

EXPLOITATIVE SHAM MARRIAGES: EXPLORING THE LINKS BETWEEN HUMAN TRAFFICKING AND SHAM MARRIAGES

In recent years, concern over sham marriages as a form of exploitation in human trafficking has increased in Europe. A research report, published by HEUNI in October 2016, sheds light on the links between trafficking in human beings and sham marriages that include exploitation of persons. In a marriage of convenience, the parties would get married, and later separate, by common consent. However, in some cases the marriage can become exploitative, or can even lead to human trafficking. Some of the cases identified within the scope of this project (HESTIA) included serious and continued exploitation, sexual and physical violence, limitations of personal freedom and movement, and confiscation of identity documents. Some of the cases included all the necessary elements (the act, the means, and the purpose) for defining them as involving human trafficking.

- **Exploitative sham marriage = A phenomenon where an EU-citizen becomes exploited or even a victim of human trafficking in the context of sham marriage arrangements with a non-EU citizen**
- **Victims are recruited into exploitative sham marriages for example by promising them money for concluding the marriage, by giving deceptive information on the conditions of the marriage, by promising job opportunities that do not exist or by faking genuine relationships**
- **Victims encounter various forms of exploitation and control, such as threats, psychological and financial control and physical and sexual violence**
- **The lack of money along with structural inequalities are essential factors that push people into these marriages**
- **The phenomenon is very gendered in nature and thus needs gender-specific responses**
- **Information campaigns and training for criminal justice authorities, teachers, health and social professionals and consular staff are crucial**



The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) in cooperation with partners from Estonia, Ireland, Latvia, Lithuania and the Slovak Republic, has completed a transnational project entitled “Preventing human trafficking and sham marriages: a multidisciplinary solution” (HESTIA). The project was coordinated by the Latvian Ministry of Interior and conducted under the European Union programme “Prevention of and Fight against Crime”. The project is the first systematic research on the links between human trafficking and sham marriages. The project team developed the concept “exploitative sham marriage” in order to describe the phenomenon studied.

Each partner conducted a national research which was coordinated and led by HEUNI. Primarily qualitative data was collected, such as expert and victim interviews in combination with case descriptions from NGOs and embassies. Also statistical information and pre-trial investigation and court material were utilised. The final report consists of five individual country reports in addition to an introductory chapter which summarises the main findings. The report is written for a large variety of experts and professionals working in the field of anti-trafficking across the different sectors of society. Based on the project results, a set of training activities are being conducted in each partner country in order to raise awareness about the phenomenon and enhance the capacity of the professionals to identify exploitative sham marriages and the links to human trafficking.

DIFFERENT FORMS OF RECRUITMENT AND EXPLOITATION

The targets are mostly young women who often have financial difficulties, a history of social exclusion, a low level of education, mental disabilities, lack of language skills, weak social networks, and / or are single mothers. Although it is possible that men are victims of exploitative sham marriages, the persons identified in the country reports were female.

Victims are lured with false promises and fake job offers via either acquaintances or mass-scale advertising on the Internet.

Recruitment is either small-scale and done face-to-face by, e.g. family members, friends, boyfriends, or acquaintances, or it is more organised online mass-scale recruitment via social media, chat rooms or migration forums. Recruiters receive financial compensation for successful recruitments.

Mainly three types of exploitative sham marriage scenarios

were found in the research reports. In all types the purpose of the marriage is for the groom to receive an EU residence permit. In a typical case a woman is offered direct payment in exchange for traveling to another EU country and concluding a sham marriage with a non-EU citizen there. The women are deceived as regards the conditions of the marriage, such as the divorce procedures, living arrangements, the amount of remuneration, etc.

Another typical case is where a woman from an Eastern EU country is offered a false job opportunity abroad, and only after arrival does she find out that the promised job does not exist, and the real purpose of the organisers is to arrange a sham marriage. The women find themselves in a situation where the options become very limited and there is no other real alternative than to agree to conclude the sham marriage. A third type of exploitative sham marriage includes cases where women are given false promises of genuine relationships, and the deception becomes evident much later.

