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March 23rd, 2021

Gendering terrorism beyond the courtroom: the case of Germany

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On December 20th, 2020, Germany repatriated 15 nationals, including three women, from the Kurdish camps of Al-Hol and Roj. The German position on repatriations of its citizens affiliated with the so-called Islamic State (IS), however, remains one of reluctance. In fact, this latest move by the German authorities was induced by [administrative courts'](#) judgments requiring the Federal Republic to locate and return its citizens from the camps.

Referring to these decisions, Foreign Minister Heiko Maas justified the repatriation of the three women in particular by stating that bringing back solely their children was [legally impossible](#). He further [expressed](#) his relief that Germany was “able to repatriate another twelve children and three mothers from camps in North-eastern Syria”. Against that backdrop, governmental communication around the returns indicates a narrative shift from “[womenandchildren](#)” to “childrenandwomen” and examines the legal implications thereof.

Why narratives matter

Depictions of female IS-members as [lacking agency](#) or as being [brides](#) and [mothers](#) of terrorists have been common in reports on Western women traveling to Syria. Yet, for Foreign Ministries to perpetuate such discourses can have serious implications for our ability to (judicially) interrogate how these women contributed to the violent regime of IS. This is because such tropes depict women solely as mothers and thereby further undermine their agency, both in joining and under IS.

The shift towards the children and women narrative is particularly worrisome because it fosters discursive dynamics, which are already at display in German trials against female IS-returnees. Both defendants and their lawyers draw on these gendered ideas to achieve 'positive', i.e. lenient, verdicts. Inducing a difference in the judicial treatment, however, can have consequences way beyond their sentencing. For one thing, the misrepresentation of women's roles – both in terms of their operational functions and ideological commitment – in the caliphate distorts our understanding of IS as an organisation more broadly. Furthermore, it can hinder women's access to counselling and de-radicalisation programmes. Moreover, following their release from prison, women are also less likely to stay on the security services' radar, which makes it harder to detect continued extremism or re-radicalisation processes.

Drawing on the lawsuits against [Carla-Josephine S.](#) and [Omaima A.](#), we are able to lay out some prominent aspects of these gendered narratives to illustrate how its perpetuation produces material outcomes. The quotes provided below are taken from personal notes on the trials, which are not available to the public.

Female agency and legal accountability

Both Omaima A. and Carla-Josephine S. argued that they lacked agency while being in Syria, thus diminishing their criminal liability. Omaima A.'s attorney, for instance, categorically denied that she had enslaved a Yezidi girl, claiming instead that she had only taken charge of her for a friend and "watched her". Ultimately, he argued, Omaima A. had no choice but let her be in her house. Carla-Josephine S. similarly contended that she had no say in the various instances that her son, at the time between the ages of six and eight, was sent into a training camp to become a child soldier for IS. She even claimed that it was her son who had at one point expressed his wish to go to the camp, attributing him more agency than herself.

While it is true that women's decision-making capacity was limited under the IS-regime, such complete denials of choice are often far from reality. Omaima A., for example, left the Islamic State on her own terms and Clara-Josephine S. was granted the rare freedom to live outside the women's houses while being unmarried. Arguably more importantly,

however, IS' slave trade with Yezidis more broadly would have been [unimaginable without the women's](#) (explicit or implicit) consent, seeing as they were the primary caretakers of the enslaved.

Nonetheless, (self-)characterisations of lacking agency all too often succeed in influencing the adjudication of terrorism-related acts. Omaina A. ultimately got convicted of aiding and abetting a crime against humanity in 'watching' the Yezidi girl. Carla-Josephine S., too, received a very lenient sentence of five years and three months, despite having been found guilty of, amongst other charges, a war crime, carrying a maximum sentence of 15 years under the German Code of Crimes Against International Law (CCAIL). In pushing the 'childrenandwomen' narrative, governmental authorities further solidify a discourse within which women can deny responsibility regarding even the most egregious crimes.

Trials of motherhood

A second important implication of the described shift towards the 'childrenandwomen' narrative is that it puts the motherhood of these women at the centre of the legal interrogation of their acts. Often, this maternal role is then used to discredit evidence of incriminating behaviour. Omaina A.'s attorney, for instance, attacked the prosecution for seeking to criminalise her 'normal' motherly behaviour. Despite overwhelming evidence of her allegiance to IS, he claimed that it was her wish for her children to live with their father, who had left Germany earlier, that drove her to move to Syria, instead of ideological commitment. Her behaviour while in Syria, in turn, was depicted as fulfilment of her maternal duties to care for her children, rather than in support of IS.

Carla-Josephine S.' motherhood, on the other hand, became central to her claim of having abandoned extremist beliefs. As such, she cited her realisation that she "did not want my kids to grow up there" as a form of proof for her abandonment of IS' extremist ideology. More strikingly, however, was that the judges explicitly referred to her appeal for forgiveness towards her German husband for her failure, as a mother, to protect their son, as an indication of her remorse in their justification of the lenient verdict. Albeit falling short of actual renunciations of the organisation and its belief system, such motherly pleas, thus, clearly continue to have powerful effects.

IS, however, did not see its female affiliates solely as mothers but many were trained to [participate in fighting](#). Moreover, especially since the military defeat of IS, women play a vital role in sustaining the [idea of the caliphate](#). The [continued fanaticism](#) of Western women in particular, has rendered the areas in which they are housed in the Northern Syrian camps a dangerous place for inhabitants and guards alike.

In explicitly trying the repatriation of citizens from European countries to their motherhood, authorities posit women solely as adjunct to their children. This, then, fosters an already apparent readiness to mistake women's guilt for maternal loss too readily for renunciations of a deeply violent ideology or conflating their ideological commitment with motherly care.

Words that matter

While the assisted return of German nationals is a welcomed development, the authorities' current discourse around it perpetuates gender stereotypical tropes, undermines female agency and reinforces views of women solely as mothers. Characterising IS-affiliated women along the childrenandwomen narrative poses a risk to reinforce gendered tendencies in (legal) interrogations of terrorism-related crimes. As the elaboration of the discourse in the courtroom above shows, the way we talk about (women's involvement in) terrorism does have real-world implications. Governmental agents in particular have to stop reproducing such narratives, if we, as a society are to understand and adjudicate on female contributions to terrorism free from gender biases.

This blog was written with the support of a European Research Council (ERC) grant under the European Union's Horizon 2020 research and innovation programme (Grant agreement No. 786494).

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