



The asylum process and possibilities for a transformative pedagogy: exploring the case of sub-Saharan African female asylum seekers in Malta

Maria Pisani

Department of Youth and Community Studies
Faculty of Social Wellbeing
University of Malta
maria.pisani@um.edu.mt

Abstract

Whilst EU legislation and policy has focused on the importance of the asylum process, and the need for asylum seekers to understand the process, academic literature has, to date, failed to recognize this procedure as a learning process. In this paper I interrogate the asylum process as a contested site representing different gendered and racialised practices, grounded in specific gendered and historical sociopolitical contexts. Moving beyond the ‘banking’ notion of education, the asylum process is positioned as a potentially transformative pedagogical site wherein the lawyer - as educator - can engage in a dialogical relationship with the asylum seeker. I posit that the proposed educational journey, which is grounded in dialogue, mutual learning, and developing trust, can provide the possibility for developing self determination, working towards protection and social justice. This paper explores asylum in Malta, more specifically, the conditions and processes experienced by sub-Saharan African female asylum seekers.

Introduction

Research on women and forced migration acknowledges migration as a gendered process that is also impacted by *inter alia* race, class, nationality and legal status. The forced migration process begins in the country of origin: here gender impacts how poverty, war and persecution are experienced. Gender also impacts the reasons for fleeing home, how and why this decision is made, how the journey is experienced in transit, across national borders, and eventually in a host country that may offer some hope of safety and protection. For those fleeing violence, war and persecution, the asylumⁱ process is perhaps one of the most important processes that they will ever experience. A woman's future, and that of her family, will to a certain degree, be determined by this process. Her ability to understand and play an active role in this process, then, must not be underestimated. Whilst academic literature, and indeed EU legislation, has focused on the importance of the provision of information and the need to understand the asylum process, this has been detached from the asylum process' function as a contested site that represents different gendered and racialised practices, interpretations and readings of the world. Indeed, the literature has failed to address, or theoretically interrogate the learning needs that precede and strengthen the asylum interview. This paper makes a contribution in this regard, and will critically engage with the asylum process as a potentially transformative pedagogical site, positioning the lawyer as teacher and questioning the content, meanings and processes that underpin the teacher/student relationship. I propose a pedagogy that is not limited to methodology, but is also a political and moral practice (McLaren & Lankshear, 1994) that provides the tools for an analysis of power and its structural consequences, for self determination, and a means of working with the female asylum seeker towards the possibility of protection and social justice.

This paper looks at asylum in Malta, more specifically, the conditions and processes experienced by sub-Saharan African (SSA) female asylum seekers. Most of the material used for this paper was collected during a period of fieldwork conducted between 2009 and 2010. The paper draws on data collected through interviews with stakeholdersⁱⁱ working in the field, empirical reports on Malta, policy documents,

legislation, and academic literature. I employ elements of post/neo-colonial and post-structuralist feminist theory (Spivak, 1988; hooks, 1989) in order to elaborate on the complex relationship between power and knowledge and the politics of representation, and the intersections of gender, ethnicity, race, nationality, class and legal status (Collins, 2000; Pisani, 2012;). This theoretical approach provides the space for critical thinking and reflection and a framework for advancing a transformative pedagogical project.

The paper begins with an (albeit) brief look at the context SSA female asylum seekers have left behind: the gendered political, economic, social and cultural factors and power relations that impact the lives of women in SSA. I look at how the feminization of poverty, combined with erratic politics, violent conflicts and persecution have contributed to the feminization of forced migration. This is followed by a critical look at the conditions female asylum seekers are confronted with when they arrive in Malta. In this regard the paper considers how increasingly stringent immigration controls and a harsh detention policy, combined with increasingly racist political and public rhetoric, intersect with gender, race, class, and a precarious legal status in complex ways, producing contextualized fears and anxieties. Having set the scene, I then consider the asylum process, in particular, the asylum interview and the educational relationship between the lawyer and the female asylum seeker, engaged in a mutual learning process towards freedom.

The feminization of poverty, the feminization of migration: the SSA context

Despite its rich and diversified resources, SSAⁱⁱⁱ remains the world's poorest region (UNDP, 2011). The region continues to experience serious socio-economic, political and environmental challenges, including droughts, the HIV/AIDS pandemic^{iv}, hunger, the ramifications of neoliberal globalization, civil conflicts and military violence. Literature demonstrates a strong association between high levels of conflict and multidimensional poverty. In 2006, Africa, with 13% of the global population, had over 40% of the world's violent conflicts, with eleven of these countries affected directly (Handley et al, 2009).

