

Report of PICUM's Workshop

# “Violence and Exploitation of Undocumented Migrant Women: Building Strategies to End Impunity”

Brussels, 25 June 2010



PLATFORM FOR INTERNATIONAL COOPERATION ON UNDOCUMENTED MIGRANTS

**PICUM, the Platform for International Cooperation on Undocumented Migrants**, held a workshop in Brussels, Belgium on 25 June 2010 to discuss current challenges, opportunities and trends regarding the protection of undocumented women's rights in Europe.

The difficulty facing migrant women to gain a legal status in Europe independent of an employer or spouse serves as a major source of disempowerment. Those exposed to violence or exploitation are highly susceptible to becoming undocumented, a position in which they face significant legal and practical barriers to access social services, report to the authorities and seek protection from women's shelters or labour unions.

Despite these obstacles, however, migrant women have become active agents within civil society, and participated in the development of strategies which have enabled support, empowerment and justice.

Taking action against the policies and practices that tend to push undocumented female migrants into the margins and limit their autonomy, PICUM gathered a wide selection of grassroots, migrant-led and policy level organisations from across Europe to share experiences and strategies which facilitate undocumented women's access to justice and empowerment.

Conducted in the frame of PICUM's undocumented women's strategy, this thematic workshop brought a diverse and rich participation of migrant women and their advocates from across Europe.

March 2011

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## Opening Remarks



**Don Flynn**, Chair of the **Platform for International Cooperation on Undocumented Migrants (PICUM)**, opened the PICUM workshop “Violence and Exploitation of Undocumented Migrant Women: Building Strategies to End Impunity,” and

welcomed participants. Noting how previous PICUM projects had identified a number of problems arising at the nexus of gender and migration, he welcomed the opportunity to review themes and actions in various countries dealing with gender and migration issues, identifying good practices that could be transferred for use elsewhere. Mr. Flynn observed that the participants of PICUM workshops consistently brought a level of experience and expertise equivalent to that of the speakers, thus enabling particularly productive workshop sessions.



**Michele LeVoy**, Director of **PICUM**, gave an overview of the workshop. Ms. LeVoy began by providing a short introduction to PICUM, and its current focus on undocumented migrant women. A European network of mainly grassroots organisations,

PICUM represents more than 120 affiliated member organisations located throughout the member states of the European Union (EU) and beyond. This membership identifies the thematic areas which PICUM focuses on, for example health care, children, fair working conditions and families. In recent years, members have asked PICUM to prioritise the situation facing undocumented migrant women in the EU, as they were witnessing daily violations of these women’s rights. Therefore, in November 2008, PICUM embarked upon a three-year strategy on

undocumented migrant women supported by a grant from the Sigrid Rausing Trust and partly co-funded by the European Commission.

This strategy considers three main areas. The first is **access to health care** for undocumented women. PICUM has already addressed undocumented migrants’ access to health services, as have other organisations such as Médecins du Monde. Therefore PICUM’s strategy primarily addresses health care issues of particular concern to women, such as access to sexual health rights and reproductive health services. The second main focus is **fair working conditions**. Inevitably, this leads to a consideration of the situation of domestic workers, but PICUM also looks at other employment areas such as agricultural, industrial and hospitality sectors. The third main area is a new focus for PICUM, and seeks to address what kind of protection undocumented women can obtain if they have been subject to **gender-based violence** either from spouses, partners, family members or else on the streets. This area will consider critical questions such as whether undocumented women suffering such violence have practical recourse to seek help from the police and judiciary.

This workshop built upon previous outputs. Earlier in the year, PICUM had published a leaflet describing the project’s priorities and outlining some of the main challenges facing undocumented migrant women in Europe. The leaflet was translated and distributed in the seven languages of PICUM’s newsletter (English, French, Spanish, German, Italian, Portuguese and Dutch), as well as Arabic and Russian. In November 2009, PICUM and United Methodist Women organised a global workshop during the “Peoples’ Global Action on Migration, Development and Human Rights” in Athens, Greece, enabling a rich discussion with advocates and migrant women from around the world, to address exploitation in the workplace.

