

Shifting Sands: Discursive Techniques Adopted by the Immigrant Council of Ireland on Marriages of Convenience

Stephanie Hanlon

University College Dublin and Carlow College

Abstract

The so-called ‘sham marriage industry’ and approaches to marriages of convenience represent a field rich in discursive meanings in politics and public discourse. In Ireland, between 2006 and 2016 policy and legislation in the area was dominated by a metadiscursive negotiation of terminology relating to the exploitation and abuse of women for immigration purposes, the abuse of the Irish immigration system, and marriages of convenience as an attack on the institution of marriage. The term ‘marriage of convenience’ (MoC) has evolved due to the influence of multiple policy collaborators, and, as a result, the representation of it has been shifting in public and policy discourse. This study sets out to explore this pivot by adopting a critical discourse analysis approach to the normalization of the Immigrant Council of Ireland’s (ICI’s) policies on MoC.

This article poses interlinked questions that will be the focus of this study. How are MoC and the actors involved in MoC represented in terms of efforts to control migration, and what if any, are the implications of this discourse? Specifically, what are the ICI’s policy narratives regarding marriages of convenience and the particular strategies that the ICI has devised for redefining and relocating MoC in a different narrative?

This paper has found multiple inconsistencies and contradictions in the ICI’s positions, with evidence of exclusionary rhetoric and racial discrimination in the NGO’s policy on MoC. The meanings and implications of victim and perpetrator continue to shift and change depending on the context and purpose of their articulation, raising clear questions about the ‘re’-presentation and ‘re’-location of MoC in immigration policy and legislation. More broadly, it calls for a more critical and open debate that reflects the impacts of restrictive policy on persons involved.

Keywords: critical discourse analysis, marriage migration, citizenship, immigration policies, NGO.

1. Introduction

In seeking the point of intersection between MoC and trafficking narratives in particular, this research identified key discursive argumentations arising from narratives regarding MoC and political concerns surrounding the use of marriage for the purposes of trafficking. This sheds light on discourses of diversity, vulnerability, exploitation and gender equality within the ICI's policy formation in tracing the evolution of the concept of MoC in Irish Non-governmental organisation (NGO) policy, and the respective discursive shift from MoC to 'sham marriage' (O'Connor, 2016), culminating in "human trafficking and exploitative sham marriages" (Cosgrave et al., 2016, p. 3).

Narratives regarding MoC are clarified and related to the Irish context in this paper. It will reference key legislative and policy developments to provide the contextual underpinning of MoC between 2006 and 2016. Specific attention will be paid to the position of the Immigrant Council of Ireland¹ and its interpretation of MoC as it is the leading Irish migration NGO in relation to this research. Lastly, critiques of Irish NGO policy actions on MoC will be discussed in relation to the context of human trafficking.

The Irish approach to defining MoC has been remarkable in its specificity. Helena Wray (2006) notes the vagueness of the conception of 'genuine' marriages, 'marriages of convenience' and 'sham marriages', and disputes the widely-held "assumptions that many successful marriages in many cultures are not motivated by pragmatism" (p. 304). Such assumptions lead to a "binary divide between marriages entered into for "good" reasons such as sexual compatibility or companionship, and for "bad" reasons such as social and economic gains" (Wray, 2006, p. 304). This, she maintains, is where an immigration motive must be situated.

As there is no universally accepted definition of MoC, many describe the difficulties in defining MoC and sham marriage as "problematic" (Wray, 2006, p. 303; Cosgrave et al., 2016, p. 33). From the perspective of Wray (2006) content should be prioritized before terminology, as a narrow conception of MoC faces challenges. Cosgrave et al. (2016), in contrast, prioritize terminology, restricting their scope and utilizing the term 'exploitative sham marriage' in looking to capture the

¹ICI (2017) [online] Available at: <http://www.immigrantcouncil.ie/>

elements of exploitation which may occur with the context of a sham marriage or MoC, not simply the sham marriage itself. Both the terms ‘marriage of convenience’ and ‘sham marriage’ have been used interchangeably in describing marriages supposedly undertaken for immigration purposes. While they have different meanings (European Commission, *supranote* 2014)², the latter term describes more accurately the issue that immigration policymakers, Irish State Agencies and NGOs seek to address. Furthermore, both of these concepts have been merged to form the basis of a two-year pan-European interagency project, which involved redefining the concepts of MoC and sham marriages: HESTIA project team defined a new concept, ‘exploitative sham marriages’ (ESM) and concluded that the phenomenon is closely linked to human trafficking for the purpose of forced sham marriages (HESTIA, 2016).