Despite a repositioning towards ‘gender-aware’ development (with its focus on women’s ‘equality’ as a commonly accepted goal of development) and the promotion of gender mainstreaming in policies and programmes that has proven to be fairly successful in identifying women’s interests in development, very little has been achieved in practice. Women in SSA remain the poorest of the poor, impacted by multiple layers of discrimination and often exacerbated by the devastating effects of armed conflict, persecution and violence, and the complicity of key institutions wherein patriarchy is entrenched, including the international financial system, the state, the community, and the family unit (Kabeer, 2003). It is this feminization of poverty, and the experience of multiple crises, which has contributed to the feminization of migration, as SSA women are forced to flee their homes in an effort to improve their own – and their families - lot. Indeed, whilst men often tend to take an autonomous decision, women often migrate as part of a family strategy wherein they are not in full control of the decision, an example of how the line between what constitutes voluntary or involuntary migration is particularly blurred (Anthias, 2000). Take for example, the case of women who have entered into debt bondage as part of a trafficking network. The decision to migrate may have been taken by the family, or indeed, the reality of family poverty may have left no apparent alternative but to take responsibility to provide for them by sending back remittances (Gosh, 2009).

The notion of gender as a social construction has motivated much of the research on women and migration. The ‘feminization of migration’ refers, not only, to the increased prevalence of women in migratory flows, but also to how the migratory process is experienced – from taking the decision to migrate, leaving the country of origin, through transit and crossing international borders, to life in the host country (Anthias & Lazardis, 2000). Questions emerge as to the degree to which patriarchy affects women’s capacity to migrate, to how gender relations and women’s relationships with family members, the broader migrant group and the host society are organized and impacted, and how gender intersects with other social divisions, including ethnicity, ‘race’, class, legal status, and nationality, thereby also acknowledging the heterogeneity amongst migrant women (Kofman, et al. 2000).

Indeed, the wish to migrate does not necessarily translate into the ability, or indeed, right, to migrate. When forced migration intersects with gender, the results can be toxic. Take for example the case of Somalia, a country that up until recently was described as a 'failed state', marked by widespread lawlessness, terrorism, and a futile government. Rape and sexual violence against women in Somalia has been well documented (see for example Gerard & Pickering, 2012:20).

Forced migration is experienced under very particular circumstances, often marking the onset of a complex situation wherein vital resources such as food and shelter are hard to come by, and exposure to violence and rape is increased. Women may also experience restrictions on movement both within national borders as well as upon exit. For example, corruption is a recognized impediment to internal movement in SSA; in Cote d'Ivoire, women migrants are routinely harassed by rebel groups and forced to pay them money when attempting to travel to government-controlled areas (Human Rights Watch, 2007).

Increasingly stringent immigration controls put in place by more affluent countries, and here we can refer to the fortification of the European Union and the Southern Member States as examples, has generated a lucrative niche for criminal activities, including cross-border smuggling, forged documents and arranged marriages. The journey from one country to another is generally drawn out, dangerous, and often fatal. An unknown but ever increasing number of people die each year in their attempt to cross land and sea borders; this has been particularly so in the flows of SSA migrants trying to reach Europe. In 2011, the Mediterranean Sea, a main route and entry point to the EU, was recognized as the deadliest stretch of water for migrants and refugees (UNHCR, 2012) . The journey from Libya to Malta can often take days: cold at night, scorching heat through the day. Food and water supplies are limited at best; they generally run out during the course of the journey. There is no room to walk around; men, women and children remain seated in cramped conditions throughout the journey.

Fortifying blue borders: the carceral archipelago

Between the years 2001 and 2011, more than 16000 migrants left from the coast of Libya, crossed the Mediterranean Sea and landed in Malta. The flows are predominantly made up of persons fleeing SSA, over 30% hail from Somalia. It comes as no surprise then, that the vast majority of individuals – 93% - apply for asylum upon arrival in Malta (UNHCR, 2012). This asylum seeker flow has witnessed an increase in women over the past few years, in 2011, 26% of the arrivals in Malta were women (op.cit).

The arrival of SSA asylum seekers in Malta can arguably be linked to two distinct but interlinked ‘national’ reactions. The first is the reemergence of nationalist discourse, the ascendance of far right political parties, increased xenophobia, Islamophobia and racism (Falzon & Micallef, 2008); The African ‘*klandestini*’ [clandestine] as they are colloquially known, have come to embody the ‘other’. SSA female asylum seekers are constructed as the ‘*msieken*’ [poor things] -veiled and subjugated; or as a source of moral panic- the diseased whore.

The second is related to a hard-line policy response, infused with ‘national security’ discourse. The Government of Malta (GoM) has adopted a policy of administrative detention^v for all asylum seekers arriving in Malta in an irregular manner^{vi}. Since the publication of the (only) policy document in 2005, the duration of detention has remained a maximum of 12 months for asylum seekers and 18 months for those denied protection. Malta has justified its detention policy as a legitimate response to irregular entry and the ‘disproportionate burden’ placed on the Maltese infrastructure and security; this notwithstanding the fact that the detention policy has been criticized for violating international law. In their report aptly entitled ‘Boat Ride to Detention’, Human Rights Watch (2012) argue that the practice amounts to arbitrary detention, violating article 9 of the International Covenant on Civil and Political Rights (p.4). They are not alone in their scathing criticism of the detention policy:

‘[the] mandatory detention legal regime applied to unauthorized arrivals and asylum seekers does not seem to be in line with international human

rights law. Migrants in an irregular situation are subjected to mandatory detention without genuine and effective recourse to a court of law. The length of their detention has not been clearly defined under law...' (UN Working Group on Arbitrary Detention, 2010:1-2)