Initial consent to sham marriage should be deemed irrelevant if the subsequent circumstances in the country of destination are exploitative.

Victims encounter e.g. psychological control, sexual and physical violence, financial control and/or debt bondage. Also the children of victims are sometimes abused and used as an instrument of control. Furthermore, the national reports identified other exploitative elements, such as deprivation of personal freedom and restrictions of movement, confiscation of identification documents, and poor living conditions. In very few cases did the women receive any of the money promised to them.

The research was able to find two kind of perpetrators, the grooms themselves, or the organisers and middlemen. The identified grooms mainly came from Pakistan, India and Bangladesh, and the organisers were either EU nationals or from the same countries as the grooms.

THE RESEARCH FOUND LINKS BETWEEN TRAFFICKING AND EXPLOITATIVE SHAM MARRIAGES

Human trafficking is defined in international instruments and legal frameworks. Trafficking in general is a serious crime that includes exploitation and control, and



often takes place in a form of a continuum. The aim of the trafficker is to make a profit from another person by subjecting him/her to sexual exploitation, forced labour or other circumstances that violate human dignity (Viuhko 2013¹). While international instruments do not explicitly mention marriage as a form of exploitation, the open-ended definition was designed to be inclusive of new forms of trafficking as they arise. The EU Directive (2011/36/EU) mentions forced marriage in its preamble as a form of exploitation. Some of the cases identified in this research included all the necessary elements (the act, the means, and the purpose) for defining them as human trafficking.

The methods of recruitment and target groups in exploitative sham marriages and human trafficking are often the same.

The five country studies give convincing evidence that the methods of recruitment for exploitative sham marriages and for other forms of human trafficking are often the same: the victims are lured with false promises and fake job offers and opportunities. Furthermore, the cases where the women know that they will conclude a sham marriage, also resemble those cases of prostitution-related trafficking where the women know about the prostitution but the conditions in the destination country differ from their expectations and the promises given to them.

Also the target groups of recruitment are often the same, with a focus on young or inexperienced persons in an insecure position with financial difficulties, social problems and a history of marginalisation. One should not underestimate the importance of money nor the willingness to improve one's life as a motivation for entering into such a marriage.

The national reports also identified exploitative sham marriages which do not necessarily have clear links to human trafficking but illustrate the diversity of the phenomenon and the diverse problems encountered by the women that might result from concluding a sham marriage. It is difficult to determine where to draw the line between "mere" negative consequences, exploitation, trafficking and other crimes, such as domestic violence.

The concept of a continuum of exploitation helps to illustrate the blurred lines between subtler forms of coercion and the more severe forms of exploitation which lead up to trafficking.

The women involved are reluctant to seek help because in concluding the sham marriage they may have broken the law themselves, depending on national legislation. Some-



times it is also unclear who should be seen as a victim and who as a perpetrator.

RECOMMENDATIONS

EU Member States should target policies to empower populations at risk, and address gender discrimination and other root causes that render people vulnerable for exploitation. Legal migration channels should be developed in order to prevent exploitation and trafficking. Awareness raising is needed among people in a position to identify possible victims so that they are able to see vulnerability and exploitation also in cases where it is less obvious. The project recommends among other things information campaigns and training for criminal justice authorities, teachers, health and social professionals and consular staff. Specifically, consular staff can have an important role to play in the identification of the phenomenon.

The phenomenon is very gendered in nature and thus needs gender specific responses.

Cooperation between countries of origin (of both brides and grooms) and destination should be intensified and should include law enforcement authorities, embassies, as well as national coordinators and rapporteurs. Outreach work is needed to improve identification of cases and to prevent trafficking and exploitative sham marriages.

The focus of the study was on the experiences of the women. More information is needed on the experiences of the third-country national spouses, and on the role of the recruiters and organisers of the activities.

– Minna Viuhko, Researcher & Anni Lietonen, Researcher

¹ See Minna Viuhko's article in Oikeus 42:(4), 385-404.

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