2. Legislative Approaches to Marriages of Convenience

One set of policy and law that is relevant to MoC and that refers to the entry and residence of EU citizens and their family members in Ireland is regulated by Directive 2004/38/EC. This was transposed into national law by the domestic regulations of the European Communities (Free Movement of Persons), Regulations 2006 and 2008. While Regulation 24(2) provides that ‘fraudulent means’ includes ‘marriages of convenience’, the term ‘marriage of convenience’ itself is not defined in the Regulations.

2.1 Immigration Residence and Protection Bills 2007/2008

The Immigration, Residence and Protection Bill was introduced in April 2007 and prompted significant political debate across parliament, media and civil society. The Bill introduced a notification requirement for foreign nationals wishing to get married in the State who were seen as targeting MoC for immigration purposes and set out a legislative framework for an immigration policy to manage inward migration. This was described by the Irish Naturalisation and Immigration Service (INIS) as representing a “comprehensive overhaul of the State’s immigration and protection laws dating back to the Aliens Act of 1935” (INIS, 2007).

Analysis of and comments on the 2007 Bill centred on the lack of clarity around specific legislative provisions and the high level of Ministerial discretion (ICI, 2010). The ICI made several

² The European Commission classifies marriages into several types, making several crucial distinctions; “Genuine marriage”; “Arranged marriage”; “Proxy marriage”; “Consular marriage”; “Marriages of convenience”; “Standard marriage of convenience”; “Marriage by deception”; “Human Trafficking”; “Forced marriage” and “Bogus marriage” (Commission Communication, *supranote*, 2014, pp. 10-14).

submissions and proposed over one hundred amendments to the published Bill (ICI, 2008; Joyce, 2009). An amended version of the Bill was relaunched in January 2008 after the draft Bill fell with the change of government in May 2007. The 2008 Bill – which made it an offence to solemnise or permit the solemnisation or facilitation of MoC or to be a party to such a marriage³ – was the subject of further controversy and faced criticism for its restriction of the right to marry (ICI, 2008).

2.2. Immigration Residence and Protection Bill 2010

As with the 2007 and 2008 Immigration, Residence and Protection Bills, the 2010 Bill was broadly similar in setting out a legislative framework for the management of inward migration to Ireland. There were a number of notable differences, e.g. the clause in the 2008 Bill that banned asylum seekers and persons unlawfully resident within the State from getting married in Ireland, was replaced with a ‘marriage of convenience test’. Substantial media and parliamentary discussion regarding MoC continued throughout 2010⁴. Following intense lobbying by EU Member States, new procedures for registrars carrying out marriages were issued in 2010. This involved identification requirements, restrictions on interpreters and the number of persons who may be present in a registrar’s office (Smyth, 2010a). Reference to the numbers of ‘sham marriages’ were foreground in the media, with one report in 2010 claiming that 75 objections to scheduled civil ceremonies had been lodged by the Garda National Immigration Bureau (GNIB) with State registrars since November 2009 (Smyth, 2010b). The GNIB had also begun an operation targeting suspected ‘sham marriages’ which “typically involve male non-EU nationals and women from Eastern Europe.” (Smyth, 2010b)

Responding to media and parliamentary debate, the ICI stated that previous policies introduced to prevent MoC subsequently stigmatised non-EEA nationals applying for residency on the basis of marriage to an EU national. Chief executive of the ICI Denise Charlton highlighted the concern of the organisation that “migrants in genuine, loving relationships are being stigmatised” (2010, para. 1) as a result of the media coverage of migrants taking part in alleged sham marriages and called for the Government to deal with the issue in a way that is fair, proportionate and subject to procedural safeguards.

³Section 123(2).

