007c: 25).

In other words, what BAMER women and their children need to live free of violence is not only laws that protect them against violence but also laws that ensure their existence including housing, easier access to the labour market, education and training as well as childcare. In addition, there must be labour laws which guarantee that women who have become victims of violence will not lose their work, and eventually also other social and economic rights are required.

Massive gaps in the network of support services

In Europe, as of the 1970s – in Central and Eastern Europe as of the 1990s, after the collapse of Communism – women's organisations have opened women's shelters, provided advice by phone as well as other services for women and their children who have become victims of male violence, and the women's organisations have fought for obtaining government funds to finance these services. A network of support services was thus built, but in many countries and regions this network has massive gaps (European Commission 2008; WAVE 2008; Kelly and Dubois 2008). The deficits that show are both quantitative (insufficient number of support centres) and qualitative (no specific services, e.g. for women who have become victims of sexual violence), and this does not apply to Eastern Europe only but also to other countries of the European Union.

A number of studies drawn up on behalf of the Council of Europe have revealed that many countries cannot even say precisely how many women's shelters they have (Council of Europe 2008), and moreover, the figures given by governments differ from those communicated by women's organisations.

For instance, in the 2007 report, the Czech Republic indicated a capacity of 1 147 places in women's shelters, while women's organisation said that only 27 places existed (OSI/Network Women's Program 2007). In Slovakia, the figures the Government gave for the 2008 report mentioned 517 available places (Council of Europe 2008: 16), while women's organisations said that 46 places existed and 539 places were lacking (WAVE 2008). The Council of Europe Task Force recommends a minimum standard of one family place⁸ in a women's shelter per 10 000 of population (Council of Europe 2008b: 84). According to the countries' own information, this standard of supply has so far been met by few of the 33 countries that took part in the survey (Luxembourg, Norway, Andorra, Ireland and Liechtenstein). Many countries have less than half the number of places in women's shelters that would be necessary, and there are states where the number of places in shelters is so small that one cannot at all speak of adequate supply (Italy, Cyprus, Hungary, Romania, Georgia, Turkey, Bulgaria).

Women's shelters are essential for protecting women and children against violence. A lack of shelters brings about a very difficult situation, as many countries do not have effective legal measures of protection against violence and many women have little confidence in government authorities. Often, there are no other service providers, such as counselling centres for women affected by sexual violence either, and only a minority of countries operate cost-free 24-hour phone helplines for women which the Council of Europe Task Force indicates as part of the minimum standards for the support of victims. A report prepared for the Council of Europe on minimum standards for support services mentions one counselling centre for victims of sexual violence per 200 000 women and one counselling centre per 50 000 women where various services such as court assistance or outreach are provided (Kelly and Dubois 2008: 38). A central function of support services for women is to help women suffering violence and their children get access to justice. The obligation under international law for states to protect women against violence and to prevent violence includes the right to support and access to justice. At present, these rights are available to a small number of women affected only, indicating an urgent need for action on the part of political decision-makers.

In addition to quantitative gaps, problems in the quality of support services have also been shown. It is widely recognised among experts that women who suffer violence need specific support services for women, provided by staff with a specialised knowledge and skill base for counselling and support services for women and their children and who act in the inter-

8 Family place = a bed space for the mother and her children

ests of their clients (WAVE 2004; Kelly and Dubois 2008). The goal of these services is to empower women and enable them to gain autonomy, i.e., take control of their lives, and to prevent them from further violence as well as new traumatisation resulting from inappropriate interventions by state agencies and institutions.

Many countries and regions have no specialised support centres and general social service providers, such as social welfare departments, are hardly in a position to provide adequate support. As a rule, they cannot ensure advocacy, i.e., acting in the interests of victims, and many of them even have power and control over victims, for instance, the power to remove children from the family or to control financial support. Therefore they cannot pursue the aim of empowering the victim, which has to be focused on helping victims lead independent lives. It is important to have social service providers that are trained in the field of violence against women, but they cannot replace specialised, autonomous women's organisations. Children also need independent support and advocacy, which, regrettably, is also lacking in many cases (Eriksson 2005; Kavemann and Kreyszig 2005).

So, what is the situation of BAMER women and their children with regard to support services? There are many indications of marginalisation and manifold barriers making it difficult to get support, in a network of services providers that is inadequate as such. There are studies pointing out that BAMER women tend to have little information on support services (Schrottle and Khelaifat 2008) and that they turn to support centres less often than women in general (Batsleer et al 2002, quoted in Thiara 2008). In other words, they are a target group that is not, or insufficiently, addressed. This is a contradiction to the Council of Europe report according to which 24 out of 38 governments have stated that information on rights and support services for women are available in all relevant languages (Council of Europe 2008a: 38). The survey does not specify the criteria for defining languages as relevant, but obviously it is safe to assume that the views of the governments may have been overly optimistic.

