

Immigration, integration and asylum policies from a gender perspective*

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A new gender-based migration approach is urgently needed to address the inequalities and discrimination that migrant women suffer. It is mandatory to overcome the dominant perception of female migrants as 'unskilled' migrants, to link the immigration debate to the problem of aging western societies and to relate the increasing restrictions imposed by family immigration policies and their gendered-nature.

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While migration and gender has for a long time remained an invisible issue in policies, especially at the EU level, since the 1980s research projects have been flourishing at the local, national, European and international levels. These research projects have challenged both mainstream research and immigration policies, which have for a long time focused on the male migrant worker, reinforcing a model of migrant women as only expected to assist their husbands and children, rather than seen as active in their own right. This representation of migrant women does not reflect the reality of women's migration, as argued by Kofman et al., who point out that "women were present almost from the beginning of post-war migration both as primary migrants and working alongside male partners".² However, this representation has been at the heart of the different migratory regimes, which are highly gendered.

Challenges to reframing immigration policy

Stereotyping female migrants as unskilled migrants

The first challenge towards a reframing of immigration policies is to challenge the dominant perception of female migrants as 'unskilled' migrants: they are indeed rarely seen as having the skills needed to contribute to the knowledge economy, which is restricted to occupations dominated by men in areas such as finance, science and technology. This perception is even more dominant in relation to women who come under the auspices of family immigration. However,

the share of women immigrants holding a tertiary degree in Organization for Economic Co-operation and development (OECD) countries is only three percentage points below that of men and, in some countries, there is an equal share or even higher proportion of foreign-born non-OECD female migrants in skilled occupations than native-born. However, immigration regulations have an impact on the ability of highly qualified women to migrate compared to the modes of selection of highly qualified migrants from a gender perspective and in relationship to that of men. The sectoral and earnings based selection practiced in most European countries implicitly favours men, while the Canadian system, under which immigration is based on education and language attainment, has led to an increase in highly qualified female migrants.

Linking aging Western societies to feminized care labour

The second challenge is to link the immigration debate to the matter of aging western societies, the issue of care provision and feminized care labour, and to the difficulty of recognizing and regulating the informal economy of cheap and flexible labour. This link is essential to deal with the increasing migration of female domestic workers who are providing indispensable care services to a growing number of EU citizens who need support: families with children, those with disabilities, the elderly and others. While their labour is "instrumental for liberating us from the responsibility of reproductive labour and rendering us fit for the gender-blind framework of the workplace"³, these 'reconciliators' are usually excluded from protection under national labour codes and do not have access to labour visas, or face specific barriers to having their status regularized, which results in many of them being undocumented and with virtually no social protection rights.

Restrictions imposed by family immigration policies

The third challenge is related to the increasing restrictions imposed by family immigration policies and their gendered-nature. Kraler and Kofman

point out that the criteria (in particular the income requirements) for family reunification make it more difficult for women to qualify. In order to meet the income requirements, women need to work fulltime, which makes it difficult for those who have childcare responsibilities and no access to subsidized childcare, and is often dependent on having long-term residence status. The fact that women in Southern Europe are concentrated in informal work is an additional barrier to family reunification.⁴

Dealing with these challenges

There is firstly a need to take steps to frame gender-sensitive labor and immigration policies. This line of thinking is in line with recommendations made by the organization for Security and Co-operation in Europe (OSCE, 2009), stating there is an urgent need that requires the development of enabling environments which provide equality of employment opportunities and access to benefits to both migrant men and women.

The OSCE also highlighted following a 'two-way' approach, and encompassing general migrant protection provisions (those specifically targeting female migrant workers) in order to empower them with choices, to access resources and to claim rights. As well as the need to introduce temporary special measures to compensate for past discrimination that may adversely affect female migrants' current status.

Conducting needs assessments is also important. Member States should ensure that labour market needs assessments carried out in their countries take into account the need for domestic and private care labour. Additionally, emphasis should also be placed on performing gender-impact assessments of bilateral labour agreements and migration policies including family reunification, to ensure that these policies do not discriminate indirectly or directly against migrant women.

