

Research Project for the Ph.D. Programme in Global Studies. Global Society, Cross-Border Mobility and Law

Structure:

1. Title and Keywords
2. Research Area
3. General Presentation and State of the Art
4. Research Objectives
5. Methodology and Expected Results
6. Bibliography
7. Feasibility

1. Title and Keywords

Intersectional Approach to Addressing Gender-Based Violence: An Examination of the Approach to Migrant Women's Rights at National and Supranational Level in the European Union

Keywords: European Law and Institutions, Asylum and migration from legal and sociological perspectives, Intersectionality, Gender issues in context of law and migration

2. Research Area

The main research area of this Ph.D. project will be Sociology of law, deviance and social change (SPS/12) with the complementary research area being European Union law (IUS/14). Specifically the research focuses on Critical Theory, Gender Studies, Transformative Justice, European Law, Migration, Gender Based Violence and Intersectional and Decolonial Feminist Legal Theories.

3. General Presentation and State of the Art

This Ph.D. project, which aims to examine how EU and state legislative and judicial actions impact gender-based violence vulnerabilities among migrant women, aligns with the Ph.D. Programme in Global Studies' focus on the legal and sociological aspects of globalization and cross-border mobility, particularly in understanding the role of institutions, legal frameworks, and public administrations in shaping the rights and protections for vulnerable populations within the context of transnational movements and social policy reforms.

The primary objective of this research is to scrutinize EU and state legislative and judicial actions, or lack thereof, to understand their role in creating or mitigating vulnerabilities related to gender-based violence (GBV). Specifically, it aims to assess whether EU policies for protecting migrant women effectively implement an intersectional approach. Focusing on women seeking international protection, potential trafficking victims, dependent spouses and partners, and undocumented female migrants, this study will analyze how EU states' legal and policy frameworks impact GBV-related vulnerabilities. Ultimately, it seeks to reveal whether these frameworks reduce or exacerbate such vulnerabilities among migrant women in the EU.

GBV continues to be a pervasive issue globally, affecting the lives of more than one in three women in their lifetime (WHO 2021). This violence is not an individual experience – it is a structural and historically deeply rooted element of the patriarchal system. Experiences of violence are often the result of women's economic, professional and political vulnerability, caused by the structures of the patriarchal, racist, capitalist system, where race, class, age, ability, nationality and gender intertwine to increase precariousness and vulnerability (Vergès 2021: viii). Violence in all its forms is a fundamental component of current societies, which are characterized by hierarchical structures, exploitation, and

domination, and making GBV a normalized condition reproduced by a 'pedagogy of cruelty' (Segato 2021: 17).

A particular group vulnerable to GBV are undocumented women and women with an insecure residence status. Their legal status might prevent them from exiting violent situations and leave the persecutors without criminalization. Because of their vulnerable residence status women might not report crimes because of fear or risk of negative consequences to their legal status.

Seeking assistance from authorities often fails to provide increased protection or lead to a thorough investigation, and may instead result in the risk of homelessness, jeopardized immigration status, deportation, or loss of financial assistance, potentially leading to destitution. Undocumented women also encounter practical barriers that hinder their ability to access safe housing and seek protection through the legal system (Amnesty International et al. 2023: 4). To eliminate GBV, it is necessary to fight against both the patriarchal culture that legitimizes and enables this violence, and against the structures of racist, capitalist societies that (re)produce the relations of violence.

Efforts at national and supranational levels aim to eliminate GBV and strengthen women's rights. The Istanbul Convention, a 2014 pan-European treaty, establishes an EU legal framework to protect women from all forms of violence and to prevent, prosecute, and eliminate violence against women and domestic violence (Council of Europe 2014). It recognizes the historical power inequalities between women and men and defines gender-based violence as a violation of human rights and a form of discrimination, encompassing physical, sexual, psychological, or economic harm (Vall 2017: 12). EU member states ratified the Istanbul Convention in June 2023. This framework allows for administrative procedures and judicial reviews in the EU, supported by the EU Charter of Fundamental Rights (Article 47), which guarantees the right to an effective remedy and a fair trial (Gnes 2021: 47). In January 2024, the ECJ ruled on the basis of the Istanbul Convention in C-621/21 – WS vs. Bulgaria that women who suffer or are at risk of "physical or mental violence, including sexual violence and domestic violence" on account of their gender in their country of origin could apply for protection and be granted refugee status (asyl.net: M32111. n.d.). This decision holds potential for the fight against gender-specific persecution in the context of migration as national courts must also ensure the application of EU law and provide remedies to maintain the principle of effectiveness (Gnes 2021: 47). The European Commission proposed a Directive in March 2022 to combat violence against women and domestic violence, criminalizing various forms of violence both offline and online (COM (2022) 105 final, 8 March 2022). The proposal aims to address prevention, protection, access to justice and reparation recognizing intersectional discrimination. An example is the parliament's amendment to Article 2.1, which strengthens the non-discrimination principle for all women, and ensures consistency with Article 35(1) that provides targeted support to victims at increased risk (Amnesty International et al. 2023: 3). The European Parliament has proposed amendments to ensure support for all women, including those with insecure legal statuses (Article 13(1)(b)). However, the Council has suggested deleting certain provisions that extend support to undocumented individuals and asylum seekers (Article 35(3)), highlighting ongoing challenges in addressing GBV within the EU (Amnesty International et al. 2023: 4). Furthermore, the Common European Asylum System (CEAS) also addresses vulnerability but often focuses on individual, biological, and psychological rather than structural aspects, limiting the scope of protection (Reilly et al. 2021: 6).