Apart from access to information, there are also other, hard barriers that BAMER women are facing with regard to access to services, especially if, apart from the problem of violence, their residence titles are insecure as well. This particularly affects women and children who have no legal status of residence or who risk losing their right of residence. They are hardly welcomed by providers of support services because their cases involve much more work or because support centres do not feel competent to handle such cases: they regard themselves as specialists in violence problems, not in residence problems. Here, the lack of intersectional approaches results in the exclusion of BAMER women and their children.

They are ‘the wrong target group’, and the problem of violence tends to be ignored or not given priority.

Shelters that admit BAMER women whose residence status is insecure or who have no residence title, often face the problem that they cannot take up public funds for these women and their children because they are not entitled to social benefits (Burman and Chantler 2005). Fund-raising among private sponsors is necessary to be able to ensure the protection of these women and their children in the women’s shelter, which in turn requires much time and effort. There is the risk that support centres make BAMER women feel that they are ‘a burden’, and they are personally made responsible for this, while it is in fact the system and racist as well as sexist discrimination that cause additional work. This divides the women concerned, which in turn has negative effects on BAMER women and their children due to the prejudice they face. There is reason to assume that BAMER women and their children are refused help by support centres in Europe and also in the European Union every day because they have no, or no secure, residence titles. Women living in shelters are not safe from deportation either, and regulations according to which women without residence titles may not be admitted are frequent. There are no exact figures and studies at European level that link the residence status of BAMER women who suffer violence to possible consequences with regard to access to justice and to service provision. Research in this field would be of great importance.

Support services that are specifically oriented towards BAMER women and their children, such as Southall Black Sisters in London or Berlin’s emergency shelter of Interkulturelle Initiative, are the exception rather than the rule and are usually found only in larger cities. This is another considerable gap in the support system, as research has shown that BAMER women are very positive about being able to talk to a worker from a similar background who speaks her language (Thiara 2008: 147; Parmar et al 2005). In spite of this fact, support centres that specialise in services for BAMER women frequently face the danger of being closed down and cannot be expanded either, and a typical reason given is that such a specialisation would not be desirable as it prevents integration. This is contrary to the needs and wishes of many BAMER women, which unfortunately is not deemed to be relevant by many policy makers.

In sum, BAMER women and their children whose stay in the country is not based on a legal residence title form the low end of society: they have no rights and as a result have no access to adequate protection and support. This does not conform to international law, which, as mentioned above, obliges states to ensure effective protection against violence of all women, irrespective of their origin, nationality, ethnic group, etc. It will be imperative in the

future to defend and implement the right to adequate support as well as access to support for all women, also BAMER women. Political players are called upon to adopt measures to this end and to provide the resources needed.

Lack of protection against violence

As described at the outset, racist prejudice and cultural relativism in the field of prevention may be a danger to the life, health and freedom of women. To illustrate this, two cases will be described in more detail. In 2002 and 2003, respectively, Şahide und Fatma, two women of Turkish origin who lived in Austria, were killed after many years of suffering abuse by their husbands (Citak 2008). Both women had been clients of the Domestic Abuse Intervention Centre of Vienna, a support centre that provides services to victims of domestic violence after eviction orders have been issued against the perpetrators. The staff of the Intervention Centre were shocked and upset about the murder of the two women, and in their opinion, the state authorities had failed to act with due diligence and had not done everything in their power to protect the lives of the two women. In 2005, the Intervention Centre and the Association of Women's Access to Justice submitted a complaint to the CEDAW Committee on the Elimination of Discrimination against Women of the United Nations⁹ (United Nations CEDAW Committee 2007 a, b; Logar 2009).

The authors of the complaint underlined that the murders of Şahide und Fatma were two tragic examples of the fact that violence against immigrant women in Austria still was not taken seriously enough by state authorities and institutions, that the criminal law system, especially Public Prosecutors and judges, continued to regard violence against women as a social or domestic problem of little importance, found only in certain social classes and cultures, that criminal law provisions were not applied because violence against women was not taken seriously and the victim's fear was ignored by the criminal law authorities. In both cases, the perpetrators had not been detained in spite of repeated threats of murder.

In its comments on the complaint regarding the case of Şahide, Austria used an argument that was explicitly racist in order to justify why the Public Prosecutors had withdrawn the charges of making criminal dangerous threats

9 The CEDAW Committee monitors the implementation of the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women, a major agreement under international law.

of murder. Austria submitted that ‘it could not be proved with sufficient certainty that Mustafa was guilty of making criminal dangerous threats against his wife that went beyond the harsh statements resulting from his background’ (United Nations CEDAW Committee 2007a). In other words, it was doubted whether the threats of murder actually were ‘real’ or rather came from the perpetrator’s ‘background’, i.e., his Turkish origin, suggesting that such threats were normal occurrences in this culture and might be regarded as rude but did not violate any law. Thus, a certain cultural background is assumed as a reason for qualifying an act that is punishable under the applicable law (which is a discrimination), and double standards are thus introduced: threats made in this culture have to be judged in a different way to threats made in an ‘Austrian’ culture. As a consequence of this reasoning, victims are refused protection against such a threat as they are no longer regarded as victims.