As part of this strategy, PICUM Programme Officer Eve Geddie is conducting field visits in Europe to gather concerns and good practices, and to strengthen relationships with organisations working to advance the rights of undocumented migrant women. Visits have taken place in Cyprus, Ireland, Portugal and Switzerland, where PICUM anticipated finding examples of good practices. Ms. LeVoy invited workshop participants to propose other countries for PICUM to visit, with a goal of carrying out approximately eight or nine further visits. The research would officially finish in 2011, but in a real sense it would continue indefinitely, as PICUM built its results into ongoing advocacy and awareness raising activities.

This workshop assembled evidence about the situation of undocumented migrant women and enabled participants to exchange ideas and strategies about activities which yield concrete and beneficial results. Ms. LeVoy gratefully thanked the main funders of this gender strategy, the Sigrid Rausing Trust and the Daphne III program of DG Justice. In closing, she observed that undocumented women are often spoken of as particularly vulnerable, a term which is somewhat misleading, as the majority of these women are very strong and brave due to the difficult situations they deal with on a daily basis. She asked participants to recognise these women, and those providing them support, who risk being marginalised or even criminalised for their efforts.

## Keynote Speakers – Plenary Session

### “Civil Society and State-level Approaches to Addressing Violence Against Undocumented Migrant Women”



**Santiago Morán Medina**, of the **Spanish Government Delegation on Gender-Based Violence** spoke about state led initiatives to tackle gender violence against foreign women in Spain. He noted the importance of governments and NGOs working together,

as it is often difficult for civil servants to know the situation on the ground and the impact that certain policies may have.

In his presentation, Mr Morán provided an overview of the rights of undocumented women subject to gender based violence under three legislative frameworks existing in Spain:

- i. Specific rights of female victims of gender-based violence;
- ii. General rights of victims of crime;
- iii. Specific rights of *foreign* women victims of gender-based violence.

According to Mr. Morán, the Gender Based Violence Act (2004) is central to Spain’s protection system for women subject to violence.<sup>1</sup> Article 17 of the Act recognises universal rights for all women who have suffered gender violence, regardless of origin

or social status. Research had found that reports of abuse by foreign women was twice the rate of those by Spanish nationals and constituted 30% of the total deaths caused by gender-based violence in Spain, despite the fact that only 11% of Spain’s total population is foreign.

#### **Organic Act 1/2004 of 28 December on Integrated Protection Measures against Gender Violence.<sup>2</sup>**

All women suffering gender violence, regardless of their origin, religion or any other personal or social condition or particular, are guaranteed the rights recognised herein.

##### *Article 17(1)*

In implementing the actions prescribed herein, particular attention shall be given to the situation of women whose personal and/or social circumstances put them at greater risk of suffering gender violence, or may hinder their take-up of the services envisaged herein. This definition may extend to women belonging to minorities, immigrants and those suffering social exclusion or disability.

##### *Article 32(4)*

Mr. Morán stated that, due to this disproportionate level of violence, the Ministry of Equality enacted a three-year violence prevention plan targeted at Spain’s migrant population in 2009. This plan contains five main stages:

<sup>1</sup> Ley Orgánica 1/2004, de Medidas de Protección Integral contra la Violencia de Género, 28 de diciembre

<sup>2</sup> Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género, available in English at: <http://www.coe.int/t/dghl/standardsetting/violence/Organic%20Act%20on%20Violence.pdf>

## “Plan to Treat and Prevent Gender-Based Violence Among Spain’s Immigrant Population” (2009 – 2012)<sup>3</sup>

1. *Information:* The Ministry aims to establish information channels for the foreign population by providing information leaflets as well as practical assistance in multiple languages.
2. *Training:* Those assisting migrants are offered training on issues related to gender-based violence provided by the Ministry.
3. *Awareness:* The Ministry is working to bring state institutions closer to the foreign population by organising awareness campaigns for migrants regarding the functions and means to access government services.
4. *Targeted Assistance:* Providing concrete assistance which is specifically adapted to the circumstances of foreign women subject to gender-violence, the Ministry is working to bring key resources to this group closer to Spain’s migrant population.
5. *Structural Measures:* The Ministry is working to develop resources to implement this plan by creating structured spaces for information exchange between migrant women and those national bodies and groups focusing on gender violence.