Beyond accusations of human rights violations, the detention policy has been criticised on three key points, namely, the sub-standard conditions of the accommodation, for the duration of the detention period, and on how the detention policy criminalizes the asylum seeker population, negatively impacting public perceptions and fueling racism and xenophobia (Gil-Robles, 2003). The conditions in the detention centers were found to be particularly detrimental to the health and safety of women, reinforcing the notion of migration as a gendered process (see also MSF, 2009). The conditions would appear to be an infringement of the Reception Directive^{vii}. Certainly, the data suggests that the GoM is not in line with their legal obligations to provide a dignified standard of living and adequate material support^{viii}. Female asylum seekers' experience of violence then, extends to arrival, detention and confinement in Malta: black 'illegal immigrants' – as they are generally referred to in political and public discourse - remain incarcerated. Surveillance is omnipresent and black bodies are rendered docile (Foucault, 1977). Crucially important in relation to this paper, the quality of reception conditions is vital to the functioning of a fair and efficient asylum process (ECRE, 2005).

An overview of the asylum process

Prior to EU accession, and as required by all EU Member States, in 2000 Malta enacted the Refugees Act^{ix}. Besides defining the rights and duties of asylum seekers and refugees, this Act also provided for the establishment of the Office of the Refugee Commissioner and the Refugee Appeals Board in Malta. The key responsibility of the Office of the Refugee Commissioner (henceforth I will be referring to this office as 'Refcom') is to

'receive, process and determine applications for asylum as stipulated by the Refugees Act, amended in July 2008, and Legal Notice 243 of 2008

(Procedural Standards in examining applications for Refugee Status Regulations)’ (REFCOM, 2010:1)

Within a couple of days of arrival, migrants may complete what is known as the ‘Preliminary Questionnaire’ (this form is available in a number of different languages) and migrants are provided with information on the asylum procedure.

Upon receiving the information, the migrant is then asked if she would like to apply for asylum. Interviews are consequently conducted by Refcom personnel with the assistance of translators when necessary. Refcom instigates a single asylum procedure and considers whether the applicant fulfills the criteria to be recognized as a refugee, and if not, whether or not she fulfills the criteria for Subsidiary Protection. In the event that an individual is found not to be eligible for international protection, the GoM has also provided the possibility of a third regime of protection called Temporary Humanitarian Protection. The eligibility recommendation is then referred to the Ministry of Home Affairs, as required by law.

Refcom is tasked with explaining the asylum process and procedures. A small number of NGOs also provide legal advice and provision of information to asylum seekers in detention.

The asylum interview: sitting ducks?

In 2008, and in line with the GoM’s obligations under the Reception Directive, Refcom implemented a new EU funded project (ERF Project 2009-2011)^x that provides information to migrants about the asylum procedure, informing them of their rights and obligations during the process. Information is delivered in a seven minute long audio-visual presentation (that has been translated into 11 languages and includes sub-titles) and each individual is also given a booklet (again translated into different languages) containing information on the asylum process. Migrants are also given the opportunity to pose questions to Refcom information officers through a translator. When possible, migrant women are assigned a female translator and information officer (although the Refugee Commissioner acknowledged that this is not always possible).

The provision of multi-lingual audiovisual presentations may, to some degree, meet the learning needs of female asylum seekers. At the very least, the mode of presentation would appear to be more effective and more appropriate than the use of information sheets handed out by a member of the police force (as was the case in the past). And yet, the ‘provision of information’ remains divorced from its educational project. The onus here is on the provision – the information is now ‘out there’ – whether or not it is understood is not a concern or totally disengaged from reality. Furthermore, if the information is not understandable, then it is often perceived as a reflection of the inferior, backwards, asylum seeker, or Southern subject (Said, 1979). Indeed, whilst the provision of information is intended to empower, the following passage would appear to suggest that rather, it reflects more of what Gramsci has described as ‘uninformed dialogue’ (Borg & Mayo, 2006: 104). The top-down approach does little to encourage a shared dialogical relationship. The Refugee Commissioner claims:

“...the important thing, again, let’s try to be more concrete, we are asking them a very simple question, ‘why are you asking for protection in Malta? Why cannot you go back to your country?’ We expect a simple answer. I think that this is not difficult to understand and to answer. It is the responsibility of the Asylum Determination Officer to ensure that the reasons for the need of this protection do come out” (Refugee Commissioner).

The passage requires unpacking. The decision, and hence the future of the asylum seeker, would appear to be at the mercy of the Asylum Determination Officer, ‘responsibility’ here would appear to be aligned with an ‘order of knowledge’ and an ‘order of power’ (Foucault, 1977:299). And yet, I would argue that there must be responsibility on the part of the asylum seeker in ensuring that she gets her message across - since it is she, and perhaps the lives of her family, that, to a certain degree, will be determined by this decision. As such, it is vital that the woman is able to speak unto power and ensure that she plays an active and critical role in this process. This responsibility is shared by her advocate as educator, who must ensure that the asylum

determination process is – as much as is possible within the given time frame – clearly understood. For this reason, the UK’s Immigration Law Practitioners’ Association’s (ILPA) (Coker et al. 2002) suggestion that ‘by the end of the first meeting your client should have a clear understanding of how his case may progress – from the submission of the statement...to the grant of leave or the appeal against a refusal’ (p30) is nothing short of ludicrous. Finally, and as noted elsewhere (Crawley, 2009), the asylum narrative is constructed and given meaning according to gender and *inter alia* social, political and economic constructs. The ‘*truth*’ therefore, is not that simple to discern. I will address each of these points in turn.