The need to apply the UNHCR gender guidelines on international protection

Women's experiences of political activities and of persecution may differ from those of men. Both politics and persecution have historically been interpreted

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2 E. Kofman and Praghuram, "Skilled female labour migration", *Focus migration Policy Brief no. 13* (Hamburg: HWWI, 2009)

3 This issue has been highlighted by organisations such as the Mediterranean institute of gender Studies (MIGS) in Cyprus <www.medinstgenderstudies.org>, Kalayaan in the United Kingdom <www.kalayaan.org.uk> and the European network RESPECT <www.respectnetwork.eu>.

4 A. Kraler and E. Kofman, "Civic stratification gender and family migration policies in Europe", *IMISCOE Policy Brief no.15*.

by member states through the framework of male experience, thus often excluding women's political opinions on gender roles and acts of gender-based violence and/or discrimination by either state or non-state actors. The 1951 UN Convention on the Status of refugees does not specifically refer to gender as a ground for persecution, but each of its principles must be analyzed from a gender perspective as asylum is not gender-neutral. The European Women's Lobby (EWL) and other organizations, such as the refugee Women's resource Project at asylum aid in the United Kingdom, are calling on EU member States to apply the United Nations High Commission for refugees (UNHCR) gender guidelines (2002) on international Protection with regards to gender-related Persecution (see EWL and refugee Women's resource Project at asylum aid, 2007) in order to tackle this void in gender sensitive immigration policies.

Without such guidance it is very difficult to ensure that the gendered nature of persecution, of which women are the prime victims, is fully understood and those women's asylum claims are given equal and fair assessment. This dynamic refers to situations where heterosexual, bisexual and lesbian women fear various forms of gender-based violence and discrimination by state and non-state actors, including where they are in danger of being killed or subjected to physical and mental violence by their husband/partner, family or the state; persecuted for opposing gender-discriminatory norms or laws; raped in situations of conflict and war; and along with their girl children subjected to practices that are carried out in the name of 'culture', such as female genital mutilation or forced marriage. Without guidance there is also a risk that some asylum-seeking women struggling for their human rights and those of others will be depoliticized and regarded as passive victims of abuse, instead of being recognized as agents in their own right and as women human rights defenders. Similarly, it is crucial that asylum procedures are gender sensitive to ensure that women benefit equally from a non-discriminatory process, for example, through the choice of the gender of the interviewer and ensuring that country information relating to the status of women is taken into account.

Dealing with the void of gender sensitive guidelines

This void requires the creation of new gender entities in the European Asylum office as well as the promotion of gender guidelines as already stated previously. The European Asylum Support Office must establish a gender Unit, such entity would prove vital in providing an institutional framework to coordinate gender specific issues within the broader asylum support system. In addition member States should adopt, and the European Commission should promote, gender-sensitive asylum guidelines. Within

the framework of practical cooperation, there is a need for an EU ad-hoc gender expert group to establish and promote EU gender-sensitive asylum guidelines with the aim of assisting asylum determining authorities in interpreting gender-specific asylum claims.

Gender disaggregated data and research is necessary to assess the status of immigrant women within the immigration system. It is particularly urgent in the context of the Dublin system to undertake a study on the disparities between member States concerning the granting of protection on the basis of gender-based persecution and the forms this protection takes. To aid this process it is important that country of origin information (COI) is disaggregated by gender and that it include information regarding the status of women in countries of origin, both legally and de facto.

Removing the main obstacles to migrant women's integration

At the EWL seminar in 2007 on "Equal Rights, Equal Voices: Migrant Women in the European Union", migrant women's organisations (which are now working together in the framework of the newly created European network of migrant Women) identified five main areas crucial to migrant women's integration. Firstly, an important feature of family migration policies because the spouse is dependent on the sponsor. And this dependency is reinforced in countries where spouses' access to the labour market is barred. This is an additional obstacle to women who have experienced domestic violence if they are to make an official complaint and can result in 'brain waste' with highly qualified migrant women remaining unemployed or in occupations far below their qualifications. Finally, because of the gendered nature of labour migration, as we have seen above, many migrant women are undocumented in Europe, do not have access to fundamental rights and face additional barriers to regularization because of the informal nature of their work.

Secondly, in the employment and education sectors the gendered nature of labour migration results in many women entering European countries through family immigration regimes or in sectors such as domestic work, working below their qualifications. The process of recognition of qualifications of non-EU country nationals is a major obstacle to labour integration, as well as the lack of support structures (such as professional, affordable and accessible language courses and childcare facilities). Additionally, multiple discriminations entrenched in the workplace must also be tackled.