Spanish legislation has established a core set of rights for those subject to gender-based violence including the right to information, the right to comprehensive social assistance, the right to immediate legal assistance as well as the right to free

legal aid. As part of this prevention plan, the government also established a 24-hour telephone hotline to provide victims of violence with free information. The confidential ‘016’ hotline offers information and assistance in 51 languages and has been used by many migrant women residing in Spain.<sup>4</sup>

**“All women subject to gender-based violence in Spain are granted specific rights under the law regardless of their status. These include: the right to comprehensive social assistance, the right to immediate legal assistance, and the right to free legal aid. Further information is available on the website of the Ministry of Health, Social Policy and Equality, at [www.migualdad.es](http://www.migualdad.es).”<sup>5</sup>**

SANTIAGO MORÁN, SPANISH GOVERNMENT  
DELEGATION ON GENDER-BASED VIOLENCE

Mr Morán outlined the activities of the Spanish Ministry of Equality regarding the promotion of migrant women’s employment and social security rights as a key means to prevent and respond to gender-based violence in the immigrant population. The Ministry seeks to address the exemption of migrant women from the national employment system and improve the situation of those already in the workplace. In Spain, regularly residing migrant women have the right to change employer and to temporarily suspend their employment contract. Absence from work – including maternity leave – could not be considered a breach of contract and furthermore, any dismissal or termination by the employer due

3 Plan de Atención y Prevención de la Violencia de Género en Población Extranjera Inmigrante” 2009-2012. More information available in English, French and Spanish at: [http://www.migualdad.es/ss/Satellite?c=Page&cid=1193050058286&language=cas\\_ES&pagename=MinisterioIgualdad%2FPage%2FMIGU\\_contenidoFinal](http://www.migualdad.es/ss/Satellite?c=Page&cid=1193050058286&language=cas_ES&pagename=MinisterioIgualdad%2FPage%2FMIGU_contenidoFinal)

4 Of these 51 languages, 13 are available round the clock, 365 days a year.

5 Multilingual brochures on the rights of migrant women subject to violence in Spain are available at: [http://www.migualdad.es/ss/Satellite?c=Page&cid=1193047406938&language=cas\\_ES&pagename=MinisterioIgualdad%2FPage%2FMIGU\\_contenidoFinal](http://www.migualdad.es/ss/Satellite?c=Page&cid=1193047406938&language=cas_ES&pagename=MinisterioIgualdad%2FPage%2FMIGU_contenidoFinal)

to such absence was considered null and void. Mr Morán stated that foreign women legally residing in Spain without a work permit are permitted to access training and employment if they experience gender-based violence while those on a spouse-dependent visa are granted the right to obtain an independent residence and work permit.<sup>6</sup> Between 2006 and 2009, 121 foreign women and 588 Spanish women accessed specific financial aid for women experiencing domestic violence.

Undocumented migrant women may also access general rights established for victims of crime in Spain. This body of rights include the right to report to the authorities; right to be a party to criminal proceedings; right to reparation for harm caused and compensation for damages suffered; right to protection of the victim's dignity and privacy within the framework of proceedings related to gender violence; and also, the right to access financial aid, integrated social assistance and free legal counsel. Of particular importance within this framework is the right for a court order providing legal protection. This order grants a series of rights, and is the first step to access all protection available from the Spanish government.

For instance, irregular women who are victims of gender based violence and have obtained a court order providing legal protection may also receive a residence and work permit. Penalties relating to irregular residence will be suspended until criminal proceedings are resolved. Mr. Morán presented statistics showing that the numbers of temporary residence permits granted for exceptional humanitarian reasons to foreign victims of gender-based violence in Spain had increased from 110 in 2006, to 619 in 2009, and a significant number of these women were from Latin America.

