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GENDER EQUALITY & MAINSTREAMING

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Migration & Gender Equality in the European Union

The mass migration of people, for economic, humanitarian or other reasons is one of the most significant recent events in the Europe. In 2015, 34.3 million people born outside of the EU-28 were living in a Member State¹, slightly more men than women. Therefore, several countries contain sizeable immigrant communities which, combined with the presence of national ethnic minorities, have deeply transformed the socio-demographic structure of contemporary societies. In the early stages of migration flows, it was believed that the protection of individual



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¹ The Author is responsible for the choice and representation of views contained in this paper and for the opinions expressed therein, which are not necessarily those of UNESCO and do not commit the Organization.

Eurostat (2016), *Migration and migrant population statistics*. Retrieved from http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Migration_and_migrant_population_statistics&oldid=299328, accessed 29/08/2016.

rights would be sufficient to accommodate migrant minorities, expected to assimilate with the existing cultural norms. During the 1970s it was argued that this assimilation model was unjust and the debate on the legal and political accommodation of ethnic diversity emerged in the Western democracies as way to switch from old forms of assimilation towards “new relations of democratic citizenship”². Thus, in recent decades there has been an increased interest on the part of politicians and jurists in the recognition of the rights of minority groups³ and several countries have embarked on what Will Kymlicka has characterized as “experiments in multiculturalism”⁴ in an attempt to find new ways of incorporating minorities into the larger society, with State-sponsored policies, grassroots initiatives, or a combination of the two⁵.

The recognition of the rights of groups is particularly problematic when groups seek the right to legally restrict the freedom of

² Kymlicka, W. (2012), *Multiculturalism: Success, Failure, and the Future*, Washington, DC, Migration Policy Institute, p. 14.

³ Torbisco Casals, N. (2006), *Group rights as human rights. A liberal approach to multiculturalism*, Dordrecht, Springer, p.1.

⁴ Kymlicka, *Multiculturalism*, p. 2.

⁵ Kivisto, P., Wahlbeck, O. (2013), *Debating Multiculturalism in the Nordic Welfare States*, NY, Palgrave, p. 2.

Migration crisis

The mass migration of people, for economic, humanitarian or other reasons is one of the most significant recent events in the Europe.

their own members in the name of group solidarity and ethnic heritage. Groups can impose certain restrictions as conditions for membership in voluntary associations; however, the civil and political rights of its members should be respected. Thus, it is important to note that since the political accommodation of migrant minorities involves respecting people who are perceived to have different cultural affiliations from oneself, we must give special attention to the distinction between respect for people and respect for their actions. In effect, the dignity and equality of all human beings and their inalienable human rights must always be observed, while culturally motivated actions which violate the fundamental principles of human rights, democracy and the rule of law cannot be allowed⁶.

As argued by Kymlicka and Cohen-Almagor when one looks at rituals around the globe, it is almost always the case that women are discriminated and are required to pay a high price for the norm of male dominance⁷. Moreover, reflecting on issues related to women's rights, such as the wearing of the veil in French public schools or the legal status of polygamy, on the meaning of gender equality Susan Moller Okin asked, provocatively, whether collective rights should be granted to those cultures that violate the individual rights of its members, particularly women⁸. She remarked that most of cultures were crossed by practices and ideologies that had to do with gender differences, sometimes manifestly anti-feminist⁹.

In essence, the tensions between universal women's rights and multiculturalism begin when the ethno-cultural traditions that ask recognition collide with the norm of gender equality. In fact, most migrant women in Europe come from countries with ethnic and cultural traditions that implicitly or explicitly promote the subordination of women. This is therefore a very important socio-political challenge for the European Union, where women's rights and gender equality are fundamental EU values and guiding principles of the entire community action¹⁰. Women



Fundamental EU values – Part I

Should collective rights be granted to those cultures that violate the individual rights of its members against the guiding principles of the *acquis communautaire*?

involved in the migration processes are protected formally by a number of national and international standards, but it should be clear that some practices, like forced marriages, are not easily eradicated simply by using legal tools, as there are social customs rooted in the tradition of some minorities which necessitate a more complex intercultural intervention¹¹.