⁴See: Dáil Éireann: Written Answers. (2010, November 10). *Marriages of Convenience*.
<https://www.oireachtas.ie/en/debates/question/2010-11-02/24/>

2.3. *Civil Registration Amendment Act 2014*

The Civil Registration (Amendment) Act 2014 was enacted in December 2014, amending the Civil Registration Act 2004 on this topic. Marriage and civil partnerships of convenience are defined with guidelines and procedures for registrars in determining if such a case falls within the Act. Welcoming the Act, the then Minister for Justice and Equality stated that it would “strengthen the arm of the State in tackling marriages of convenience and associated immigration abuses” (INIS, 2015) and give marriage registrars extensive new powers to “prevent the abuse of the institution of marriage and exploitation of women for immigration purposes” (Sheridan & Whelan, 2016, p. 93). Focus on MoC intensified through media and parliamentary debate, raising questions about the constitutional protection of marriage, and of the institution of marriage itself (Lynch, 2010).

2.4. *The Immigrant Council of Ireland’s Policy Stances on MoC (2006-2016)*

The ICI’s stance on MoC has been somewhat conflicting. It noted that “until recently, issues related to sham marriage have generally not been linked with human trafficking” (Cosgrave et al., 2016, p. 21). However, a shift was noted in their initial report into trafficking in 2009 which found that “deception by means of fictitious marriage proposals” was the prime feature in the recruitment of migrant women for trafficking purposes through “the pledge of a long-term relationship” (Kelleher et al., p. 22). Yet, from its inception, the ICI has been particularly active in relation to family reunification, contributing to a number of policy and practical changes; and drawing attention to the absence of provisions regarding this issue within Irish legislation (ICI, 2012; 2013). Moreover, research coordinated by the ICI on Family Reunification examined procedures for perceived ‘fraudulent marriages’ as one of the “procedural obstacles” to family reunification (De Hart et al., 2013, p. 44). Meanwhile, the ICI’s anti-trafficking campaign was growing, and saw the ICI become an initiating partner in two transnational projects aimed at combating trafficking (O’Connor, 2015). While the ICI remained absent from NGO responses to the matter of MoC after the introduction of the Civil Registration Amendment Act (Doras Lumní, 2015b), it consistently supported the “crackdown on trafficking” (O’ Connor, 2015, p. 38) through the adoption of robust policing and early legal intervention.

2015 saw the intensification of ICI’s anti-trafficking policy and legislative campaign. The ICI adopted a more vocal position on MoC through its advocacy for the inclusion of their ongoing research on Exploitative Sham Marriages in the Second National Action Plan (ICI, 2015b; 2015c). It was involved in separate and joint NGO submissions to the draft of the Second National Action

Plan (ICI, 2015a; 2015b; 2015c). This saw a shift from the treatment of MoC and trafficking initially as separate issues (Cosgrave et al., 2016) to the merging of the two under the umbrella category of ‘Exploitative Sham Marriage’ (Stabina, 2016), and furthermore, to the equation of MoC with sham marriage (Viuhko et al., 2016a, p. 56).

2.5. From ‘Marriage of Convenience’ to ‘Exploitative Sham Marriage’

Although little research exists into the merging of marriages of convenience and trafficking, the work of the ICI and its transnational partners built on Early Warning Notifications from Europol (2014) and the European Commission on fighting abuses of the right to free movement. Both of these located “marriages of convenience as the link between the facilitation of illegal immigration and trafficking in human beings (THB)” (Europol, 2014, p. 1). By changing the conception of MoC, it was argued that ‘classical’ marriages of convenience could have potentially exploitative elements such as the “targeting of vulnerability for the purposes of exploitation” (Cosgrave et al., 2016, p. 1) and recruitment by means of deceit (Stabina, 2016; Cosgrave et al., 2016; Viuhko et al., 2016b). Consequently, MoC was placed within the new phenomenon of ‘exploitative sham marriage’ (Cosgrave et al., 2016; Stabina, 2016), where “in some cases, marriage can become exploitative, or can even lead to human trafficking” (Viuhko et al., 2016a, p. 1).