**“Spanish law grants specific rights for undocumented women who experience gender-based violence. Foreign women in an irregular situation in Spain who are victims of gender violence may apply for a residence and work permit. Penalties relating to irregular residence in Spanish territory will be automatically suspended until the resolution of the criminal proceedings.”**

SANTIAGO MORAN, SPANISH GOVERNMENT  
DELEGATION ON GENDER-BASED VIOLENCE

Mr. Morán concluded by noting that the right of asylum for foreign women who are victims of gender-based violence includes non-implementation of deportation or expulsion orders. This legislation marks an attempt by the Spanish government to make refugee status available to women who experience gender based violence.<sup>7</sup>



**Daniel Izuzquiza, General Coordinator of Pueblos Unidos, followed by providing an NGO perspective on the protections afforded to undocumented migrant women subject to gender-based violence in Spain.**

Based in Madrid, Pueblos Unidos has been member of PICUM since 2004 and has significant insight into the situation facing undocumented migrants across Spain. Mr. Izuzquiza's presentation concentrated on three main points:

<sup>6</sup> Social Security order TAS/3698 dated December 22nd, 2006, regulating the registration of foreign workers from outside the EU on the public employment services and at placement agencies states “Foreign women legally present in Spain who are victims of gender violence and do not have a work permit can obtain information at the Employment Office of the Public Employment Service corresponding to their location on their rights to be registered as jobseekers and to have access to the training and employment mediation actions, as well as the Active Insertion Income”.

<sup>7</sup> It is important to note that acknowledgement of the refugee status is conditional on the fulfilment of other requirements in addition to the well-founded fears of being persecuted because of gender.

- i. *The legal framework* relating to women, migration and violence with a focus on Spain's general migration law;
- ii. *Looking "beyond the law"* at the daily situation of undocumented women on the ground;
- iii. Offering *some reflections on the advocacy strategies* and arguments used by Spanish NGOs to encourage government action on this important issue.

Beginning with the issue of *legal perspectives*, Mr. Izuzquiza emphasised that Article 31a of the *Spanish Immigration Act of December 2009* indeed specifies that the *Integral Protection Measures Against Gender Violence Act (Organic Law 1/2004 of 28 December)* applies to all women in Spain regardless of their immigration status.<sup>8</sup> Under that article, a woman who applies for a protective order enters a provisional process in which she may receive a temporary residence permit. If her aggressor is condemned, the permit will become a regular one enabling her to legally live and work in Spain. If the aggressor is not condemned, then the woman will regain her undocumented status and any expulsion order will be reinstated. Mr Izuzquiza noted however that if an undocumented woman reports an attack, a deportation file is automatically opened albeit temporarily suspended. So, it is

recommended that women report directly to a judge and not to the police.

Mr. Izuzquiza explained that Article 59 of the Spanish Immigration Act, which addresses human trafficking, provides a 'reflection period' for those who denounce trafficking networks, and that undocumented migrants being held in detention centres may also avail of this 'reflection period' if denouncing traffickers. However, there was relatively little experience with this law as it only became effective in January 2010 and a high level of ambiguity remained. On the one hand, the procedure can only start if the migrant denounces their trafficker within 30 days following their arrest and detention. However, the bureaucratic procedure can take much longer to clarify those who avail of it, sometimes four to six months, and it is currently unclear what measures will be taken to provide protection during that time.



<sup>8</sup> Spanish Immigration Act 2009, Article 31a (added by Organic Law 2/2009), available online in Spanish at <http://www.mir.es/SGACAVT/derecho/lo/lo04-2000.html> and in English at <http://spanishimmigrationact.blogspot.com/>



In finalising the legal segment of his presentation, Mr Izuzquiza highlighted other clauses of the Immigration Act which were particularly relevant to undocumented migrant women. Namely, the right to *padrón*, or registration at the local administration, (pre. 7 & Article 6), the right to education (Art. 9.4), the right to public housing (Art. 13), the right to family reunification (Art. 17), the right to employment (Art. 40(1j)).