Recently, forced marriages have received increased attention from women's rights organizations and governments, becoming the subject of public and political debate throughout Europe¹². While there is no official, internationally agreed upon definition for forced marriage, this serious violation of human rights and a form of gender-based violence can be described generally as a marriage concluded without the consent of one or both partners, and therefore against the will of at least one of them¹³. It is important to distinguish forced marriage from *arranged marriages* – marriages in which the families of one or both spouses take a leading role in choosing suitable partners – and *marriages of convenience* – marriages contracted for the sole purpose of enabling the person concerned to enter or reside in an EU Member State. Arranged marriages

6 Barrett, M., Byram, M., Lázár, I., Mompoin-Gaillard, P., Philippou, S. (2013), *Developing Intercultural Competence through Education*, Council of Europe, Strasbourg, p. 8; Kymlicka, *Multiculturalism*, p. 9.
7 W. Kymlicka, R. Cohen-Almagor (2000), *Democracy and Multiculturalism*. R. Cohen-Almagor (ed.) *Challenges to Democracy: Essays in Honour and Memory of Isaiah Berlin*, London, Ashgate Publishing, p. 97.
8 Okin, S. M. (1999), *Is Multiculturalism Bad for Women?*, Princeton University Press, p. 10.
9 *Id.* pp. 12-20.
10 European Commission (2016), *Strategic engagement to gender equality*

2016-2019, Luxembourg. Publications Office of the European Union, p. 6.

11 P. Degani (2007), *Diritti umani, multiculturalismo, dimensione di genere*, M. Mascia (ed.) *Dialogo interculturale, diritti umani e cittadinanza plurale*, Venezia, Marsilio, p. 156.
12 Sabbe, A., Temmerman, M., Brems, E., Leye, E. (2014), *Forced marriage: an analysis of legislation and political measures in Europe*. Crime, Law and Social Change, Volume 62, n. 1.
13 European Union Agency for Fundamental Rights (FRA 2014), *Addressing forced marriage in the EU: legal provisions and promising practices*, Luxembourg, Publications Office of the European Union, p. 44.



Fundamental EU values - Part 2

The dignity and equality of all human beings and their inalienable human rights must always be observed, while culturally motivated actions which violate the fundamental principles of human rights, democracy and the rule of law cannot be allowed.

and marriages of convenience are only assimilated to forced marriage when elements such as coercion, duress, violence or threat extort the consent of one or both partners involved¹⁴.

In addition to the legal framework concerning forced marriages and reporting which has been developing continuously in recent years¹⁵, different EU Member States have adopted national policy plans containing complementary measures such as awareness raising, training of professionals and schooling that can be useful in order to end this human rights violation¹⁶. Awareness-raising activities are an important tool to educate perpetrators, victims and communities about

the illegal status of forced marriage, which can take not only physical but also emotional and financial forms, and about the negative consequences for both victims and perpetrators, while trainings of professionals such as legal counselors, social workers, teachers, school nurses and counselors, doctors, police can help to identify potential victims of forced marriage offering an immediate support which is crucial to prevent and stop victimization¹⁷. It is also important to underline that formal and non-formal educational programs are powerful because they reach the most vulnerable, namely children, and can allow their peers, teachers and mentors to identify early warning signs.

Moreover, efforts should also be focused on the elimination of social and cultural factors that have been identified as main drivers of forced marriages¹⁸ through a dialogic approach with relevant communities¹⁹. Although we have to be aware of the risk that diversity management policies can strengthen power hierarchies in communities when they empower self-proclaimed spokespersons – usually men – these policies, especially those related to the intercultural dialogue approach, can contribute to effectively combat forced marriages by changing social and cultural practices and raising awareness of forced marriage as a human rights violation and as a practice that has no more place in our democratic society.

14 Psaila, E., Leigh, V., Verbari, M., Fiorentini, S., Dalla Pozza, V., Gomez, A. (2016), *Forced marriage from a gender perspective*. Document requested by the Committee on Women's Rights and Gender Equality at the European Parliament, European Union, p. 9.

15 Cf. FRA, 2014; Sabbe et al. 2014; Braun, 2015; Psaila et al. 2016.

16 FRA, *Forced marriage*, pp. 32-34.

17 *Id.* p. 33.

18 Psaila et al., *Forced marriage*, p. 37.

19 Braun, K. (2015), "I Don't Take This Man to Be My Lawfully Wedded Husband": Considering the Criminal Offense of "Forced Marriage" and Its Potential Impact on the Lives of Girls and Young Women with Migrant Backgrounds in Germany. *German Law Journal*, Volume 10, n. 4, p. 866.