The ICI’s policies on MoC began to converge in 2015 with the ICI’s policy submissions (Texts 10, 11, 12 and 13). Prior to this, there was some variation in the ICI’s terminology relating to marriage in the context of trafficking, referring to ‘fictitious marriages’ within the context of human trafficking (Kelleher et al., 2009, p. 69), ‘fraudulent marriages’ (De Hart et al., 2013, p. 4), ‘sham marriages’ (Cosgrave, 2016, p. 1), and later ‘exploitative sham marriages’ (ICI, 2015c; Cosgrave et al., 2016, p. 3). This changing terminology has reflected the organisation’s increasingly vocal position on MoC in the context of trafficking.

Despite the convergence and the apparent acceptance of the two concepts, it is important to note that the merging of trafficking and MoC in contemporary Irish NGO policymaking has not gone unchallenged (Lentin, 2015; King-O’Riain, 2018). Prior to the Kelleher Report, two reports on trafficking in irregular migration were undertaken by Deirdre Coghlan (2003; 2007). However, neither was mentioned in the study. In addition, the extensive research conducted by Eilís Ward and Gillian Wylie (2007; 2014) on the nature and extent of trafficking in Ireland has not been included in any ICI report on trafficking or prostitution.

3. Discursive Argumentation as an Approach to Policy Analysis

New approaches to policy analysis suggest that policy is the result of complex negotiations and contestations that take place to a significant extent within discourses (Goodwin, 2011). According to Wodak (2015) argumentation is:

part of a cognitive pattern of problem-solving that manifests itself in a (more or less regulated) sequence of speech acts which form a (more or less) coherent network of statements. Thus, argumentation allows challenging or justifying validity claims such as truth and normative rightness. (p. 1)

Discursive strategies of representation, framing, resistance, and negotiation in discourse are seen as argumentative practices at the centre of the policy process (Fischer & Forester, 1993), or the discursive struggles that set the conditions for social classification, event-framing, and establishing problem-definitions (Stone, 1988). As NGO narratives on MoC are largely uncontested, this paper prompts questions about the articulation of concepts with a range of different meanings that can be ‘activated’ depending on the context (i.e., marriage, citizen, immigration).

Argumentative policy analysis is rooted in argumentation theory which focuses on the notions of logic, persuasion and communication (Fischer & Forester, 1993). It focuses on ‘discursive struggles’ which set the criteria for social classification, and is centred on the methods used to establish and frame problem definitions, redefine ideas and create the shared meanings on which people act (Stone, 1988). Policy ideas can be changed and fought over after creation, where actors utilise narrative story lines and symbolic devices to manipulate so-called “issue characteristics” (Stone, 1989, p. 282). Fischer (2003) refers to policy stories as a strategy for problem representation. Stone identifies two types of policy narratives: one centred on decline or crisis, and the other on social control (1989).

These two models help explicate the transition of the concept from MoC to ‘exploitative sham marriage’ (Fig. 1) and foregrounds how the introduction of this new concept was instrumental in linking sham marriages with human trafficking (Fig. 2).



Figure 1: Model 1. “The continuum of exploitation in the context of (exploitative) sham marriages” (adapted from Viuhko et al., 2016 b, pp. 50-51)



Figure 2: Model 2. “Trafficking in human beings, exploitative sham marriages, and sham marriages” (Adapted from Viuhko et al., 2016b, pp. 50-51).

In Model 2, the concept ‘Exploitative Sham Marriage’ (ESM) acts as a bridge between MoC and human trafficking and occurs at the point where vulnerability is targeted for the purposes of exploitation whereby ESM is highlighted as one of the “common risk factors” of MoC (Cosgrave et al., 2016, p. 2). Primarily, the intersection of MoC and human trafficking is marked by the ESM which occurs throughout high-risk periods, where what was initially a MoC becomes a sham marriage.