From January to May 2010, there were only four cases in which migrant women reported traffickers under Article 59. Three received no answer while one was denied. Two of the women were deported, two were freed. The reflection period exists to allow trafficked people to decide whether or not to denounce their aggressor but of course, it was essential that they were in a safe environment during this period.

In June 2010, Spain's Popular Party (Partido Popular) proposed reform to Articles 31 and 59 so that deportation procedures could only start if the denunciation was shown to be false.<sup>9</sup> Mr. Izuzquiza stated this is clearly a good measure which NGOs had been lobbying for.

Mr. Izuzquiza took up his second point which looked beyond the law and focused on the *daily situation of undocumented migrant subject to violence in Spain*. He discussed the issue of structural violence, meaning not only specific acts, but more widely speaking, economic and social violence.

**“Migrant women in Spain can be subjected to triple discrimination: as women, as workers, and as migrants. Physical violence is often preceded by more widely spread structural violence which increases its real effects. Therefore, it is insufficient to focus only on physical or visible signs of violence.”**

DANIEL IZUZQUIZA, PUEBLOS UNIDOS

Because many migrant women are employed as domestic workers within private households, they may experience workplace violence in the domestic setting at the hands of their employers. Mr. Izuzquiza reported that about 60% of domestic workers in Spain are undocumented. The disparities in Spain's special social security regime highlighted such examples of structural violence. For instance, the rule stating that a woman may not be fired during pregnancy does not apply to domestic workers, thus denying a number of migrant women this protection.

Harassment within the home, which for a domestic worker is also a place of employment, constitutes a dual form of 'domestic' and 'workplace' violence. Mr. Izuzquiza highlighted research conducted in 2007 in the Spanish city of Valladolid. Of the 132 migrant women interviewed, 17% reported harassment in their job and 95% of these were at the hands of their boss. As a result, 11 women felt compelled to leave their job with ten of these suffering symptoms of Post Traumatic Stress Disorder (PTSD).

<sup>9</sup> Boletín Oficial del Congreso de los Diputados, núm. 257-1, de 11 de junio de 2010. Proposición de Ley presentada por el Grupo Parlamentario Popular “The amendments made to Articles 31 and 59 of the Spanish Immigration Act are not intended to initiate disciplinary proceedings and punish victims of domestic violence or trafficking that are irregularly residing in the country and who filed a complaint against an abusive or exploitative person.” Available online at [www.congreso.es/public\\_oficiales/L9/CONG/BOCG/B/B\\_257-01.PDF](http://www.congreso.es/public_oficiales/L9/CONG/BOCG/B/B_257-01.PDF)

Mr. Izuzquiza closed with some reflections on *advocacy* noting he had been asked by PICUM to share the strategies used by Spanish civil society to bring about the existing protections for undocumented women. He noted that for an advocacy position to be effective, it must be *evidence based* - stemming from experience gained in practice or specific research; have the support of a *social movement* and involve networking; and, finally, it must involve *lobbying*.

The 2009 legislative developments were disappointing; while the politicians listened to the arguments regarding migrants' rights, they did not follow through with actions and Mr. Izuzquiza was not certain whether this was due to a weak social movement, or other political motives. It seemed the Spanish government made gender based violence a clear political priority, which has led to significant advances, but there has not been as much progress on undocumented migrants *per se*.



**Violaine Husson**, Regional Coordinator of Women's Activities at **La Cimade Ile de France**, continued by reviewing the situation of undocumented migrant women subject to gender-based violence in France or in their country of origin. La Cimade

is one of the largest organisations working with undocumented migrants in France, and has a long history of work in detention centres. The organisation has created permanent sessions for migrant women who are fleeing domestic violence and other forms of gender based violence in the Paris metropolitan area.

After five years of operating this service, La Cimade observed the significant 'institutional violence' which prevents migrant women from accessing basic rights and justice. Due to the laws and policies existing in France, migrant women's experiences of gender-based violence are significantly harsher than those of French citizens. Consequently in February 2010, La Cimade launched "Ni Une, Ni Deux", an awareness raising and advocacy campaign to significantly improve the legislation and practices of the French state towards migrant women who experience violence.

