

Transnational regimes of family violence. When violence against women crosses borders

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Abstract

This chapter explores how gender-based family violence is not always limited to the nation state but can also be perpetrated, endured and facilitated transnationally. In research to date only some aspects of what is conceptualised here as *transnational regimes of violence* have been explored. This study takes a broader approach, outlining 1) transnational elements in regimes of violence, 2) how abuse and control cross national borders, and 3) transnationality as a conducive context for regimes of violence.

The analysis focusses on violence against women from male partners and in-laws and on violence against adolescent daughters from their parents and other kin. The empirical basis is interviews with women of immigrant background living in Norway and judgements from Norwegian Criminal Courts. Building on established theories of domestic violence as regime and continuum, the concept *transnational regime of family violence* is offered as a contribution to ongoing attempts at theorising the spatiality of gender-based violence. The concept captures how the involved actors' attachment to several nation states produces specific opportunity structures for abusers and specific vulnerabilities for the abused.

Keywords: gender-based violence, domestic violence, migration, abandonment, divorce

Introduction

Violence against women is often highlighted as a global phenomenon, which then means that it affects women in all societies. However, despite recognition of the global nature of gender-based violence, little research to date has considered violence occurring in transnational contexts. This chapter contributes to this burgeoning research field through an analysis of how gendered abuse in a family context may include transnational elements and transcend national borders.

The empirical basis of this chapter is qualitative interviews with abused women and judgements in criminal cases on domestic violence, both of which involve more than one country in some way or other. The following questions are explored: How can individuals' and families' connections to several countries be utilised in perpetrators' control of and abuse against victims? Do transnational contexts offer specific tools or tactics of abuses? In particular, the chapter highlights the resources and structures that produce what is called a transnational opportunity structure for violence. Building on theories that conceptualise gender-based violence in regime terms (Stark, 2007; Katz, 2016), the chapter seeks to understand the particularities and dynamics of violence in transnational contexts. Following on this, the concept of *transnational family violence regime* is suggested to capture the spatiality, range and continuity of the regime as well as the dynamic mechanisms inherent in it.

Violence against women of immigrant background

Violence against women with an immigrant background living in the global North has received increasing attention over the years. Recently, this research has focused on phenomena such as honour-

based violence (Idriss & Abbas, 2011; Gill, Strange & Roberts, 2014), forced marriage (Gill & Anitha, 2011), and violence in an extended family context (Bredal, 2020; Rew et al, 2013; Lidman & Hong, 2018). This literature sheds light on both specific motives for violence and specific social logics, for instance how the abuse may involve more than one perpetrator and more relations than that between intimate partners. While empirical data reveal transnational dimensions, these have rarely been the subject of in-depth analysis or theory development.

There are some exceptions however, the first of which pertains to research on partner abuse in marriage migration. A key concern is how the immigration country's residence requirements may prevent women in violent marriages from leaving their abusers because they will then lose their residence permit (Thiara, Condon & Schröttle, 2011). This research shows how abusive men exploit immigration rules that make the women's residence status depend on their being married for several years. The present chapter argues that studies on the interplay between perpetrators' strategies and state regulation, should not only include the legislation of the immigration country but also that of other states and the dynamics between them.

Another notable exception from the methodological nationalism of domestic violence research applies to recent studies on 'transnational abandonment of women' which denotes the 'dumping' of wives in their country of origin (Anitha, Roy and Yalamarty 2018, 2021; Bajpai 2013; Bhattacharjee, 2013; Lodhia, 2010; Roy, Anitha & Yalamarty, 2019; Rudra & Dasgupta, 2011). These studies are about South Asian women who marry men of South Asian descent living in Europe and North-America and who are subsequently abandoned in or returned to their home countries against their will. This happens because the husband or his family want the woman to live there or because he divorces her, often without informing her, while making sure her residence permit is withdrawn. As an abandoned wife, the woman is exploited by her in-laws or left to the stigma and economic disadvantage of living as a divorced woman. Anitha et al (2018, 2021) show how such abandonment is part of a broader repertoire of violence, where immigration regulation contributes to the dynamic. They propose that this practice should be defined as a form of violence against women (Anitha et al, 2018, 2021). The present analysis is inspired by this research but suggests that a broader perspective is needed to capture the scope of what will be called transnational regimes of violence.

