

A Context-Sensitive Approach to Immigrant Pakistani Women's Rights in Norway

Farhat Taj¹

Abstract

This paper discusses how a Norwegian non-Governmental organization (NGO) uses a context-sensitive approach to protect and promote human rights of immigrant women in the country. Their rights are violated through domestic violence, and as a consequence, some of them run away to crisis centers. To elaborate the NGO's work, the paper discusses a Norwegian-Pakistani forced marriage case that was processed by this NGO. The paper thus presents a dynamic interface of law, culture and transnational family relations within which the NGO has to strive for women's rights.

Introduction

To locate the paper in its appropriate socio-legal context, it first introduces the Pakistani community in Norway. This is followed by an introduction of the NGO and its *modus operandi*. Finally the paper discusses how the NGO handled the case of a Pakistani immigrant woman who ran away to a crisis center to escape from her second forced marriage. The case elaborates how the NGO draws on culture to facilitate the law in order to protect women from domestic violence and to re-integrate them in the family and community.

The empirical data in the paper come from my PhD thesis (2013) that explores context-sensitive approach to human rights adopted by some women's NGOs in Norway. The data are collected through participatory observation of the NGO's work and in-depth interviews with the NGO's caseworkers and the client women whose cases were processed by the NGO. Most of the data were collected in Urdu, Pashto and English along with some which were conducted in Norwegian.

Norway and Norwegian-Pakistanis

Norway is a Scandinavian welfare state with a State Lutheran Church to which approximately 78% of Norwegians belong² The country's population is approximately 4.9 million, of which roughly 2% are Muslim.³ Norwegian Muslims come from diverse ethnic and national backgrounds. Pakistanis make up the single largest Muslim group in Norway.

In Norway, the term *Norsk-Pakistanere* (Norwegian-Pakistanis) refers to immigrants of Pakistani origin. The term includes persons of Pakistani origin who have Norwegian citizenship or have a residence permit in the country. Pakistanis began to arrive in Norway in 1967 as labour migrants. Most of them come from the rural areas of Gujrat district in the Punjab province of Pakistan. On

1 Dr. Farhat Taj Assistant Professor, Social Work and Sociology Department, Kohat University of Science and Technology, KUST, Pakistan

2 Statistics Norway last accessed 28 December 2011. http://www.ssb.no/kirke_koetra_en/

3 Statistics Norway last accessed on 28 December 2011. <http://www.ssb.no/english/subjects/02/>

arrival in Norway in the 1960s and early 70s, most of the Pakistani immigrants took unskilled jobs in industry and in the service sector. They gradually improved their status in terms of education, jobs and accommodation (Tjelmeland, 2003:151 & 162). Norway restricted the arrival of new labour migrants from developing countries through legislation in 1974, but new immigrants from Pakistan, like many other countries, continued to arrive in the country under Norwegian family reunification laws, which led to the arrival of women and children from Pakistan in Norway. Presently, Norwegian-Pakistanis are the third⁴ largest immigrant group in Norway, with over 31,000 people⁵. Most Norwegian-Pakistanis marry a spouse from Pakistan.⁶ The Norwegian state and several NGOs co-funded by the state coordinate to address such problems. Norwom is one such NGO. It has adopted a context-sensitive approach to human rights to address Norway's ethnic minority women's rights violations.

Norwom and its Context-Sensitive Approach to Women's Rights

Norwom basically offers psychological counselling along with necessary socio-legal support to violent offenders and their victims. The victims are often close relatives of the offenders, usually their wives and children. Ethnic Norwegian caseworkers operate Norwom. The caseworkers are trained psychologists. Initially the NGO exclusively treated ethnic Norwegian clients. Later it opened up to receive ethnic minority clients. It especially trained some of its existing staff in intercultural understanding in order to affectively deal with ethnic minority clients. Now the NGO offers its services to all Norwegians regardless of ethnicity. It applies the same professional methods of psychological treatments to all its clients and addresses all human rights violations in accordance and support with the Norwegian law.

However, the NGO's caseworkers dealing with ethnic minority clients agreed to engage more with the ethnic minority cultures in their work. This, in their view, would offer relatively better socio-legal and psychological service to their ethnic minority clients. Therefore, they ran a project that exclusively treated battered ethnic minority women. The Norwom caseworkers tested some different psychological and socio-legal methods in relation to the cultures of the ethnic minority clients. The methods retained the original Norwom focus on violence and trauma but used culture-specific methods to deal with the violence and trauma and to address the related human rights violations. Many of the clients who received counselling under this project came from Pakistani backgrounds.