**"The fear experienced by these women to make contact with the police is very real as an undocumented status is the most common factor that French police take into account in their dealings with migrants."**

VIOLAINE HUSSON, LA CIMADE

Ms. Husson highlighted the implications for undocumented women to report violence at a police station. While criminal law in France allows anyone to lodge a complaint, foreign women often face an additional fear that they may lose their status. Furthermore, if the individual making the claim is undocumented, the police will immediately become aware of their whereabouts. According to Ms Husson, undocumented women are vulnerable to arrest, detention and deportation if they make contact with the police in France, even in cases where they are the victim of a crime or assault and despite the fact that French law clearly states that complaints may be lodged regardless of immigration status or nationality.

Women with a one-year residence permit may also be reluctant to report violence, for fear of losing their permit. If a foreign citizen has a residence permit on the basis of marriage to a French citizen, they obtain a one-year permit which has to be renewed annually. If the couple are no longer living together, a public official has the full discretion to decide whether or not to renew the foreign partner's permit.

In the case of divorce, a complaint must be lodged by the victim against their abusive spouse, followed by a trial in which the abuser is found guilty. Only in this case may the victim obtain permission to remain in France and live separately from the abusive partner. From 2004, the public administration enabled those subject to spousal violence to renew their permit independently of their partner upon presentation of a medical certificate and proof of complaint. However, since mid-2009, the administration began to request a 'fault-based' divorce as well as a penal condemnation in order to renew a one year permit on grounds of gender-based violence.<sup>10</sup> Ms Husson emphasised the overwhelming time, cost, administrative and practical barriers preventing victims from meeting these requirements, and questioned the disparaging and arbitrary approach of the public administration to this issue.

Consequently, it was very difficult for an undocumented woman who suffered violence in France to leave home and seek help. Ms. Husson observed that in many respects it would be beneficial for France to emulate Spanish law regarding gender based violence.

While French law permits victims of domestic slavery or trafficking to lodge a complaint in a police station, even then the victim is not guaranteed a residence permit. In Ms. Husson's experience, France has no protection system appropriate to the needs of these women. In 2009, only twelve women approached La Cimade to seek assistance in such cases. This has a lot to do with the fact that there is no adequate system in place to protect family in the country of origin and no cooperation between police services to protect victims of human trafficking.

Housing was also a significant problem, particularly because social services for those who leave their home because of a violent situation are poorly coordinated. Some positive steps had been taken, such as the establishment of a telephone hotline "115" for those who need to obtain emergency housing. Notably, the public is not aware of this situation or its repercussions on migrant women and Ms. Husson underlined the need for increased awareness raising in order to put pressure on elected officials.

**"While some centres have been established in France to receive foreign women forced to leave home due to partner violence, capacity is extremely limited. As a result, many are forced to sleep in bus stations or telephone booths because they can not be accommodated."**

VIOLAINE HUSSON, LA CIMADE

<sup>10</sup> These requests are not mentioned in the law, but indicate the discretionary power of the French public administration responsible for family reunification visas.

La Cimade's campaign "Ni Une, Ni Deux" aims to address this situation by encouraging the government to introduce legislative and procedural reforms. Informing different actors working with undocumented women victims of violence is another objective as, for instance, most of France's social workers are not aware of undocumented women's rights and do not apply the existing law. Ms Husson introduced two actions conducted by the campaign to increase awareness among the French population regarding the lack of protection afforded to foreign women experiencing violence and also, develop a nationwide network of concerned individuals to disseminate information and engage in lobbying activities.<sup>11</sup>

Sensitisation proved a difficult task because many nationals seemed indifferent about the lack of protection for these women. La Cimade conducted a simple exercise to show the extent of the problem, contacting 75 police stations in France to test their treatment of irregular migrant women reporting violence. They found that 38% of police stations would take the woman in for questioning while 5% maintained that she would not be allowed to make a complaint.<sup>12</sup> Consequently, less than half of the police stations contacted respected France's penal code of procedure and jurisprudence on gender based violence. Following these findings, La Cimade held a public event in the centre of Paris to denounce the failures of the police and promote the application of the law.