Transnational migration and family studies

This study is informed by insights from and critical perspectives on transnational migration and family studies. A key finding in studies on transnational migration is that people maintain and develop connections across several nation states (Levitt & Glick-Schiller, 2004; Fournon & Glick Schiller, 2001). While some ties are strong and pervasive, involving frequent interaction, others are weaker with more episodic contact. On a concrete level, the exchange may include, for example, travel, electronic communication, marriage, financial investment, political participation, dual citizenship and other formal affiliations. A key point is the critique of the methodological nationalism inherent in research that takes the boundaries of the nation state for granted (Wimmer & Schiller, 2002).

An oft-quoted phrase defines transnational families as "families who live separately but who create and retain a sense of collective welfare and unity, in short 'familyhood', even across national borders" (Bryceson and Vuorela, 2002). Normalising transnational life appears to be an ambition of much research on transnational families, demonstrating that being a mobile and at times also a divided family, is not necessarily a negative thing. To the extent that negative aspects are highlighted, the focus is often on external factors, typically on families who are dispersed due to poverty or immigration regulation. The fact that 'internal' family conflict and abuse can also be part of transnational social fields (Levitt & Glick-Schiller, 2004) has received less attention. More generally, transnational studies have been accused of a positive bias, emphasising possibilities and empowering outcomes. Feminist scholars, among others, have pointed out that there is nothing inherently transcendent or liberating about transnationalism (Pratt & Yeoh, 2003: 160) and empirical studies

show a complex picture as to whether patriarchal gender orders change, are reproduced or even strengthened when people live transnational lives (Pratt & Yeoh, 2003; Mahler & Pessar, 2001; Pessar & Mahler, 2003; Yeoh & Ramdas, 2014). This study follows suit by focussing on what Hearn has conceptualised as transpatriarchies which is defined as ‘the structural tendency and individualized propensity for men’s transnational gender domination’ (Hearn, 2015: 78).

Conceptualising domestic violence as regime

The analysis presented here is part of an effort to move from incident-based understandings of gender based domestic abuse – that have been criticised for misrepresenting the phenomenon and its impact – to more comprehensive approaches. Examples in the literature include conceptualisations in terms of violence continuums (Kelly, 1987; Cockburn, 2014) and regimes (Stark, 2007; Katz, 2016). While regime thinking seems mostly geared at grasping the totality of the abuse, including different tools and tactics available to the perpetrator, the continuum approach also refers to the continuity between contexts, time and space – which is of particular importance for the present study. The idea of *conducive contexts*, which was originally developed by Kelly (2007; 2016) to capture ‘the interplay between the immediate and transnational conditions that created the sympathetic environment for trafficking’ (Chantler & McCarry, 2020: 91) has further worked as a sensitizing concept throughout the analysis. While Chantler and McCarry use the term in their analysis of forced marriages, this chapter asks whether transnationality may work as a conducive context for domestic violence more broadly.

Mahler and Pessar’s conceptual framework, *gendered geographies of power* (Mahler & Pessar, 2001; Pessar & Mahler, 2003) has also informed the analysis. It represents a promising line of thinking to grasp the spatiality of family violence and has been developed with the aim of understanding how transnational spaces and practices are hierarchically organised along different intersecting and interacting dimensions such as gender, class, ethnicity and legal affiliation with states. The framework is inspired by Massey (1994) who emphasises how people’s social positioning not only affects their access to resources and mobility in transnational spaces, but also their possibility to influence these conditions (Mahler & Pessar, 2001: 447). People are differently positioned when it comes to access to and power over the flow and connections between places, says Massey. While some initiate mobility, others are objects of mobility, and some are trapped by it (in Mahler & Pessar, 2001). As Anitha et al point out (2018), the concept of gendered geographies of power is useful for understanding how gender operates simultaneously on several spatial and social scales, for example the body, the family, the state, in transnational terrains.

Drawing on the presented concepts, the following analysis explores how gender-based family violence is perpetrated, endured and facilitated transnationally.