In its work for human rights, the NGO frequently interacts with state institutions, such as police stations, courts, municipal boards, hospitals, schools, day-care centres and all branches of the Norwegian social welfare systems (the Social Service), such as the Child Protection Office, the employment bureau, among others. To provide relevant socio-legal and psychological support to run-away women, this NGO also closely coordinates with various crisis centres co-funded by the

4 The first and second largest immigrant groups in Norway are people from Poland and Sweden respectively, according to Statistics Norway: www.ssb.no (accessed on 01.12.2013)

5 Statistics Norway, last accessed 28 December 2012. http://www.ssb.no/english/subjects/02/01/10/innvbef_en/tab-2011-04-28-01-en.html

6 'Who Do Immigrants in Norway Marry?' Statistics Norway. <http://www.ssb.no/vis/english/magazine/art-2006-10-13-02-en.html> - is this from the magazine or from the statistics website? (ssb , Statistisk sentralbyrå, Central Statistics Bureau of Norway)

Norwegian state. All clients of the NGO are referred to it by crisis centres, the Child Protection Office and other branches of the social welfare system. All of its Norwegian-Pakistani clients had suffered domestic violence, which often included sexual violence, and Norwom adopted a context-sensitive approach to human rights (Hellum et al. 2007) to facilitate the clients' access to their human rights.

A context-sensitive approach to human rights recognizes that culture constantly interferes with law, which may hinder human rights. The approach thus requires engagement with cultural norms and practices to protect and promote human rights. At the practical level the approach leads to strategies that simultaneously engage with legal arena and customary norms to overcome the cultural constraints to human rights (Shaheed, 1997:59). The approach views culture as fluid, contested, challenged, both internally and externally, and hence changeable (Raday 2003). Certain cultural practices could indeed hinder women's human rights, but it may be possible to find appropriate cultural means to accommodate the human rights. Article 2(f) and 5(a) of the UN Convention on Elimination of All Forms of Discrimination Against Women, CEDAW, actually obligates the states to use culturally appropriate means to modify cultural patterns and practices that discriminate against women. A context-sensitive approach to human rights is one way to find culturally appropriate means and ways to protect and promote woman's rights.

Nevertheless, a contextual approach to human rights is also fraught with challenges to human rights (Hellum et al., 2007:xix). This implies that the approach may also compromise human rights. However, the approach adopted by Norwom does not run the risk of compromising human rights. This is because all its clients are referred to it by various state offices or state co-funded crisis centers for necessary psychological and socio-legal support. This implies that the clients are already engaged with the state law, which must take its full course. Norwom's job is to provide culturally specific ways and means to facilitate the law. Empirical research (such as Mehdi, 2001, Hellum, 1999 and Bano, 2004) indicates that cultures do have enough internal contradictions and ambiguity to accommodate successful negotiations for women's rights or facilitate the process of law. Norwom thus seeks to facilitate the law by providing necessary psychological and socio-legal support and information to the clients in culturally appropriate consultations and negotiations with them.

Moreover, Norwom does not engage with Islamic institutions (mosques, for example), authorities (imams, for example) or texts (such as the Quran or *hadith*). This is because, unlike some immigrant NGOs in Norway, (such as the NGO Pakwom discussed in Taj 2013) Norwom, being an ethnic Norwegian NGO, does not seek religious or cultural legitimacy through its work from the wider Norwegian-Pakistani community.

The NGO also does not engage with Islam to make the Norwegian law acceptable from religious perspective. Nor does it perceive of any other role for Islam in its counselling work with clients. Islam is not the only religion the NGO does not engage with. It actually makes no consultations with any religious text or authority, Islamic, Christian or any other. It works through modern psychological methods and the state law in dealing with its clients who come from various religious backgrounds.

However, the NGO does engage with cultural norms and practices that some times may have religious connotations. The NGO's engagement with culture, as noted before, is solely meant to facilitate, not undermine, the supremacy of the law. The NGO in fact seeks legitimacy from the Norwegian state and the wider Norwegian society through its work for human rights as enshrined in the state law. Thus the NGO's lack of the need for religious or cultural legitimacy from the Norwegian-Pakistani community also eliminates the risk of compromising human rights for the sake of such legitimacy in the ethnic minority community.