**"When asked if an undocumented woman beaten by her partner could lodge a complaint, 38% of the 75 police stations we surveyed in France indicated that the woman would be taken in for questioning because of her irregular status, and a further 5% said she would not be permitted to make a complaint. Twelve percent were unable to respond."**

VIOLAINE HUSSON, LA CIMADE

Ms Husson noted that La Cimade took an innovative approach to networking in this campaign. They invited people to become "virtual demonstrators" and express their discontent with France's policies on the internet. A total of 13,400 people subscribed to show their support, disseminate information, and organise actions. During the parliamentary debate on the legislation protecting victims of violence, demonstrators met at the National Assembly and several hundred more wrote to their representative to defend amendments which would improve support measures for foreign female victims of violence.

There was interest in France to emulate the non-discriminatory Spanish legislation regarding female victims of violence and efforts were under way to

<sup>11</sup> More information on this campaign, including actions, testimonies and audio as well as video footage is available at: <http://www.cimade.org/niunenideux>

<sup>12</sup> La Cimade, «Testing : Plus d'un commissariat sur trois ne protège pas les femmes étrangères victimes de violences» available online at : [http://www.cimade.org/minisites/niunenideux/rubriques/130-L-actu-de-la-campagne?page\\_id=2280](http://www.cimade.org/minisites/niunenideux/rubriques/130-L-actu-de-la-campagne?page_id=2280)

replicate protection measure whereby women could go directly to a judge to report violence as an alternative to contacting the police.<sup>13</sup> One disadvantage however was that in France, the Immigration and National Identity Ministry currently deals with this issue, while in Spain, it was an initiative of those responsible for gender equality.

Ms. Husson concluded by discussing the impact of La Cimade's campaign. Over 14,000 demonstrators had participated in these initiatives enabling La Cimade to carry out actions in cooperation with members of the French Parliament and Senate. The campaign also led to the development of networks, which are now trying to work together to ensure health care and follow-up for migrant women subject to violence. The campaign also made the general public aware of what migrant women go through in their daily life, something which should aid in the development of a law dealing with violence against migrant women and allow La Cimade to organise a solid advocacy agenda in cooperation with the Parliament, Senate and other actors. In addition to trying to influence the development of new legislation, La Cimade circulated 12,000 leaflets giving examples of how to better implement existing law. These leaflets were distributed to a variety of organisations and institutions including the police and remain available to download from La Cimade's website.<sup>14</sup>



**Virginia Wangare Greiner**, Chair of the **European Network of Migrant Women (ENoMW)**, and *Executive Director of Maisha e.V. African women in Germany* described the ENoMW as the first European wide network of migrant women and also discussed

the situation facing undocumented women in Germany where she also works as a social worker in Maisha, an organisation which she co-founded in 1996.

Maisha operates a counselling centre in Frankfurt, Germany, where Ms Greiner has seen many women become undocumented through a number of different routes. Most undocumented women in Germany have at one time held residence papers. For example, some were unsuccessful in the asylum process but fear returning to their countries of origin. Others are resident through marriage but urgently need to leave their abusive husbands; many within this latter category do not even go to a shelter to seek help, because when they leave their husband they are sent a letter from the government informing them of the loss of their residence rights.

Under German law, there is no permanent residence visa for foreigners. Thus, it is possible for someone to live for many years, or even decades, in Germany but to lose residence status if, for example, they

13 Since 10 July 2010, France has new legislation which draws somewhat on the Spanish example. Accordingly, judges may grant emergency protection to migrant women subject to domestic violence. If the woman is undocumented, the judge has the power to grant an initial permit, or renew an existing one, without relying on the administration. For changes regarding stay permits for partners of French nationals see "Nouvelle rédaction de l'article L. 313-12 du CESEDA (code de l'entrée et du séjour des étrangers et du droit d'asile), and for changes on permits for partners and family of foreigners see "Nouvelle rédaction de l'article L. 431-2 du CESEDA".