Methodology

The analysis is based on two data sets, one consisting of qualitative interviews and the other of criminal judgements. The interview material is from an ongoing study of women’s experience of violence from male partners and in-laws comprising interviews with 97 women living in Norway. The women were recruited via Facebook and different cervices. The interviews were inspired by the teller focused interview approach (Hydén, 2014) – which works well in interviews on topics that may be difficult to articulate, such as family violence. All interviews were recorded and transcribed. About a quarter of the interviewed women have immigrant backgrounds from Afghanistan, Bosnia, Iraq, Iran, Pakistan, Somalia, Syria, Chechnya and Turkey. The interviews that comprised transnational elements of family violence were identified and subjected to further analysis.

The case-law material consists of judgements from criminal cases about violence in immigrant families, where it appears that the violence has partly taken place abroad or there are other transnational aspects. Some of this material was collected in previous research projects, while the

main bulk was obtained through searches in the Lovdata Pro database. Lovdata Pro contains all reasoned decisions from the Norwegian Supreme Court and courts of appeal, and selected decisions from the district courts. The search criteria included the domestic violence provision in the old and new penal code, ie § 219 (Penal Code of 1902) and §§ 282, 283 (Penal Code of 2005, effective from 2015), combined with the jurisdiction provisions, § 12 and § 5 respectively.¹ In addition, the following search words were used: ‘abroad’, ‘jurisdiction’, ‘Pakistan’, ‘Iraq’, and some other major immigration countries. After supplementing with lower court judgements obtained from court administrations, the legal material consists of a total of 47 judgements representing 25 cases from the period 2009 to 2019, most of which are from the last five years. This chapter only refers to final judgements where the accused was found guilty. While the legal assessment is not the topic of this chapter, the material is used as data about the nature of transnational violence.

Using a thematic, explorative approach (Braun & Clark, 2006), the judgements and interviews were read systematically with the purpose of identifying elements and dimensions relating to transnationality using. This process of analysis identified three key themes which will be presented in the next part of this chapter: 1) transnational elements in regimes of violence, 2) how abuse and control cross national borders, and 3) transnationality as a conducive context. For purposes of anonymisation, judgement case numbers and country of origin have been omitted. Quotes in Norwegian have been translated to English by the author, and expression has been slightly edited for readability.

Analysis

Transnational elements in a regime based in one country

This first thematic concerns what can be called a transnational toolbox. The data material describes physical, material and psychological violence, including threats, that are part of an extensive pattern of control and abuse over time. While these cases have much in common with domestic violence regimes in general, there are also some particularities that may be identified as transnational elements. This is pertinently illustrated in the interview with Samina. She had come from Pakistan to Norway after marrying a Norwegian-Pakistani man and they lived with his parents and siblings in an extended household. Both Samina and her son were subjected to physical violence and psychological degradation by her husband and in-laws who cooperated in controlling her. She was not allowed to have her own phone or PC, and she was monitored when she spoke with her family in Pakistan. While these are typical control tactics in a domestic violence regime, for women like Samina the control is particularly effective since they literally have no social network outside the home and their potential support networks are based in another country. Furthermore, she and the other interviewed women were prevented from attending language courses and scared from seeking help through misinformation and intimidation. In particular, the interviewed women had been told that the child protection services would remove their children if they shared anything with ‘Norwegians’. One judgement also described how the woman had been told that she would be raped and sent back to Pakistan by the police if she contacted them. Once there, she would be ‘sold to a brothel where she would be raped every night’. This is one of several cases where the threats play on a combination of the victim having poor knowledge of Norwegian conditions and that she knows what can happen in the country of origin, for example that police officers may be corrupt and abusive against so called ‘shameless’ women. Similarly, another judgement described a father who had threatened his daughter that he would take her to their country of origin ‘where she would be “slaughtered” [...] and thrown at a well-known rubbish heap in [the capital], where women who, for example, have sex before marriage are thrown away after they are killed’. Furthermore, he would ‘force her to marry an elderly man, and tear her passport so that she did not return to Norway’ (case X).

¹ For an English version of the Penal Code of 2005: <https://lovdata.no/dokument/NLE/lov/2005-05-20-28>

Such threats of moving the victims to their country of origin against their will are repeated in the material. When wives are concerned, it varies whether or not they are threatened with divorce, and to what extent the perpetrators plan to keep the children. Threats of expulsion, or what Anitha et al (2018) call abandonment, become particularly effective when the woman comes from a community that stigmatises divorced and single women. As known from other studies, wives with temporary residence permits are particularly vulnerable but abandonment also affects women and children with permanent residence or even Norwegian citizenship.