4. Research Methodology

The principles of Critical Discourse Analysis (Wodak & Meyer, 2012) are referenced through combining critical discourse analysis and content analysis. Critical Discourse Analysis is utilised to investigate how power is legitimized and delegitimized in discourse, and is used to detect the linguistic means used by privileged groups to stabilize existing inequalities in society (Wodak, 2009). As noted by Reisigl and Wodak:

Texts are often the site of social struggle in that they manifest traces of differing ideological fights for hegemony ... Power is discursively exerted not only by grammatical forms, but also by a person's control of a social situation by means of the genre of a text, or the regulation of access to certain public spheres. (Reisigl & Wodak, as cited in Wodak & Meyer, 2012, p. 89)

The methods of Critical Discourse Analysis and Corpus Linguistics are combined in order to establish patterns within the ICI's discourses on MoC, and to critically analyse the problematization and construction through policy narratives. Corpus Linguistics is a methodology that can be applied against the backdrop of Critical Discourse Analysis. It uses computer programmes such as concordance software to offer quantitative perspectives of textual data. This makes use of content analysis which can enrich and support what may be termed 'mainstream' Critical Discourse Analysis (Mautner, as cited in Wodak & Meyer, 2012, p. 124). Content analysis involves the frequency and occurrence of certain words or discourse in a particular body of texts. Relative word frequencies and the collocation patterns of adjectives (i.e., the collocation patterns around the adjective 'exploitative') are presented in graphs to examine significance. Once a pattern is established, critical discourse analysis is applied (van Dijk, 1998; Wodak, 2008; Wodak & Meyer, 2012).

Texts were selected by entering the keywords 'Immigrant Council of Ireland' and 'marriage of convenience' into the Google search engine. Individual and joint policy submissions, reports, press releases and proposals directly concerning the ICI from 2006 to 2016 were selected. Texts containing the keywords, yet not specifically related to the objectives of the study were discarded. The bulk of the material on which this study is based consists of twenty texts comprising four research reports, three public statements, one conference paper, three press releases, one policy paper, and written submissions including three policy submissions, two joint submissions and a

submission to the Seanad public consultations committee. The selected texts address chronologically marked significant phases in Irish NGO policy on marriage, from comments on the Immigration, Residence and Protection Bills, to policy submissions advocating for the inclusion of MOC in anti-trafficking policy and legislative campaigns. The list of primary sources is included in the appendix.

5. Findings: Victim and Perpetrator — Redefining Marriages of Convenience

Despite the different styles of the texts, common themes were identified and findings are discussed under each. Below (Table 1) is a table of actors in the primary texts, which looks at the discursive strategies of nomination, argumentation and intensification as identified by Reisigl and Wodak (2008, p. 93). These have been acknowledged as relevant methodological approaches that allow for the recording and tracing of varying perceptions, selections and distortions of information (i.e., the recontextualization of MoC).

The discursive strategy of the ‘ideological square’ (van Dijk, 1998), was used throughout. This included specific semantic moves known as ‘Positive Self-Presentation and Negative Other-Presentation’ by ‘disclaimers’ (Reisigl & Wodak, 2001; Wodak, 2008). It begins with the labelling of social actors and proceeds to the generalization of negative attributions, and later elaborates arguments to justify the excluding of some actors, while including others. It is not the existence of differences that produce discrimination or racism but the generalization of such differences into negative categories and their attribution to groups that constitute stereotyping. Representing non-EU nationals in a ‘negative’ manner allows for the exclusion of actors in MoC from Irish society while maintaining inequality and justifying restrictive immigration policies (van Dijk, 2009; Wodak, 2008; Wodak & Meyer, 2012). Although this exclusion is not explicitly asserted in policy, the consequences are evident – the exclusion of ‘undesirable’ people by those in elite positions in society.

Device Strategy Reisigl and Wodak (2008)	Devices used	Example	Text(s) where strategy is present
Nomination (Discursive construction of social actors, events and processes)	Membership categorization	EU citizens/ non-nationals; Genuine/ sham marriage Coercive nationals/ vulnerable citizens Victims/Accomplices	(Text 16, Text 18, Text 20)
Argumentation (Arguments employed in the discourse in question)	‘Casual stories’ Strategies of personalisation. Linguistic construction of MoC as a site of potential exploitation and abuse	Anonymised case studies of victims	(Text 1, Text 15, Text 16, Text 18, Text 20)
Intensification (Modifying intensifying or mitigating the illocutionary force)	Recontextualization	Presentation of actors involved in MoC in the rights-based context, marked by a shift in linguistic construction of actors and relocation of MoC in a risk-based context. Shift from fictitious marriages (Text 1) to fraudulent marriages (Text 4) Depicting citizen/female passivity and agency – transition from victims to accomplices and facilitators of illegal immigration.	(Texts 10-13/ Texts 15-20)

Table 1: The Linguistic Representation of Policy Actors

5.1. Theme 1: Representing ‘Citizens’ and ‘Nationals’ involved in MoC

The ICI’s arguments within policy submissions and reports are re-contextualized in a genre-adequate way through the use of salient linguistic elements. Through processes of decontextualization and re-contextualization, arguments can be taken out of context and ‘citizens’ and ‘nationals’ acquire new meanings because meanings are formed in use.