The EU is currently pursuing an increasingly protective migration policy at its external borders, as exemplified by the reform of the Common European Asylum System (CEAS), which externalises parts of the asylum application process and undermines the individual right to asylum through serious changes to asylum law at the European level (European Parliament 2024). Women are disproportionately affected by this being both increasingly at risk of GBV and less likely to have access to their rights to prosecute violence that they have experienced (Amnesty International et al. 2023: 4). This simultaneity in the EU's approach to gender equality and the elimination of GBV when it comes to the particular group of migrating women with lacking/independent residence status sets the premise for the proposed Ph.D. project. The research revolves around three interconnected theoretical

premises that underpin the examination of migration and GBV within legal frameworks and theoretical perspectives.

Vulnerability in Theory and Law

The theoretical premise of vulnerability in theory and law constitutes a foundational element of my Ph.D. research, serving as a lens through which to examine the experiences of marginalized individuals and groups within legal frameworks. Vulnerability theory acknowledges the inherent susceptibility of certain individuals or groups to harm, oppression, and injustice, and explores how this vulnerability is constructed, understood, and addressed within legal contexts. In this research, vulnerability theory will be utilized to critically analyze the ways in which legal systems conceptualize and respond to vulnerability, particularly in relation to marginalized populations such as female migrants, refugees, and survivors of GBV. By interrogating the intersections of vulnerability, power, and legal structures, the research aims to deepen the understanding of how legal frameworks can either mitigate or exacerbate vulnerabilities, ultimately informing more equitable and effective legal responses to GBV. To explore vulnerability, I will utilize Judith Butler's theories which set vulnerability in a broader premise of ethics, politics, and embodiment exposing the limits of individual autonomy and highlighting the interconnectedness of human existence (Butler et al. 2016). Moreover the theories of Axel Honneth highlight the social dimensions of vulnerability and the importance of social recognition in mitigating vulnerability and promoting justice (Anderson & Honneth 2005). The research will focus on the role of the state in addressing vulnerability using Martha Albertson Fineman's (2010) feminist and queer legal theories on inclusive and responsive legal framework that accounts for individuals' inherent vulnerability.

Intersectionality in Theory and Law

The second theoretical premise is intersectionality in both theory and law, which plays a pivotal role in understanding and addressing the complexities of social inequality, violence, and discrimination. Intersectionality theory, originating from Black feminist thought (Crenshaw 1989), emphasizes the interconnected nature of social identities such as race, gender, class, sexuality, and immigration status, and how these intersecting axes of identity shape individuals' experiences of oppression and privilege. Within legal frameworks, intersectionality challenges the tendency to oversimplify social categories and calls for a more nuanced understanding of how multiple forms of discrimination intersect and compound to shape individuals' lived realities. The Ph.D. research will draw on theory that contextualizes intersectionality in law and policy, particularly the CEAS and migration law at European national level (i.A. European Commission Directorate General for Justice and Consumers 2016; Argenta n.d.).

The Nexus of Migration and Gender Based Violence

Thirdly, the research will highlight the complex interplay between migration processes and experiences of GBV. This theoretical framework recognizes that migration contexts can exacerbate vulnerabilities to GBV due to factors such as displacement, economic dependency, legal status insecurity, and cultural and social isolation. Additionally, it acknowledges that GBV can act as a push factor for migration as individuals seek safety and protection from abusive environments (Freedman et al. 2022; Diab 2019).