Another element in the transnational toolbox is when perpetrators threaten to or actually reveal information – true or false – about the victim to her family in the country of origin. These threats are often about alleged sexual transgressions, as for example in this quote from a judgement: ‘the accused had spread rumours that she had run away and that she was with another man’. Furthermore, threats of violence may be directed at a third party, as described in a judgement where a man told his wife he would kill her brother in Pakistan and an ex-husband threatened to kill the woman's uncle in India. Samina also, had received threats against her close kin in Pakistan. She considered the danger to be real, because her in-laws in Pakistan were capable of violence or would pay someone to harm her family.

Violence crossing national borders

A second transnational thematic is that violence and control are exercised in and across several countries. This topic involved situations where the perpetrator and victims lived together and moved between countries – violence on the move – and cases where they lived in different countries – violence from afar. As a third variety, the move itself can be used by the perpetrator to maintain control and is thus a key abusive tactic in itself.

Violence on the move typically involved families that alternate between living in Norway and in the country of origin. In the previously mentioned case X, their mobility was partly caused by the child protection services taking an interest in the family. According to the judgement, the man had abused both his wife and children, including sexual abuse against a daughter. In accordance with their transnational life style, the violence had taken place during extensive stays in Norway, their country of origin and a third country. However, violence on the move may also include holidays and other short-term travel.

Yet another variety is when the abuser follows the victim to another country, as in the court case of a man convicted of extensive control of and sexual abuse against a daughter since she was 4-5 years old until she became an adult. The control was about preventing her from having contact with boys, especially during her teens. He delivered and picked her up at school, checked her mobile and PC regularly, and generally restricted her social life. When she moved abroad to study, he continued the control from Norway. Skype and mobile data showed that he had contacted her several times every day to ensure ‘that she was in the apartment when she did not have tuition, and [...] that she did not have contact with men’. He also visited regularly, for up to a month at a time, subjecting her to severe sexual abuse several times a day. The young woman explained that ‘the situation was more demanding in [country2] because they were always alone’.

An example of *violence from afar* is from a judgement where a woman of Norwegian majority background was married to a man from another country. According to the judgement, he used gross violence against her and their children for over 30 years, including in periods when they lived in Norway and he stayed in his country of origin or other countries. It is described that he was angry, threatening and verbally abusive ‘through daily conversations on the phone and Skype’. Furthermore, ‘he demanded to know where everyone was and what they were doing. He often threatened to come home and punish them’. This behaviour instilled a constant fear in his wife and children that he would come home suddenly. Interestingly, the court explicitly described the abuse in terms of a regime across national borders and over time: ‘As a result of the aggrieved party having lived under the

defendant's regime with a combination of unpredictable rage and psychological violence and other abuse, it gradually took little to maintain the regime the defendant had created. The abuse has been a common thread throughout their lives.'

Another example from a court case describes a similar regime but in the reversed geographical direction; the man was based in Norway while his wife and children lived in their country of origin. Both when he visited them and via telephone contact, he maintained 'a regime in which the victims lived under a constant fear of violence and abuse even while living in [country]'

Forced movement as an abusive tactic in itself is when the perpetrators take victims to the other country and keep them there against their will. There are several examples of such enforced relocation and detention in the legal material. In a judgement on a family, the man was convicted of violence against his wife and children over a 15-year period, in both countries. At one stage he had decided they all move back to their country of origin, luring and pressuring his wife and children to join him there on an alleged holiday. Consequently, he confiscated their passports and airline tickets, retaining them in the country by means of threats, violence and deprivation of liberty. They lived with his family who helped him maintain control, including when he travelled to Norway. Both in the present judgement material and in the findings of other studies (Lidén & Bredal, 2017; The Norwegian Ministry of Health, 2020) there are examples of young women who are sent out of Norway by both parents, to be controlled and disciplined by relatives in their country of origin, typically as punishment for or to prevent a breach of chastity norms. If the girl has been raised in Norway, she may find herself in a similar situation as the isolated immigrant wives in Norway. She may not speak the language or know her whereabouts in the country of origin. Moreover, gender segregation norms will restrict young women's mobility and chances of seeking help outside the family.