In 2009, the Kelleher Report was one of three significant pieces of research conducted as part of the national action plan on trafficking (DJLER, 2009)⁵ and became the basis for the anti-trafficking campaign led by the ICI. This text provides the background to the ICI’s stance on marriage in the context of trafficking and was pivotal to later arguments made by the ICI in advocating more restrictive measures on MoC. The ICI refers to ‘citizens’ (Text 1) as a legal status in reference to the current legal framework and relevant legislation (Text 1, Text 2, Text 3).

Overlexicalisation (using many words for the same phenomenon) and naturalising metaphors (figures of speech containing implied comparison) occur when citizens are categorised as rights-bearers. This replicates the representation of citizens and nationals in the European project and sees the consistent questioning of the legitimacy of non-EU nationals as ‘coercive’ and exploiting EU citizens’ ‘vulnerability’ (Text 16, Text 18, Text 20). In the ICI’s national report on ESM (Text 20), ‘citizens’ are represented in an entirely different context; the report describes how the movement of “citizens within the EU is in essence its lifeblood”, creating a sense of inclusion and establishing it as “one of the most profound and enriching aspects of our shared European experience” (Cosgrave et al., 2016, p. 3) (Text 20). It associates actors involved in MoC with the risk of exploitation and abuse, revealing that “traffickers recruit women ... and in some of the more extreme cases, women are coerced into marriages with third-country nationals” (Viuhko et al., 2016b, p. 13) (Text 16). This generalizes non-EU nationals as untrustworthy and lacking validity, placing them in binary opposition to EU nationals and highlights the disjuncture between the earlier work of the ICI which refers to specific social actors (i.e., EU and non-EU nationals) in the rights-based context, marked by a transition to specific discourses on MoC and specific fields of policy action in the risk-based context.

⁵The Kelleher Report was commissioned by the ICI and conducted subsequent to the Criminal Law (Human Trafficking) Act 2008.

5.2. Theme 2: *Questions of ‘Marriages of Convenience’ within changing contexts*

The ICI’s critique of the MoC test (Becker, 2010) (Text 2) stands in contrast to their initial defence of MoC, including their concerns of “whether the proper point of control should be at the granting of residency to already married couples and not at the point of the marriage contract” (Cosgrave et al., 2016, p. 10) (Text 20). In contrast to that, the ICI’s pioneering research focused on deception as a central feature of ‘fictitious marriages’ as a form of trafficking. The report identified ‘deceptive recruitment’ as a feature whereby women were promised an education or recruited through pledges of marriage or a “long-term relationship” (Kelleher et al., 2009, p. 6) (Text 1).

The ICI clarified their stance on MoC in their critique of the ‘marriage of convenience test’ (Becker, 2010) with the introduction of Immigration, Residence and Protection Bill in 2010. In this, concerns were raised that “individual foreign nationals and their spouses may find themselves automatically suspected of entering a marriage of convenience on the basis of statistics” (Becker, 2010) (Text 2). Moreover, the ICI coordinated a comparative European report on barriers to integration and family reunification policies that focused on the ‘fraudulent nature’ of marriage (De Hart et al., 2013). This highlighted “the externalization of the admission procedure and the increasing attention being paid to fraudulent marriages” (De Hart et al., 2013, p. 44) (Text 4).