Religion is the institutionalized aspect of culture (Raday 2003:667). Culture, often the religious aspect of it, may conflict with human rights. The NGO caseworkers are aware of such a possibility. They have asked their ethnic minority clients that consultation with a religious authority may be arranged for them should they want it, but to this date no client have asked for such a consultation. They have preferred the Norwegian law to deal with their cases without any recourse to religion. The NGO, however, is open to consult religious authorities, if any future clients expressed the wish to do so. This empirical fact substantiates the argument of the Norwegian-Afghan writer Farida Ahmadi (2008) who says that religion is not in the forefront of women's concerns, but more mundane issues regarding their survival, health, access to appropriate legal information and struggle for a better socio-economic life in Norway are of paramount importance to women.

The key notion in Norwom's context-sensitive approach to human rights is cultural literacy or intercultural understanding. The notion focuses on the Norwom staff rather than its clients. This means that Norwom expects its ethnic Norwegian staff to be interculturally sensitive in order to effectively help its clients with an ethnic minority background. A Norwom caseworker explained:

My view is that the others (clients) should not change according to my way of working, but I should change according to what is most comfortable for the others (clients). To be inter-culturally sensitive, you have to adjust to the others (clients). I mean the caseworker has to adjust to the clients' comfort.⁷

Intercultural understanding is also referred to as 'cultural literacy' or 'cultural awareness' (Racius, 2006:141-143), and is increasingly considered an essential part in service provision to ethnic minorities in Western countries (Bojuwoye, 2001 & Sandhu, 2009). Broadly speaking, cultural literacy means having a certain knowledge about art, music, literature, history, political and social systems, economics, science, technology, philosophy, and the religious and ethical beliefs of an alien culture (Moore, 1995:1). One cannot expect every single person charged with specific duties related to immigrants to be well versed in the complexities of the culture the immigrants come from, but one can expect, and even demand, that those who make decisions either possess knowledge of the ethnic minority cultures or have expert assistants with such knowledge to advise them (Racius, 2007:59-60). This is because cultural literacy or intercultural understanding is a tool for nurturing trust between people from different cultural backgrounds in a multicultural milieu. Bojuwoye, for example, suggests that counselling in multicultural societies of the 21st century can be expected to take the direction of an integrated delivery system, with possibilities for sharing ideas and knowledge across cultures (2001). In Norway the government also acknowledges the

7 Interview with Norwom Caseworker in May 2007

importance of intercultural understanding, and promises to increase cultural understanding and knowledge about minority groups among the relevant civil servants to strengthen family counseling services.⁸ Norwom too seeks to enhance cultural literacy among its employees through multiple training programs in intercultural understanding so that its immigrant clients are treated with cultural sensitivity.

The Forced Marriage Case

Norwom facilitates the Norwegian law in multiple cases to protect and promote human rights of Norwegian-Pakistani women who have ran away to crisis centres to escape domestic violence, including forced marriages. The following forced marriage case illustrates Norwom's work through a context-sensitive approach to human rights. This case concerns three important human rights: the right to marry with free consent, the right to divorce, and the right to a family life without violence. Fatima, age 30, grew up in Norway. Fatima was twice forced into marriage in Pakistan by her parents, particularly by her mother, who was determined to marry her off to one of her cousin's sons. She said that when she was a child, her mother promised her sister she would marry her (Fatima) to one of the boys she was raising. The mother's sister never married and brought up her cousin's two sons. In 1998, her engagement was announced, and in 1999 her *nikah* (Muslim marriage ceremony) was performed in Pakistan without her consent. She said she resisted *rukhsati* (traditional departure ceremony of the bride from her parent's house to the bridegroom's house) and wanted a divorce. The family did not agree. It was now also a matter of family honour. She said:

A woman had never been divorced in our extended family. Our family took pride in that. The idea that I would become the first woman in our family who has had a divorce was not acceptable to my parents. I felt trapped in the undesirable marriage.⁹

She also said:

I kept resisting and refused to do the rukhsati. They (her parents) took my passport and kept pressurising me for rukhsati. My parents did not have any education. They had no fear of God. They did not care that forced marriages were not allowed in Islam. They were only concerned with our biradari and their honour and reputation within it. I had many quarrels and heated arguments with my parents and other relatives. My parents beat me and threatened to kill me.¹⁰

