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Protecting women and children: Whose responsibility, whose rights, whose decisions?

Some reflections from
comparing policy trends and
women's feminist advocacy
in different EU countries

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Three main themes

- How are the obligations of the state and the commitments of advocacy related?
- Does the duty to protect recognize a difference between women and children?
- When and how are policy and advocacy accountable to those they claim to serve?

Evolution of responsibilities

- VAW began as feminist grass-roots issue, but demands on the state were inevitable
 - To fund advocacy and support
 - To make statutory agencies responsive
- Different degrees of success depending on national tradition, culture, politics
- Shift in 1990's: Generate pressure on the state both from above (international bodies) and below → significant impact.

Responsibility of the state

- Human rights framework – spelling out „due diligence“ to prevent, protect, prosecute
- Council of Europe Convention latest step
- Now that states finally recognize a duty to protect, feminists are (re-) negotiating who has a voice in what is to be done.
 - Some: The state itself should care for welfare
 - Others: The state should enable NGOs to work

Fundamental rights – how did we get the construct : *womenandchildren*?

- Children have the same human rights as everyone, but also specific rights; the state may have to step in to ensure adequate care
- For children, basic rights of privacy, self-determination, confidentiality can be overruled in „serious risk cases“
- This is increasingly being applied to women: Is this acceptable?

Example: MARAC model in the UK

- When police/ agency encounter IPV, a risk assessment tool is filled out with the victim
- If 14 out of 20 items are „yes“, the woman is considered a high risk victim and the case is submitted to multi-agency group (MARAC)
- All agencies share all information they have about the family and plan a course of action
- IDVA represents the woman's voice/ needs.

Example: implementing the Spanish law in the region of Murcia

- Integrated database Sigue for all regional resources, levels of access. Creating file requires consent
- Data on woman, children, perpetrator entered by police, shelters, multi-agency coordination, coordination point for restraining orders; data sharing regulated by law.
- Data kept for two years after last incident.
- Note: Woman will not receive full support unless she is willing to press charges and testify.

Example: Police removal in NL

- The NL has adapted the Austrian police ban, but changed the paradigm: no longer perpetrator-centered but family-centered.
- Multi-agency focal point: All professionals report on every case of DV they know of; a safety plan must be set up within 8 days.
- By regulation, agencies may share information in cases of domestic violence.

Some common elements

- Breach of privacy/data protection rights of victims now considered fully justified if „sharing“ is among statutory agencies – but these have the most power!
- In Spain and NL, NGOs participate in the assessment only if they work under contract to a state agency. Both models originated top-down.
- In UK, the MARAC started as a local initiative, law allows information sharing among all services if there is serious risk.

Further common elements

- Promoters of all 3 models argue from the duty of the state to protect.
- Only MARAC has the IDVA representing empowerment (but the woman cannot choose her „independent d.v. advisor“)
- The concept of challenging the perpetrator (core of Austrian/German models) is fading.
- Are women more like children than men?

Bottom-up meets top-down: When state and feminist advocacy co-operate

- Both Austria and Germany: feminist shelters gradually gained state recognition and then defined the need for multi-agency work
- German national government can mostly only fund model projects – any national strategy (16 Länder) depends on negotiated harmonization
- Over ten years of shelter engagement in training police in both countries before new laws considered
- In both, new legislation developed with the specialized expertise of NGOs

Germany: growth of multi-agency coordination “from grass roots”

- Local “Round Tables” developed into “intervention projects” to co-ordinate across professions, agencies – NO information sharing about individual cases.
- Local co-operation structures → federal funding of Berlin model project 1998-2004 with 50-50 state and NGOs, decisions by consensus only
- Working group: How to adapt the Austrian model to a country that has no national police law?
- Legal separation between civil protection orders and police intervention

Benefits of co-operation

- In multi-agency co-operation, agencies clarify own and others' roles and limits during intervention; this helps avoid burnout.
- During co-operation: „learning systems“ can adapt their procedures to be more effective.
- Mutual understanding paves way to referral.
- Improving practice: design new ways of intervention, change laws and norms,

Protection against violence law 2002

- Part one: Any adult, if hurt, threatened or stalked, can ask for a **protection order** (no contact, no further threats or attacks).
- In 2002, children excluded, separate issue
- Part two: If person posing a danger in residence, civil order can require that he move out, stay away, not go near specified places (**eviction or go-order**).
- Breach of either order is criminal offence (but enforcement is a problem).

Similarities between German and Austrian models

- Police impose go-order on site, by own authority, based on probable endangerment; the measure addresses *perpetrator*.
- Duration: two-stage ban on returning, extension *only on request* of victim.
- Coordination: Local advice service to be informed and *offers* information and advice.
- Civil order ruling always possible before police ban ends: no gap in protection.

Child Protection, Women's Rights

- Growing recognition that child protection and support for women's rights can and must be integrated
- Removal of aggressor now possible for child protection, but also: Child protection notified of IPV.
- At the same time: Self-determination of women.
- Dilemma: How to balance rights and needs?
- Example Sweden: social work has discretion whether to lay charges: Overriding principle: Best interests of the child.

Accountability and Empowerment

- Evaluation of police bans: Most women welcome the police ban and the advice from intervention centers
- But in Germany some say state agencies should advise the *man* to change, not the woman.
- There are no mechanisms for women to voice their preferences: to whom are services accountable?.
- Feminist advocates can no more speak *for* women than can other professionals

Trends and issues

- Austria is debating the MARAC model
 - Demand on interventions centers too high - they see a need to prioritize who is at risk
 - Some women are still killed because of failure to protect
- But: Are women at greater danger because of their own decisions, or because agencies fail to confront the perpetrators?

Assessing the risk in the models

- MARAC was never intended to replace shelters – but in the financial crisis, that is what happens.
- When the state sought to protect women, this has always meant paternalism .
- Danger: the focus is reduced to extreme physical violence, reinforcing the doubts of most victims: Is it bad enough to end the relationship, to ask for sanctions?

Alternative interpretations of the human rights framework

- Duty of the state: to prevent gender-based entrapment in a situation of coercive control,
- ...and not to abandon children to a situation where they are not kept safe and cared for.
- Empowerment calls for expanding the range of choices that women can make!
- and for defining limits to what women should tolerate: Deconstruct male entitlement!

Framings for domestic violence

- Crime – prosecution – justice and public order
- Endangerment – intervention – citizens safety
- Inacceptable behavior – educate for change - health and welfare