The CEDAW Committee did not follow the view of the Republic of Austria, and in 2007, it decided that Austria had violated the rights of the two women to protection of their lives and physical and mental integrity according to the CEDAW Convention. The Committee considered that there had been sufficient indications of the danger of the perpetrators to which the authorities had not reacted by taking all appropriate protection measures.

In both cases, the CEDAW Committee acknowledged that Austria had established a comprehensive model to address domestic violence but also stated that this was not enough:

In order for the individual woman victim of domestic violence to enjoy the practical realization of the principle of equality of men and women and of her human rights and fundamental freedoms, the political will that is expressed in the aforementioned comprehensive system of Austria must be supported by State actors, who adhere to the State party’s due diligence obligations (CEDAW 2007a and b: para 12.1.2).

In other words, it is not enough to have good laws; they also have to be practised in each case and by all actors.

Austria also maintained that detention would have been disproportionate because it would have been too massive an interference in the perpetrator’s basic rights and fundamental freedoms. The Committee stated in both cases that the perpetrators’ rights cannot supersede women’s human rights to life and to physical and mental integrity (CEDAW 2007a: para 12.1.5 and CEDAW 2007b: para 12.1.5). It was recommended that Austria adopt a series of measures in order to ensure that the state and its actors act with due diligence to prevent and respond to violence against women and adequately provide for sanctions for the failure to do so (CEDAW 2007a and b: para

12.3 a–d). These two decisions are of great relevance for all states that have ratified CEDAW and may directly be applied in national law. Women's and human rights organisations can use these decisions for lobbying at national level in order to improve the protection of women, in particular BAMER women, and to point to gaps in legal and support structures. In this way, international rights may become an effective instrument that is more than noble words but has practical relevance for the realisation of women's rights.

Conclusions

This article has shown that in spite of what has been achieved in the past four decades to improve the prevention of gender-related violence against women, there continue to be massive gaps in the legal and support structures which, due to sexist and racist prejudice, primarily affect immigrant and minority ethnic women, and refugees and asylum seekers. As the intersection of simultaneous multiple forms of discrimination, in theory and in practice, because of gender and ethnic and social origin, has not been analysed properly, the situation of the women concerned remains invisible. In this way, they are marginalised and experience further discrimination. In order to respond to this, intersectional perspectives have to be included in political programmes such as national plans of action, based on the question of who is in danger of being excluded and why, and how the groups of women affected can be integrated in the relevant measures.

The majority of new measures aimed at the protection against violence that have been adopted in recent decades concern protection orders under civil law and criminal law. There is no doubt that these are important instruments but they do not cover everything that is necessary as they are based on individualised approaches and ignore the structural causes of why women live in violent relationships which can be difficult for them to leave. Future activities need to focus on improving the social and economic rights of women experiencing violence, in particular, the right to housing of their own, the right to financial independence and access to the labour market as well as education and training. Laws that discriminate BAMER women and force them to continue to live in dependence on violent partners are highly dubious from an ethical point of view because the state thus acts as an accomplice of perpetrators. Such laws should be abolished. BAMER women whose residence status has become illegal because of violence suffered or discrimination by law should be granted residence permits for humanitarian reasons and should not face the risk of deportation.

Another cause for concern is discrimination and marginalisation of BAMER women in support service provision: they are denied support, and the barriers preventing access to help are growing. An essential point in this regard is to implement the principle to grant support and assistance to **all** women and their children, independent of origin and status, and not to refuse any woman access to women's shelters or other support centres or provide unrestricted support. Furthermore, it is necessary to establish and expand specialised centres for BAMER women in order to ensure adequate support. Public relations activities have to be intensified in order to inform all communities of the right to support and assistance. Eventually, it is of vital importance that the state agencies in charge of protecting women against violence are aware of possible discrimination and prejudice with regard to BAMER communities and take steps to change this so that their actions are not guided by discrimination and prejudice.

Under international law, such as the Convention on the Elimination of All Forms of Discrimination against Women, as well as the decisions by the Committee in charge of monitoring the implementation of the Convention, it definitely is a task of states to act with due diligence to protect all women against violence. It is essential to propagate these two decisions, which are milestones in the field of preventing violence, and to use them as arguments in favour of initiatives aimed at closing the gaps in the support system and with regard to the protection of immigrant and minority ethnic women, refugees and asylum seekers as well as their children.

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