While female asylum seekers do not have the luxury of time on their hands when it comes to applying for asylum (see above), once the process has been initiated it can be lengthy, often running into many months which may allow the time and opportunity to understand the process. This point has been noted elsewhere. For example, an adult education programme developed and implemented for asylum seekers in France documents how ‘those who receive support in understanding the asylum process and the language associated with it may potentially have a better chance of successfully navigating through the asylum process’ (FAAR, 2008:6). Modules have also been developed within the European Asylum Curriculum (EAC), providing tools to assist lawyers and legal advisors. Beyond continued training in refugee and human rights law, they are also expected to learn practical skills such as ‘interviewing techniques, cross cultural awareness and the expertise required to work not only with vulnerable traumatized asylum seekers, but also with interpreters’ (ECRE, 2010: 24). But, and one would be justified in asking: does this go far enough?

Language: my world and your world

SSA female asylum seekers defy homogenization at the most basic levels: they represent diversity and hierarchal divisions based on different languages, nationalities, ethnic groups, and class divides, amongst others. Patriarchy appears to weave through this lived reality, impacting their lived realities, ways of knowing and the learning process. Likewise, the educator has her own lived reality, experiences and cultural perceptions which, if left unchecked, will influence the subsequent production of her

own cultural norms. The lawyer's own privileged position in a world marked by division also demands self-reflexive practice, she must ensure that the educational process does not amount to another form of cultural invasion but is dialogical (Darder, Baltodano, & Torres, 2009). Teaching asylum seekers about the legal processes and framework, then, demands a critical awareness that does not assume universally shared concepts, and is attentive to, and respectful of the knowledge and epistemological claims of historically disenfranchised groups (see Weedon, 1997). The following passage highlights the importance of understanding where both the educator and the learner are coming from. The excerpt is also particularly interesting since it emphasizes the importance of truly understanding the asylum process:

“Very few women have a high level of education. In the case of Somalia very few women have had a formal education. Things are generally better as regards Eritrea and Ethiopia...and when gender comes into play, it's more complicated... and min jaf [who knows] how many times we go there, I try to explain, to be as simple as possible, we explain the application, and then there were times we were having group sessions in detention. And we were asking to hear from them. So I would explain things to them, 'okay? Do you have any questions?' ...you realize that they understood nothing! ...And then you start realizing, that again, its basic understanding of the way society works here, is totally different. So, ok, you go there for 30 minutes, and tell people, 'you have a right to a lawyer, you have a right to consult UNHCR' - it means absolutely nothing!! 'Refugee commissioner will examine your application'. What does that tell you? What's an application??” (NGO Lawyer)

What I found interesting in the passage cited above is the lawyers' own learning process in the field, as she simultaneously takes on an educational role, a function that, as a lawyer, she had never considered and was only just beginning to reflect upon. We may also be witnessing a small snapshot of her own conscientization, born out of her commitment to working with and on behalf of asylum seekers. This point that may not sit too comfortably with an approach that expects asylum legal practitioners to provide

‘correct legal advice efficiently and with impartiality’ (Coker, Kelly, & Soorjoo, 2002: 30). When the transmission of knowledge is perceived as an end in itself, the process serves a functional purpose: the information will be banked, will probably be of little meaning, and serve to maintain the status quo (Freire, 2001). However, if the process is recognized as dialogical, with the emphasis on critical thinking and reflection with a view to emancipatory and transformative change, then it will take on a different meaning (Mayo, 1999). An educational program then, cannot be viewed as neutral: ideological aspects of education, reproduced in materials and teaching practices and processes, must be scrutinized and continuously addressed if education – or the provision of information - really is to lead to access to protection, rights and justice.

In the passage above, the lawyer also picks up on the level of formal education amongst the SSA women. For example Somali women are generally considered to represent those women who have had the least opportunities to access formal education. This is perhaps a direct reflection of the destruction of the education system and the ‘mayhem and widespread anarchy’ that has accompanied a prolonged and protracted civil war in Somalia (Abdi; 2005: 352). Illiteracy, coupled with little or no experience in formal, bureaucratic structures and institutions in general may hinder the learning process (and may also reflect a Western preoccupation with literacy that is somehow also disparagingly linked to intelligence, and serves to reinforce the colonial construct of black women as ‘primitive’). Certainly, up until arrival in Malta, such institutions had barely featured in the ‘world’ of female asylum seekers (Freire, 2001):