4. Research Objectives

The primary objective of this research is to examine the patterns of EU and state legislative and judicial (in)action to understand how they contribute to the creation, perpetuation, and exacerbation of vulnerabilities as well as protection in relation to GBV. Specifically, the research aims to investigate whether the policies and strategies implemented in the European Union to protect migrant women effectively operationalize an intersectional approach. By focusing on women seeking international protection, potential victims of trafficking, dependent spouses and partners, and undocumented

migrants within the EU, the research seeks to analyze the impact of EU states' legal and policy regimes on GBV-related vulnerabilities experienced by migrant women. The analysis will cover both the direct and indirect effects of these regimes, considering factors such as the accessibility and adequacy of legal protections, the responsiveness of judicial and administrative bodies, and the broader socio-political context within which these policies operate.

Through this investigation, the research project aims to provide insights into whether these legal and policy frameworks contribute to the reduction or exacerbation of GBV-related vulnerabilities among migrant women in the EU context. The ultimate goal is to identify gaps and areas for improvement in the EU's (non)intersectional approach to protecting migrant women from GBV, thereby contributing to the development of more effective and equitable policies that uphold the rights and safety of all women within the European Union.

5. Methodology and Expected Results

The research methodology approaches the research objectives from two angles: examination of the institutional approach to the protection of the vulnerable group and the examination of the de facto situation of the vulnerable group in regard to their access to the protection mechanism and laws.

The analysis of the institutional approach follows a social constructionist tradition. It is based on the understanding that knowledge is socially constructed and contingent and that processes of meaning construction are consequential and entail potential empowerment or disempowerment. The analysis will critically review relevant law and policy documents as well as outputs of non-governmental actors in the field. Qualitative content analysis will be carried out to analyze the use of language and identify the dominant interpretations of the ideas they foster regarding intersectionality and the nexus of migration and GBV in different EU member states, potentially focusing on those EU countries bordering the Balkan migratory route. This review aims to examine the role of international and regional rights frameworks in protecting the rights of refugee women and addressing GBV, including the Istanbul Convention, EU directives, UN conventions, and national frameworks. The outcome of this examination represents the institutional approach to protection of the vulnerable group.

The first analytical step is followed by a qualitative analysis of particular cases to examine the de facto situation of the vulnerable group. The focus will be on a specific migratory route (probably Balkan migratory route). Data sources will be semi-structured interviews with female migrants, employees of NGOs working in the field, and the analysis of NGO and policy reports as well as cases at national and EU level. This approach aims to examine the de facto situation of the vulnerable group in regard to their access to the protection mechanism and laws.

In conclusion this proposed Ph.D. project aims to address critical gaps in knowledge and practice surrounding the intersections of migration, GBV, and European legal frameworks. By centering the voices and experiences of migrant survivors and drawing on intersectional and critical feminist theories, this research seeks to contribute to the development of more inclusive, equitable, and transformative approaches to justice within European migration contexts.

6. Bibliography

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7. Feasibility

First Year

In the first year, I will develop and concretize the research project with the help of the content from courses at University of Urbino. Professor Matteo Gnes's courses such as "Legal Techniques and European Integration" and methodological findings from "Principles of European Public Law and Legal Research" are essential for this. As well as Professor Federico Losurdo's expertise on the rights of migrants and asylum seekers in the European legal system and Professor Eduardo Barberi's course on sociological perspectives on global migration trends.

Second Year

In the second year I aim to collaborate with the Migration Law faculty at Humboldt University of Berlin, the university I received my M.A. from, under Prof. Dr. Pauline Endres de Oliveira. I first met Professor Endres de Oliveira during my training to become a legal advisor for asylum law at the Refugee Law Clinic Berlin. Her faculty is part of the interdisciplinary research institute Law & Society at Humboldt University Berlin, which aims to complement legal research by the systematic inclusion of social sciences, the humanities and natural sciences, critically reflecting the opaque separation of knowledge by different academic disciplines. The research of the chair of Law and Migration at Humboldt University focuses on the international and EU law aspects of migration law. This international academic institution, in combination with the courses offered at University of Urbino, provides an excellent setting for the elaboration of the theoretical part and the methodology of my Ph.D. thesis.

Third Year

In the second and third year I want to collaborate with non governmental and research organizations (e.g. ECCHR- European Centre for Constitutional and Human Rights a NGO focusing on strategic litigation in border justice for which I interned for 3 month in 2023) along the balkan migratory route for data collection and finish writing up the Ph.D. thesis.