The ICI’s stance on MoC changed in their joint civil society organisation (CSO) submission to the European Commission in 2015, emphasising that there was no input from CSOs on the identification of victims of human trafficking or the various types of exploitation. Attention was brought to the upcoming EC ISEC funded project, which was “expected to provide clarity in the area of ‘sham’ marriages in the context of human trafficking” (Doras Lumní et al., 2015a, p. 10) (Text 14). Furthermore, the ICI advocated the inclusion of tougher measures to combat ‘sham marriage’, arguing that the effectiveness of legislation could not yet be measured and that there were “no comprehensive measures in Ireland to tackle ‘sham marriage’ in the context of human trafficking involving exploitative sham marriage” (ICI, 2015c, p. 6) (Text 7). Lastly, the concept of ESM is achieved by examining the “changing pattern of marriages of convenience” (Text 18, Text 20), within the remit of forced marriage and expanding on differences between ‘classical’ definitions of MoC with exploitative elements:

the difference between sham marriages that have elements of exploitation and classical marriages of convenience is that the status of the bride shifts from that of perpetrator to

that of victim. The brides may first willingly enter into a marriage but then the conditions change, or they may be lured on false pretences ... and then forced into a marriage. (Viuhko et al., 2016b, p. 26) (Text 16)

5.3. Theme 3: Casual Stories: Illustrating MoC as a form of Strategic Argumentation

In a number of the casual stories (Cosgrave et al., 2016, p. 45; Viuhko et al., 2016b, p. 96), the ‘ideal victim’ serves as an anecdotal means of letting women know that only those who have suffered a certain level of severe exploitation can be deserving of protection status. These casual stories are anonymised, yet highly personal:

Bella had no parents, no family and was raised in an orphanage until she was 18 years of age... She was befriended by a couple who used to visit – she thought they were nice and they offered her a better life and work in Ireland. (Cosgrave et al., 2016, p. 45) (Text 20)

These stories see the classification of social actors through strategies of personalisation (Van Leeuwen, 1996), giving weight to a particular statement and concealing certain issues. This is further seen in strategies of individualisation versus collectivisation where victim’s stories, although anonymised, are individualised, bringing us closer to them and allowing us to feel empathy with individual cases that represent collective issues. The use of ‘casual stories’ is seen in the ICI’s reports on the trafficking (Text 1), and later in the intersection of trafficking and sham marriage (Text 15, Text 16, Text 18, Text 20). These linguistic constructions are intended to convince an audience of the necessity of a political or policy action; they help to identify both the “culprits responsible” and the “virtuous saviours” capable of leading us to high ground (Fischer, 2003, p. 169).

5.4. Theme 4: Constituting the Actor in Marriages of Convenience: Between ‘Victim’ and ‘Accomplice’

This focuses on “potential and suspected victims of trafficking, including victims of exploitative sham marriages” (Cosgrave et al., 2016, p. 8) and on the inclusion of the identification of potential victims of trafficking and ESM (Cosgrave et al., 2016, p. 62) where suspected perpetrators are referred to as a generic group by their country of origin and through specification and genericisation: “The (potential) victims are women originating from EU countries while the majority of the third country nationals involved are men” (Viuhko et al., 2016b, p. 14) (Text 16).

Linguistic strategies of concealment are present in the texts, depicting citizen/female passivity. While the women are the main agents who are attributed relational processes and the stories are about them - the perpetrators are represented through material processes and are suppressed linguistically within the texts through impersonalisation and collectivisation. Through an analysis of transitivity patterns rather than lexical items that connote passivity more overtly, we find a discourse that incorporates participants' (coercive 'nationals'; vulnerable 'citizens') behaviours and values around nationals represented as agents. In the European report (Viuhko et al., 2016b, p. 26) women are attributed material processes – mainly in relation to 'facilitators of illegal immigration' – placing emphasis on 'victim identification' – which is suppressed linguistically from the ICI report (Fairclough, 2003, p. 136).

Methods of (not) representing actors through material processes (Fairclough, 2003) – such as the absence of the representation of women as potential 'perpetrators' – are clear within the European report. This emphasis is on victim identification and raising awareness that a trafficking element may be "hidden behind the crime of facilitation of illegal immigration" (Viuhko et al., 2016b, p. 26). Under challenges for identification, they note how the available intelligence may not be able to "give real insight into whether the bride is an accomplice ... or a victim" (Viuhko et al., 2016b, p. 26) (Text, 16). Adopting a fair-but-firm approach, they note how:

A person may be willing to conclude a sham marriage, but later on s/he will be exploited. In fact, the role of an EU citizen as the spouse (primarily women) may change from that of a perpetrator [...] to that of a victim. (Viuhko et al., 2016b, p. 19) (Text 16)

The presence of negotiations between seemingly competing discourses enjoys a double construction of victimhood within MoC. On the one hand, there is the voiceless and fragile 'ideal victim' (Christie, 1986) in traditional anti-trafficking discourse (Text 1, Text 12, Text 18, Text 20), and on the other, the more dynamic and unbound construction that sees the victim as an 'accomplice' perpetuating the risk of irregular migration in Europe which must be managed and 'regulated' (Cosgrave, 2016) (Text 17, Text 16, Text 19).