“Also I find that people, even because, people have just arrived in Malta, because of everything they have been through, I mean, asylum seekers in particular, they arrive in a country in which they have no parameters by which to judge what they are hearing” (NGO Lawyer)

In some parts of SSA, women are excluded from positions of power (Egbo, 2005). In Nigeria, for example, patriarchal oppression has maintained women in a subjugated position, that is further aggravated by years of economic decline and political upheaval. It is within this context then, that female asylum seekers have come to understand the world. The passage cited above demonstrates the frustration in

communicating not just the ‘word’, but the meaning behind the word: ‘application’. What does the word ‘application’ mean to a 21 year old Nigerian woman? The term may not form part of her ‘organic vocabulary’. It is only when the word ‘application’ is given meaning that it can be understood, and this learning process must begin from what she knows, and requires engaging with language within a *multi*-intercultural setting in a critical way (Phipps & Guilherme, 2004). Otherwise, all those words will represent complex and potentially dangerous institutional representations that oppose them and intend to exclude them.

Developing trust

In the following passage, we begin to understand how mistrust intensifies as soon as SSA asylum seekers arrive in Malta. Their immediate incarceration, where power and control is exerted in an explicit way, conditions the relationship between the detainee and those providing a service within the system:

“...so even, they would say, “why should I believe these people?’ so okay, this white woman comes into this place, where I am locked into a room, where I have no place to go, I don’t know what’s going on... you know what I mean?”(NGO Lawyer)

It goes without saying, that such a context may not be conducive to developing a relationship of trust, let alone a context conducive to learning. In forced migration, the difference in power relations between men and women is often manifested through violence and rape, and women are often exposed to exploitation by soldiers, rebels, officials, NGOs and other service providers, and other forced migrants (Williamson, 2004). As the passage below demonstrates, it is not the trauma of rape and sexual violence alone that causes distress, but also the shame often associated with it, and the real possibility of being ostracized by the family and community.

“... I feel like they have been rejected from their community, usually in their story there is violence, or they lost their husbands and were not able anymore to protect themselves.... I remember just one woman telling me, at the beginning, that she was abused, but in the third session she told me

“my husband he couldn’t even look at me in my eyes anymore, and when I stepped out of the house, every person was staring at me, and it was impossible to stay, I had no choice, I could not live in that way anymore and even my husband could not protect me anymore, till that moment we were in love but then it was not the same anymore”(NGO Psychologist)

Feelings of shame and fear of ostracism by the clan may also prevent female asylum seekers from telling the truth. This may be particularly detrimental to the woman during the asylum determination process where gaps in her narrative may contribute to credibility problems and a consequent rejection. The need to protect herself, as well as her lack of trust in the system is understandable, given that in some contexts, prosecution of these crimes may be rare. In the case of Somalia for example, traditional law does not recognize the woman as a victim (and as such, perhaps she will not perceive herself as the victim) (Landinfo, 2008). And yet, often such sexual violence is not simply the act of one individual, but rather a political act, namely gender-specific persecution for the purpose of ‘ethnic cleansing’ (Gerard & Pickering, 2012:20).

In the following passage we are able to observe how patriarchal surveillance, and the use of fear as a means of control may not be confined to the local context, rather, the panopticon (Foucault, 1977) extends to the transnational, the following passage refers to suspicion of trafficking:

“I believe that there is a blockage somewhere, either they have been threatened or they have been subjected to some ritual and are afraid of bad consequences for themselves and their relatives if they reveal any information” (Refugee Commissioner)

Such examples provide insight into how important trust in, as well as a clear understanding of, the system are. On the one hand, a woman cannot trust a system that makes little sense to her, and that she has over time learnt not to trust. On the other hand, Refcom, the lawyer, and the female asylum seeker need to understand the transcultural context, marked by its own histories and power relations, and how this

interface gives rise to different meanings and understandings (see also van Dijk, 2001). Under such conditions, the importance of confidentiality also becomes crucial and problematic given that cultural mediators and translators are often recruited from within the same community.

Language barriers can be an obvious obstacle to conveying important information, and this raises questions on two counts. The first is the use of translators or cultural mediators that may provide for a continuation and intensification of patriarchal control^{xi}, or raise concerns over confidentiality. The shortage of female translators is often problematic, that said, it may not always provide a solution but may form part of the problem. Take for example the case of two women positioned unequally within a hierarchal clan-based system. The situation is complicated and draws attention to cross-cutting interests, systems of oppression and intersectionality. The second point is the degree to which translation considers cross-cultural communication, wherein text is given meaning (Bedecker & Feinauer, 2006). The traffic of mediation must be two-way and dialogical. The cultures of both the asylum seeker and the lawyer needs to be mediated, the latter is rarely questioned. Certainly, the Cultural Mediator/translator must not be simply viewed as a means to an end, a vehicle to convey a message, a 'conduit'. As Spivak (1993) reminds us, translation is an 'intimate' act. Three individuals enter the room shaped by the ideologies and gendered cultural norms of their historical context, indeed, the ontological space each of these individuals occupy may not converge. Just as language and knowledge are constructed and taken on unchallenged, so too is the historical hierarchy of power and its assumed normality and natural way of being.