Finally, the parents said, they would let her have the divorce if she agreed to marry the younger brother of the man she was forced to marry. Fatima did not agree to that either. Meanwhile, her parents came back to Norway with her. For 8 months, no divorce had yet been given to her. With the consent of her parents, the younger brother of her husband applied for a Norwegian visa. She

8 P:18, Action Plan Against Forced Marriage (2008-2011), Ministry of Children and Equality, <http://www.regjeringen.no/upload/BLD/Action%20Plan%20Forced%20Marriage.pdf>

9 Interview with Fatima in December 2006

10 *ibid.*

asked the immigration service not to let him come to Norway. They refused him a visa. Her parents were angry. They said that if Fatima let the younger brother come to Norway, they would arrange a divorce from the elder brother. Fatima told them to arrange the divorce first, and she would think about the younger brother. However, the younger brother was, in her words, ‘*very quarrelsome and had already started telling everyone in the family that he would marry me and travel to Norway, after the elder brother had divorced me*’.¹¹ Meanwhile, the divorce was arranged by the family, but they did not inform Fatima about it. She had already refused to marry the younger brother. Her parents kept pressuring her. Fatima could not finish her education in Norway. She had been working, since the family’s economic condition was not good, since her arrival in Norway 11 years earlier. She told her parents she would like to complete her education. The parents refused.

Also in the meanwhile, Fatima’s maternal grandmother in Pakistan became unwell. She loved her and travelled to Pakistan to see her while still thinking that she was married to the elder brother. Within days her parents and other relatives started asking her to marry the younger brother. She said she was not divorced. They showed her a paper that they claimed was the divorce document issued by the Pakistani authorities. The date on the paper showed it was made a year before. She refused to marry the younger brother and in response faced violence. She said:

My parents beat me. I was mentally tortured. They also did a wazifa and chelah (prayers in seclusion for contact with the supernatural). They hired a man, who did wazifa for 40 days. The family paid him Rs 40,000¹² for the wazifa. After the wazifa he gave my parents and relatives a green light to go ahead with the nikah and rukhsati. They did my nikah with the younger brother and also rukhsati after a month. The younger brother, now my husband, was a very torturous man. He said he had won me and he was now my owner. He told every one he had broken my will. He beat me and, in return, I attacked him as well. My parents were angry that I dared to hit my husband back in retaliation. He also attacked me sexually. He restricted my freedom and forbade me from meeting our relatives, especially our male relatives.¹³

Fatima further said:

He told me he had two goals: to marry me and to come to Norway; so now he was impatient to go to Norway. Although I was emotionally very upset, I still tried to think rationally to deal with the situation. I thought I should exploit his impatience for Norway. I told him to let me go to Norway, so that I might find work and this would facilitate his coming to Norway.¹⁴

Fatima managed to engage her husband in a discussion about the possibilities of his arrival in Norway in terms of Norwegian law and he paid attention. She explained:

11 *ibid.*

12 About 3000 Norwegian Krone

13 Interview with Fatima in December 2006

14 *ibid.*

I told him that under Norwegian law one can only bring her/his foreign spouse to Norway if one had a job to support the spouse. If you let me go to Norway, I would try to get a job as soon as possible. You can follow me to Norway afterwards. He understood the point and let me go.¹⁵

Once in Norway, she asked the Norwegian Directorate of Immigration to not let her abusive husband come in Norway. Her relation with her parents deteriorated and they became even more violent towards her. She fled to a crisis centre. It was the crisis centre that put her in contact with Norwom for necessary psychological and socio-legal support. Also, in consultation with Norwom, the crisis centre hired a lawyer for her. The lawyer contacted another lawyer in Pakistan who filed for her divorce in a family court in Pakistan. Finally, after a year of legal battle, she had a divorce through the family court in Pakistan. The crisis centre also helped her to rent an apartment, where she moved in after having lived in the centre for about three months. She was exclusively supported by Norwom following her departure from the crisis centre. Norwom strived to ensure that she did not feel socially isolated in her independent life in the apartment and that she has access to all basic human rights in Norway. For example, Fatima wished for continuation of her school education and Norwom enrolled her in a high school. Throughout this time, she was estranged from her parents, and Norwom has been helping her adjust to her new life by facilitating her interactions with relevant arenas, such as the Social Welfare Department, the Municipal Board, the bank, among others.