While the interview material includes more examples of threats than of actual abandonment of wives, the problem of abandonment is well known from special services set up to combat forced marriage and so-called honour-based violence in Norway, including the national expert team and 'integration counsellors' at Norwegian foreign missions (Norwegian Ministry of Justice and Public Security, 2017; Lidén & Bredal, 2017; The Norwegian Embassy in Islamabad, 2017). Some of the implications will be drawn out in the next section.

Transnationality as a conducive context

A third theme is transnationality as a conducive context. Three dimensions can be identified in the interviews and judgements.

First, the data show how a transnational lifestyle entails access to resources in two or more countries. They can be material resources in the form of capital, housing and other property, and social skills such as mastering the language and knowing the system. Human resources are frequent in the data, and typically involves relatives who help enforce the regime of control and violence. This may be because they support the perpetrators in their desire for control, or mainly based on family loyalty or financial dependency. Some have their own motives for controlling the woman or children, for example to use a daughter-in-law as a domestic worker, or to ensure that the granddaughter does not harm family honour. Another motive could be their interest in the children, as described in a judgement where a man was convicted of violence against his wife and children, which included luring them to and retaining them in their country of origin after a holiday in a third country. In connection with the woman's attempt to flee back to Norway with her sons, a conflict arose at the airport between members of the husband's and her own family. It was described in the judgement that the two families had agreed, without involving the woman, that she would be allowed to travel but that the boys would stay.

Second, perpetrators can find support in informal and formal norms in their country origin. In the data, social norms are often favourable to male perpetrators and their kin group, in particular in classic

patriarchal societies (Kandiyoti, 1988; Therborn, 2004). As we have seen, threats against women can be based on how women in general and 'indecent' women in particular are treated in the other country. Furthermore, men may have stronger legal rights by virtue of their gender and the role of husband and father, while women and children have weaker legal protection. For instance, in some countries, men can prevent their wives from leaving the country by issuing a travel ban, and patriarchal family laws favour the father and his family in custody cases. In addition, the legislation on domestic violence and protection of victims may be weak and enforcement may be inefficient or corrupt. For example, in a judgement where a man held his wife and children in their country of origin against their will, he had obtained a written statement from the local police that he had not subjected them to violence. It is described that he got this without the police investigating the case or even talking to his wife and children. It may seem that he tried to exploit women and children's weaker legal protection in the other country, to strengthen his position in the Norwegian court case. Furthermore, as Anitha and colleagues (2018) point out, men will often have more financial resources to use the judicial system. Citizenship as well is a resource in that the authorities are obliged to safeguard the rights of their own citizens. For women and children, however, citizenship may be detrimental to the extent that their legal rights are weak, as when a married woman is trapped inside the country because the authorities are obliged to enforce her husband's travel ban.

However, and as a third dimension, although the socio-legal framework may be more overtly patriarchal in the family's country of origin, regulations of the host country should also be taken into account, as well as the dynamic between jurisdictions. While the impact of residence rules on abused immigrant women has already been mentioned, another example is found in recent studies of transnational abandonment of wives. This literature reveals how some men strategically choose between divorce legislation, in their efforts to get rid of or further control their wives. As Bajpaj (2013) and others show, some men choose the liberal divorce rules of Western countries to their advantage, after sending their wife back to their country of origin. While for instance Indian law requires that both spouses be present in court for a divorce to be valid, many Western countries have *ex parte* divorce, which means that the other party does not have to be involved in – or even know about – the judicial procedure (Anitha et al, 2018). When the woman is finally informed, she often has little opportunity to assert her rights with regard to property, maintenance and child custody. Thus, this is an apt example of how legal regulations that are associated with women's rights at divorce in one national context – as is the case of *ex parte* divorce in Norway's marital law – may become a patriarchal tool in a transnational context, substantiating the need for an intersectional and transnational lens in understanding how the law operates and impacts on different women.