In the following passage we are able to capture lawyers' own learning process, as she begins to question the real merits of past information campaigns, and develops a deeper understanding of how the successful transmission of information and the possibility to engage in dialogue must go beyond issues pertaining to formal education and traditional, westernized notions of 'literacy' that privileges the written word, to consider the notion of 'literacies' (Sindjoun, 2010). This paradigm shift embraces the view that literacy is diverse and plays an essential part in the sociocultural lives of

individuals and communities. Moreover, it draws attention, not only to the importance of acknowledging the different and varied ways of knowing (Freire, 2001), but also to the different modes and sites of communicating and learning. The following passage highlights two crucial points, that of learning through dialogue, and the importance of dialogue in developing trust:

“...basically this is why I have questions about this that we go in once and give all the information. Even these human rights campaigns, one off’s - because I really believe that people, first they need time to trust. They need time to absorb. And they need time to understand how things work...So I think that the most effective way, is to be present, and to be available, to answer these questions. So a lot of what we do, in detention, basically, is go and answer questions about the situation, the asylum procedure,... sometimes we do it through formal group sessions, and at other times, its less formal than that, it’s just simply sitting with people and talking and listening...I think this contact and this presence is essential. Because, we learn from people that we trust...Their needs to be, you know, their needs to be a relationship... this is not about learning English, this is different, and I think as well, because certain things... it’s not enough for people to tell you... you have to experience it. No matter how much people tell you about detention. You never know what it’s actually like until you go there....” (NGO Lawyer)

Such a process takes time: and time is often the most precious resource, particularly for persons working in the field who are often stretched and struggling with a heavy workload, limited human resources, and bureaucratic deadlines. The importance of the spoken word, or oracy, in African culture as a means of communication, learning and socializing has received substantial attention elsewhere (see for example, Sindjoun, 2010); it is within communities that black women often enter into dialogue, challenge and resist domination, and develop knowledge (hooks, 1989).

Trust is worked at, and developed over time. It does not happen automatically. Trust foregrounds the conditions necessary for female asylum seekers to speak, where their knowledge and experiences can be affirmed, along with the conflicts, disagreements and contradictions that depict such experiences (see also Giroux, 1992). Listening builds on trust. As Freire (1998) conveyed, listening is ‘a permanent attitude on the part of the subject who is listening, of being open to the word of the other, to the gesture of the other, to the differences of the other’ (107). By truly listening, we move beyond essentialist cultural stereotypes and begin to understand the world of the other, the different truths, the different meanings, different fears, and loves, always marked by fluidity and change. It is a humanizing process that develops trust (Freire, 2001). Trust foregrounds the possibility of authentic collaboration.

Conclusion

For the average layperson, the asylum procedures and the legislative framework surrounding international protection is extremely complex. So what of SSA female asylum seekers? In order to contextualize this further, in this article I have shown how we need to remind ourselves of the journey that took place just prior to arrival in Malta. Traumatized and exhausted, within hours of arrival the migrants are placed in detention, and the asylum procedure is put in motion within days. All information gathered through the process, be it in the PQ, or during the interview, may be used to identify inconsistencies and contradictions, possibly resulting in a negative decision. Many of the asylum seekers will not have heard of Malta, let alone have knowledge of the country, the language and its laws. Given their experiences in their country of origin, many will be distrustful of the military and others in authority, including NGOs, lawyers and other legal advisors. They may not understand the role of the lawyer, nor be able to make the distinction between the role of the military, Refcom, social workers, and so on: the conveyer belt of professionals, or who Illich (1977) would likely define as the ‘crusading and commandeering philanthropists’ designated with the competence to ‘manage’ the crisis and dispense their ‘secret knowledge’ (p.19).

The conditions then, are not what one would define as conducive to learning. And yet, learn they must. It is crucial that asylum seekers understand the procedures and issues concerning evidence. Legal advice and/or representation then, is crucial in protecting the rights of asylum seekers, ensuring a fair and efficient asylum procedure (ECRE, 2010). Clearly, different understandings of the role of Refcom, the lawyer, and the asylum seeker within the asylum process, will lead to distinctly different educational projects, including content and process. As such, the learning needs of female asylum seekers cannot be divorced from the broader political, social and cultural context, and must thus also be situated in the discourse and policies surrounding migration. Herein lies the difference between the provision of information regarding the asylum process as the ‘banking’ of information in order to tick off the requirements of the Reception Directive, and a critical pedagogy understood as a learning process towards transformation, wherein the woman may be able to push the constraints of the institutional framework by critically reflecting on her experiences and influencing the asylum process. It is vital then, that female asylum seekers understand the process and the relevant procedures, and the importance of speaking out and providing information that may be pertinent to the assessment of their protection needs. The asylum process is an educational process. In order to be able to understand, navigate and this process, the educational relationship must be grounded in trust.

i Asylum is a fundamental right. Granting asylum is an international obligation, first recognised in the 1951 Geneva Convention.

ii These included the Refugee Commissioner, an NGO lawyer, and an NGO Psychologist.