Thirdly, with regards to sexual health and reproductive rights migrant women are facing limited awareness and lack of access to sexual health education. This situation is compounded by the lack of

cultural sensitivity and understanding by service providers of the health needs of migrant women. And the situation is worsened by the conditionalities placed on access to health care which must be removed.

Fourthly, migrant women are not free from violence and very often their experiences are further exacerbated by their lack of language skills, extended family and knowledge of the existing support system. Furthermore, they may face specific forms of violence such as female genital mutilation or honour-based violence. In developing a specific approach to this dynamic it is essential to not fall into the trap of stigmatizing and to remove obstacles such as conditional access to shelters based on legal status.

Lastly, the rights to vote and to access European citizenship are essential to ensuring migrants' full participation in public and political life. However, migrants face additional obstacles to exercising these rights such as lack of information on the host country's political system in different languages, and also lack of migrant women role models or capacity-building programmes for migrant women activists. Migrant women are particularly underrepresented in public and political life.

Overhauling the European immigration system

The European immigration system requires an overhaul to become gender sensitive and to deal with gender inequities. This overhaul needs to encompass a series of changes with regards to legal status, access to health services and the ability to exercise reproductive rights, guaranteeing freedom from violence, and the ability to exercise the right to participate in public and political life.

Legal status

- Automatically grant independent status and a work permit to the spouse of the principal legal status holder at the earliest opportunity in order to fully guarantee and protect their rights and to facilitate their social integration.
- The law of the country of residence should be applied when it comes to personal status.
- Undocumented migrant women should have full access to their basic fundamental rights and gender-sensitive channels of regularization need to be developed.
- All migrant women, whatever their status, should have access to professional, affordable and accessible language courses, and care services for all dependants (children, older people, disabled persons).
- Recognize qualifications acquired abroad and ensure access to life-long learning.

Sexual, health and reproductive rights

- Migrant women, irrespective of their legal status, should have access to public funds to ensure safe, equal, culturally sensitive health services
- Educational health tools on migrant women's health need to be developed for service providers.

Violence against migrant women

- Guarantee all migrant women, regardless of their status, access to designated services and shelters for victims of domestic and sexual violence, and further develop the existing infrastructure if necessary.
- Statutory agencies need to involve experts from migrant communities and service providers should be provided with training.
- Specific legislation needs to be implemented that guarantees that abused migrant women do not remain legally and economically dependent on the perpetrators of violence.

Participation in public and political life

- Clear, simple and gender-sensitive procedures to acquire permanent status and citizenship rights need to be made available.

- Funding should be made available for migrant women's NGOs to provide training to migrant women activists.

The European Union's failure to integrate a gender perspective in immigration policies

Despite the requirement that the European Community should "eliminate inequalities and promote the equality between women and men in all its activities"⁵ (i.e., gender mainstreaming), in practice most of the member states and the European Union have failed to integrate a gender perspective into their policies on immigration, integration and asylum. There has, nevertheless, been increasing acknowledgement of the need to integrate a gender perspective in recent policy papers, but how this will be done still remains to be seen and is one of the main challenges.

The gender bias of current policies needs to be urgently addressed and lessons could be drawn from the Canadian example where a gender-based analysis of immigration, settlement and integration programmes has been instituted. It is also important for civil society to play a key role in supporting the implementation of these commitments. Consultation and funding are essential in this regard. Migrant women's organizations should be included in consultative bodies and in framing research and impact

assessments at local, national, European and international levels. This is not possible without funding for migrant women's organizations and organizations supporting migrant women, as well as for gender equality, social and antidiscrimination policies. This is even more important in times of economic crisis, as progress towards women's rights is at risk of being jeopardized.

Finally, it is essential to note that reframing immigration, integration and asylum policies from a gender perspective is an essential step to ensure gender-fair policies, but this needs to be accompanied by a reframing of all policies from a women's rights-based approach to ensure a coherent policy framework, as pointed out by Jean-Michel Baer of the European Commission, "migration, labour market or education policy initiatives will have only limited success in removing barriers to inclusion and economic growth if they are not articulated with policies that address wider economic and social inequalities" (EC, 2009). This would mean looking at the gendered and fundamental rights impact of not only social and economic policies within the European Union, but also of external relations, development and trade policies. ■

5 A consolidated version of the treaty establishing the European Community (2002) is available at: <eur-lex.europa.eu/en/treaties/dat/12002e/pdf/12002e_en.pdf>.