In apparent contrast, Wærstad (2017) finds that some men of Pakistani descent in Norway choose a Pakistani divorce when they deceive and return their wives. The reasons and outcome are the same in both cases, however, as also in these cases the man chooses the most favourable alternative, that is the Pakistani rules on property division and custody. Wærstad finds that the Norwegian authorities then approve these foreign divorces without ensuring that the women are informed, contrary to administrative law. Thus, they are prevented from seeking legal advice at the Norwegian Embassy and possibly also free legal aid, in the case that they managed to return to Norway. They are not made aware of their right to apply for family reunification with their children if the children remain in Norway. According to Wærstad, the reason given for exempting from the duty to inform, is simply that it is seen as 'obviously unnecessary'. Thus, by effectively excluding these women from the law, the state not only legitimates but even assists these perpetrators in forcibly displacing women.

Discussion

This chapter has shown how some husbands, fathers and parents-in-law use transnational tools and spaces to abuse and maintain control over their wives, children and daughters-in-law. This can be while the perpetrator and victims are located in the same geographical place, when they live apart or when they move between nation states together. In many cases, the geographical scope of violence is

about families living distinctly transnational lives. This may be voluntary for all parties and as such a conditional fact, resulting in the violence also moving. However, mobility can also be a more instrumental part of the abuse, if the perpetrators move and restrain the victims against their will. Moreover, the perpetrators exploit their own and the victims' socio-legal connection to several countries to control, threaten and harm. By physically moving their bodies from one country to another, the perpetrators not only prevent the victims from seeking help but also manipulate legal frameworks to their advantage, producing specific vulnerabilities associated with entrapment.

In this way, the regime of violence extends across national borders, where it involves collective groups on both the perpetrator and victim's side, as well as several regulative frameworks, both formal and informal, in a transnational structure of opportunity. The term *transnational family violence regime* is proposed to conceptualise such practices. The intention of the concept is to capture the spatiality, range and continuity of the regime as well as the dynamic mechanisms inherent in it.

The chapter argues that research on gender-based violence has been dominated by methodological nationalism. As demonstrated in the preceding analysis, a national perspective on transnational violence and control will not only give a limited picture but a distorted one. In the effort to grasp the full extent and dynamic of transnational violence regimes, one promising theoretical approach is found in Pessar and Mahler's theory of gendered geographies of power (Mahler and Pessar (2001; Pessar & Mahler, 2003). They point to a split between research on transnational migration that has privileged the state, and research on gender and migration that has focused on the family. Analyses of gendered geographies of power should include both levels or arenas, they argue. This is amply illustrated in the preceding analysis of transnational violence regimes. The residence requirement for marriage migrants is a pivotal example of how state regulations not only have direct impact on the power relations within the married couple but also play into the hands of abusive partners. In this chapter a similar dynamic has been highlighted in connection with abandonment and divorce. It has been shown how the *ex parte* rules that treat the couple as two independent individuals free to divorce each other, are exploited by abusive men who forcibly move their wives to another country, preventing them from accessing information and enforcement of their legal rights. By defining such information as obviously unnecessary the Norwegian state actively contributes to the entrapment of these women. Thus, In Chantler and McCarthy's (2020: 101) words, Norwegian authorities contribute to "bolster conducive contexts".

This study reveals how the strategic dislocating of women's bodies is instrumental in preserving (trans)patriarchy in families. Adding to Anitha et al's (2018; 2021) pioneering research, it confirms that transnational abandonment is a topical issue among immigrant women in the global North, also in Norway. However, the data show that it not only affects women as wives, but also children of both sexes, especially teenage girls who challenge chastity norms. Furthermore, the analysis supports Anitha et al's conclusion that such abandonment should be seen as violence and abuse. However, rather than defining transnational abandonment as a *form* of violence against women, further research should focus on 'how abandonment is embedded within a pattern' of violence and control 'exacerbated by the power asymmetries that operate in transnational contexts' (Anitha et al, 2021).

Conclusion

Theoretically, this chapter engaged with key conceptualisations of family violence in terms of regime, continuum and conducive contexts. The intention of introducing the concept *transnational regimes of family violence* is not to suggest a new form of violence but to extend previous understandings. Hopefully, the concept should encourage studies that look for a broader range of tools and tactics in a wider spatial field, as well as transnational and multilevel dynamics and opportunity structures.

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