iii Space constraints limit the possibility to provide a comprehensive analysis of the economic and political environment in the hugely complex and heterogeneous sub-Saharan Africa or the gendered, economic and cultural factors, and the contextual issues that impact the lives of women within this. For more on these see Chant (2007) and Kabear, (2003).

iv SSA remains the region most heavily affected by HIV worldwide. In SSA women account for more than 59% of people living with HIV (UNAIDS & WHO, 2011).

v For a more precise overview of national law, policy and practice relating to administrative detention in Malta refer to the “Civil Society Report on Administrative Detention of Asylum Seekers and Illegally staying Third Country Nationals in the 10 New Member States of the European Union” (JRS, 2007)

vi Entering Malta without the necessary documentation is not a criminal act, but a violation of Article 5 of the Immigration Act (Cap 217) of the Laws of Malta. Upon apprehension, the Principal Immigration

Officer issues a Removal Order (as per Article 14 of the same Act) to those migrants deemed to be prohibited migrants in Malta. Upon requesting asylum the Removal Order is suspended (the individual cannot be forcibly returned). In the event of a rejected asylum claim she is once again listed for repatriation since the suspension of the Removal Order is lifted (St. John, Delicata, & Azzopardi, 2008).

vii Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers.

viii Material support includes food, housing, education, health care, language training and access to employment

ix Malta thus relinquished its earlier opt-out on the 1967 New York Protocol modifying the 1952 Geneva Convention on Refugees which limited asylum to refugees from Europe (Frendo, 2007).

x The project is entitled “Post Application client preparation and asylum determination interviewing centre for asylum seekers which aims to adequately prepare TCNs for their asylum determination process”

xi Such findings have been reflected in research elsewhere. For example, Tobert and Hinton (2010) found that Somali service users were concerned about gossip and the use of Somali advocates. Likewise, in research conducted in Malta, the HUMA network found it difficult to find female participants despite the use of female cultural mediators, suggesting that confidentiality was not considered watertight by the potential participants (HUMA, 2011).

References

- Abdi, A. (2005). At the mercy of informal learning: Education and development in stateless Somalia. In A. a. Abdi, & A. Cleghorn, *Issues in African education: Sociological Perspectives* (pp. 346-367). London: Palgrave Macmillan.
- Anthias, F., & Lazaradis, G. (2000). *Gender & Migration in Southern Europe: Women on the move*. Oxford: Berg.
- Bedeker, L., & Feinauer, I. (2006). The translator as cultural mediator . *Southern African Linguistics and Applied Language Studies, Volume 24, Issue 2* , 133-141.
- Chant, S. (2007). *Gender Generation and Poverty: Exploring the 'Feminization of Poverty' In Africa, Asia and Latin America*. Cheltenham: Edward Elgar Publishing Limited.
- Coker, J., Kelly, G., & Soorjoo, M. (2002). *Making an Asylum Application: a best practice guide*. London: Immigration Law Practitioners' Association.
- Crawley, H. (2009). Between a rock and a hard place: negotiating age and identity in the UK asylum system. In M. Thomas, *Children, politics and communication: participation at the margins* (pp. 89-106). Bristol: The Policy Press.
- Darder, A., Baltodano, M. P., & Torres, R. D. (2009). *The Critical Pedagogy Reader 2nd Edition*. New York: Routledge.
- de Haas, H. (2008). *The Myth of Invasion: The inconvenient realities of African migration to Europe*. Oxford: International Migration Institute, University of Oxford.
- ECRE. (2010, October). *Survey on Legal Aid for Asylum Seekers in Europe*. Retrieved October 15, 2012, from <http://www.stranieriinitalia.it/briguglio/immigrazione-e-asilo/2010/ottobre/rapp-ecre-ass-leg-asilo.pdf>
- ECRE. (2005). *The Way Forward: Towards Fair and Efficient Asylum Systems in Malta*. ECRE.

Egbo, B. (2005). Women's education and social development in Africa. In A. A. Abdi, & A. Cleghorn, *issues in African Education: Sociological Perspectives* (pp. 186-219). London: Palgrave Macmillan.

FAAR. (2008). *Case studies on the "One Step Up" approach in adult learning*. France: European Commission.

Falzon, M., & Micallef, M. (2008). Sacred Island or World Empire? Locating Far-Right Movements In and Beyond Malta. *Journal of Contemporary European Studies* 16, no. 3 , 393-406.

Foucault, M. (1977). *Discipline & Punish: the birth of the prison*. London: Penguin.

Freire, P. (2001). *Pedagogy of the oppressed*. New York: Continuum.

Frendo, H. (2007, December 17). *An analysis and categorisation of the Asylum Appelants in Malta 2005-2007*. Retrieved May 18, 2011, from Challenge: Liberty & Security: <http://www.libertysecurity.org/article1766.html>

Gerard, A., & Pickering, S. (2012). The Crime and Punishment of Somali Women's Extra-Legal Arrival in Malta. *British Journal of Criminology* .

Ghosh, J. (2009). *Gender and Migration Empowerment: Recent Trends and Emerging Issues*. Geneva: UNDP.