Several months later, her parents fell ill, and she started to contact them, while still living independently in her apartment. Some weeks later she left the apartment and began to live again with her ailing parents. However, her relationship with her parents was strained. She did not share her feelings or future plans with her parents. She moved in with them because they both were sick and she was their only daughter. She did not wish to abandon them when they were in need of her help. Her only brother lives with his ethnic Norwegian wife and seldom visited his parents. She moved in with the parents after consultations with the Norwom caseworker who supported her to do so keeping in view Fatima's wish to assist her ailing parents. Simultaneously, the caseworker conveyed the message to the parents that any action on their part that might infringe on Fatima's rights would move the Norwegian law against them. This message was aimed to ensure Fatima's security at parents' homes as well as fulfil her wish to help her elderly parents. The message worked and the parents did nothing against her consent.

Two years after Fatima came to live with her parents, she began to look for a suitable man in Pakistan and Norway for marriage but could not find one. The Norwom caseworker was helping with the search but to no avail. There were several discussions with a Norwom caseworker, and finally Fatima and the caseworker agreed to ask her parents to look for a suitable man for her to marry with free consent. At that point again the law was used to ensure that Fatima's parents did not force her into marriage. The Norwom caseworker elaborated with these words:

We (the caseworker and her male colleague at Norwom) had a family talk with Fatima's parents before we arranged her (Fatima's) marriage with help of her parents. The talk

was to work around the issue of Fatima's security. I had the role of threatening: I kept saying, 'I have contact with the police, lawyers and the courts. I will call Fatima everyday to enquire about her security or any fears of being forced into marriage. If anything untoward happens to Fatima, I will call the police.' I think I did it too much. The parents became fearful. I did not need to say it so many times. I think I kind of went into 'overkill' with them. But, well, OK, may be it was necessary to ensure Fatima's well-being. (...) They (the parents) agreed to find a suitable man for Fatima among the friends and relatives, and arrange her marriage with him with her free and full consent.¹⁶

This worked well. Fatima's parents indicated four men among the people they knew, and she finally chose one of them in consultation with the Norwom workers as well as her parents. The parents then arranged her marriage with that man. Five years since the marriage, Fatima informed the author she is satisfied with her married life. She also maintains close contact with her parents.

Hence for Fatima, the law clearly stood out as a powerful resource to deal with the human rights abuses Fatima faced. Pakistani law terminated her forced marriage in a Pakistani court, and Norwegian law and the related support system provided her with respite from parental violence, as well as the means to approach the Pakistani court for a divorce.

In this case the law is not compromised in the context-sensitive approach of Norwom. Fatima's right to divorce, the right to a violence-free family life and the right to contract marriage freely have all been restored. Norwom helped Fatima and her parents to re-establish a normal daughter-parent relationship. This relationship is in line with the dominant cultural expectation in the Norwegian-Pakistani community. The NGO took recourse in the culture to facilitate Fatima's right to marriage with free consent. Norwom invoked no aspect of culture that contradicts the Norwegian law. Moreover, the recourse to culture is not taken for the sake of culture per se but as a means to facilitate human rights as enshrined in the Norwegian law.

An important reason why Norwom engaged with culture in this case is that Fatima did not wish for terminating her ties with her parents for good. She cared for her parents and was sensitive to the cultural expectation from daughters to be on cordial terms with their parents. All she wanted was that her parents stop beating her and give up the idea of forcing her in marriage. In other words she wanted her right to a violence-free family life restored. Norwom restored that right through strategic engagement with the prevalent cultural expectations and practices in the Norwegian-Pakistani community.

Concluding Remarks

Rule of law is the key to protect and promote the human rights of run-away women and to assure that they have access to crisis centres in order to escape domestic violence. Norway is a social democracy known for equality before the law, including gender equality, and respect for human rights. However, ethnic diversity in Norway has been increasing steadily since the arrival of migrants

16 Interview with Norwom caseworker in April 2009

from non-Western countries from the late 1960s onwards. This has challenged the concept of state law in the establishment of a normative order (Hellum, 2006). It is not only state law but also culture that shape people's access to state law. Thus recourse in the culture may be important to facilitate the state law to protect run-away ethnic minority women. Non-state actors (such as NGOs like Norwom) are the appropriate forums to negotiate the culture's interface with the state law in order to protect women's rights. A combination of the state and non-state actors could provide the suitable socio-legal context to protect run-away ethnic minority women's rights against patriarchal applications of cultural norms. Moreover, the combination of culturally-sensitive approaches and legal protections may reintegrate the women with their families in a culturally appropriate manner and in a manner which respects their own wishes.

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