6. Conclusion

This paper reveals how MoC are represented in terms of efforts to control migration and identify the discursive strategies and argumentative practices at the centre of the policy process.

Furthermore, this study was able to unveil power dynamics on a broader level, e.g. the blurred lines between deliberation and argumentation through how “people – including opponents – reach mutually justifiable decisions” (Kopperschmidt, 2000, p. 9). Significantly, it considers the use of discursive devices as a form of strategic argumentation in the representation of actors involved in MoC in the discursive production of policy agenda on MoC. These include: (1) the discourse around the ICI’s policy narratives regarding MoC and (2) the specific strategies devised by NGOs in redefining and relocating MoC in a different narrative.

Within the ICI’s texts, competing ideologies coexist within the discourse, despite the apparent uniformity of NGO consensus. Discourses can frame certain problems by distinguishing “some aspects of a situation rather than others” (Hajer, 1993, p. 45). In doing so, they define paths of action that contain in their problem-statements certain kinds of solutions. This is seen in the paradoxical relationship between the two subjectivities produced by ICI policy on ESM; on the one hand - the victim disadvantaged and abused and on the other hand, the migrant taking advantage of and abusing EU law.

The ICI’s perspectives on MoC, marriage migration and trafficking have been hard to contextualise due to the range of self-contradictory stances and self-contradictory arguments between 2006 and 2016. The ICI has brought issues around the absence of provisions for family reunification policy and marriage fraud as an obstacle to family reunification to the fore. During this time, the ICI virtually ignored related research in the field of migration and trafficking in Ireland (Ward & Wylie, 2014).

With regards the exploitative sham marriage, competing discourses of victimhood can also be understood as mutually constitutive. The analysis of texts confirms, on the one hand, a struggle within the ICI’s value system where a humanitarian counter-discourse is in evidence (Text 4). On the other hand, there is the reconciling of two different discursive regimes and the endorsing of them as logically related and mutually reinforcing which allows the humanitarian discourse to be adopted by the state and NGOs. In the texts, policies promoting migrant rights, family reunification and prohibiting all forms of racial discrimination co-exist alongside policies that discriminate against non-EU citizens. Such discrimination has tended to be ignored as this has become institutionalised in the Irish state and within mainstream politics.

Finally, there is the consistent representation of restrictive legislative and policy measures surrounding marriages of convenience as a necessary feature of immigration policy (ICI, 2015c). The consistent invoking of trafficking within the debate suggests it is a straightforward and obvious issue that does not warrant consultation obscuring the fact that it is a controversial issue. As the nexus between exploitative sham marriage and trafficking is frequently naturalized, as opposed to allowing critical discussions about it, reality is presented, not as the outcome of social practices that ought to be questioned, but as ‘the way things are’, resulting from particular actions and serving particular interests.

As this is a small-scale study, the strength of conclusions is limited. Critical linguistics sheds light on the discursive aspects of societal disparities and inequalities (Wodak & Meyer, 2012); however, this cannot provide an insight into the lived experience of binational couples that are directly affected by regulatory discourse on MoC and marriage migrants. This study identifies marriage migration as an area that is under-studied and in need of further research urgently (Charsley & Benson, 2012). Despite marriage migration being one of the most predominant forms of migration, little empirical research on this topic is available and analyses have been based on differing and narrow conceptualizations of marriage migration. One such issue is the lack of available statistics on the extent and nature of marriage migration in Ireland (Joyce, 2012, p. 36). This trend has been noted across Europe in the wake of a growing body of literature addressing marriage migration (Charsley & Benson, 2012; De Hart, 2017).

Appendix: Primary Sources

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