Gil-Robles, A. (2004). *Report by Mr. Alvaros Gil-Ronbles, Commissioner for Human Rights, on his visit to Malta 20-21 October 2003*. Strasbourg: Council of Europe.

Giroux, H. A. (1992). *Border Crossings: Cultural Workers and the Politics of Education*. New York: Routledge.

Handley, G., Higgins, K., Sharma, B., Bird, K., & Cammack, D. (2009). *Poverty and poverty reduction in sub-Saharan Africa: An overview of the issues*. London: Overseas Development Institute.

hooks, b. (1989). *Talking back: thinking feminist, thinking black*. Cambridge: South End Press.

hooks, b. (2003). *Teaching Community A Pedagogy of Hope*. London: Routledge.

Human Rights Watch. (2007). *"My heart is Cut" - Sexual Violence by Rebels and Pro-Government Forces in Cote d'Ivoire*. New York: Human Rights Watch.

Human Rights Watch. (2012). *Boat Ride to Detention: Adult and Child Migrants in Malta*. USA: Human Rights Watch.

Illich, I. (1977). *Disabling Professions*. Great Britain: Calder and Boyers Ltd.

JRS. (2007, December). *2007 Detention research project in the 10 new EU Member States*. Retrieved October 15, 2010, from JRS: Detention in Europe: http://www.detention-in-europe.org/index.php?option=com_content&view=article&id=75&Itemid=88

Kabeer, N. (2003). *Gender Mainstreaming in Poverty Eradication and the Millennium Development Goals: a handbook for policy makers and other stakeholders*. London: Commonwealth Secretariat.

Kofman, E., Phizacklea, A., Raghuram, P., & Sales, R. (2000). *Gender and International Migration in Europe*. Oxon: Routledge.

Landinfo. (2008). *Conflict, security and clan protection in South Somalia*. Norway: Landinfo.

Lankshear, C., & McLaren, P. (1993). *Critical literacy: politics, praxis, and the postmodern*. New York: SUNY Press.

Mayo, P. (1999). *Gramsci, Freire, and adult education: possibilities for transformative action*. London: Zed Books Ltd.

MSF. (2009, April). *"Not Criminals": Medicins Sans Frontiers exposes conditions for undocumented migrants and asylum seekers in Maltese Detention Centres*. Retrieved January 22, 2011, from http://www.aerzte-ohne-grenzen.at/fileadmin/data/pdf/reports/2009/MSF_Report_Malta_2009.pdf

Phipps, A., & Guilherme, M. (2004). *Critical Pedagogy: Political Approaches to Language and Intercultural Communication*. Clevedon: Multilingual Matters Ltd.

Pisani, M. (2012). Addressing the 'Citizenship Assumption' in Critical Pedagogy: exploring the case of rejected female sub-Saharan African asylum seekers in Malta. *Power and Education Volume 4 Number 2* .

Pisani, M., & Giustiniani, A. (2009). *Programmes and Strategies in Malta fostering Assisted Return to and Re-integration in Third Countries*. Valletta: EMN.

REFCOM. (2010). *Report Prepared by the Office of the Refugee Commissioner*. Refugee Commission.

Said, E. W. (1979). *Orientalism*. New York: Vintage.

Sindjoun, L. (2010). *The Coming African Hour: Dialectics of Opportunities and Constraints*. Pretoria: Africa Institute of South Africa.

Spivak, G. C. (1993). *Outside in the teaching machine*. New York: Routledge.

St. John, J., Delicata, M., & Azzopardi, M. (2008). *The Organisation of Asylum and Migration*. Malta: European Migration Network (EMN).

UN Working Group on Arbitrary Detention. (2009). *Report of the Working Group on Arbitrary Detention on its mission to Malta (19 to 23 January 2009)*. UN.

UNAIDS & WHO. (2011). *Fact Sheet: Women, girls, gender equality and HIV*. Retrieved October 13, 2012, from http://www.unaids.org/en/media/unaids/contentassets/documents/factsheet/2012/2012_0217_FS_WomenGirls_en.pdf

UNAIDS WHO. (2006). *AIDS Epidemic Update*. Geneva: Joint United Nations Programme on HIV/AIDS (UNAIDS) and World Health Organization (WHO).

UNHCR. (2012). *Malta and Asylum*. Retrieved October 13, 2012, from UNHCR Malta:

http://www.unhcr.org/mt/index.php?option=com_content&view=article&id=113&Itemid=110

UNHCR. (2012, January 31). *Mediterranean takes record as most deadly stretch of water for refugees and migrants in 2011*. Retrieved October 13, 2012, from UNHCR: <http://www.unhcr.org/4f27e01f9.html>

van Dijk, R. (2001). 'Voodoo on the doorstep': Young Nigerian prostitutes and magin policing in the Netherlands. *Africa 71(4)* , 558-586.

Weedon, C. (1997). *Feminist practice and poststructuralist theory*. Oxford: Blackwell Publishing.

Williamson, K. (2004). *AIDS, Gender and the Refugee Protection Framework*. . Oxford: RSC Working Paper Series, No. 19.