14 Available for download in French on La Cimade's website at: [http://www.cimade.org/minisites/niunenideux/rubriques/120-pour-mieux-comprendre?page\\_id=2468](http://www.cimade.org/minisites/niunenideux/rubriques/120-pour-mieux-comprendre?page_id=2468)

return home for six months either to care for an ill relative or fall ill themselves and are unable to return in time. Immigration status can also be jeopardised through loss of documents. Failure to adequately inform migrants of their rights and responsibilities in Germany places many in a vulnerable situation and increases the routes to irregularity.

**“One migrant woman had been in Germany for thirty years and was denounced by her former employer, whom she had left because he was not paying her for her work. Maisha are assisting her to plan her return, but it is traumatic as she is ill and does not have family support, medical support or a social network in her country of origin. She left as a young woman and returns as a pensioner with no social welfare support.”**

VIRGINIA WANGARE GREINER, MAISHA AND ENOMW

Ms. Greiner noted that a variety of *exploitative* networks impact upon undocumented migrant women in their daily lives. Ms. Greiner pointed out that they can and do denounce undocumented migrants, making it very hard for the affected women to resist them.

*Trafficking networks* can apply cruel treatment to migrants and their families. A number of exploitative networks in Europe operated in the sex industry as well as domestic work. These types of networks directly affect many migrant women, and a significant number of people in Europe profit from this exploitation. However, some networks can also be

positive, as *community networks* frequently provide for the basic needs of migrant women, and can often be their only source for essential elements such as food and shelter.

She shared the case of one migrant woman who had been residing in Europe for 30 years before being denounced when she went to the health service due to high blood pressure. The denunciation was made by a former employer whom she had left for non-payment. While legal provisions exist to appeal against removal in such cases, called *Hartefälle* (hardship cases), the burden is on the woman to prove the hardship, which is often very difficult due to trauma and disadvantaged circumstances.

**“Another case involved a young migrant woman who had lived with her German husband for almost two years in his small village. She became undocumented when, unable to find work in the vicinity, she found a job in the city and returned home on weekends. When the police came to the house in the village on a routine check to ensure she was living with her husband, the marriage was considered a marriage of convenience and she has been asked to leave the country. Her case is still pending. Her difficulty was that for two years she was supposed to be under one roof with her husband in Germany, an issue neither she nor her husband were aware could affect her status.”**

VIRGINIA WANGARE GREINER, MAISHA AND ENOMW

To combat such injustices, Ms. Greiner and several other migrant women from across Europe took the initiative to form an independent network of migrant women to address the needs of migrant women in Europe. The European Network of Migrant Women (**EnoMW**) has been active at the level of advocacy for some time and has already marked several successes at the national and European level.



Funding and network support are crucial for these efforts, particularly because NGOs themselves are vulnerable, operating at the edge of the law in their efforts to help undocumented women. These undocumented women are vulnerable as they are not legally tied into the system and they are not seen as anyone's responsibility except, when it comes to their deportation.

**“In Germany, the NGO Maisha together with the City of Frankfurt developed ideas for supporting migrant women and their families. One such example taken up by the City of Frankfurt enables undocumented migrants to register with Maisha which provides psychological and social advice. Maisha is supported by the Health Authority and other departments to provide a safe space and health and social counselling to undocumented migrant women and their families. A number of services are provided freely and anonymously including pre and post-natal support; accompaniment to the health authorities, hospitals and physicians; advice and information about female genital mutilation; and representation of the health interest of migrants.”**

VIRGINIA WANGARE GREINER, MAISHA AND ENOMW

## Audio Visual Presentation – Plenary Session

### “An Undocumented Migrant Domestic Worker Goes to Labour Court”



**Nele Verbruggen** of the King Baudouin Foundation hosted a ‘questions and answers session’ with **Monica Orjeda** of verikom following an excerpt of the film “Always Wear a Smile: An Undocumented Domestic Worker Goes to Labour Court” which documents the experience of a Peruvian au pair who lost her status and suffered extreme labour exploitation at the hands of her employer in Germany.

Monica Orjeda works for verikom, an organisation that provides a broad range of services, information and advice to regular and irregular migrants in Germany. Three hours a week Ms Orjeda provides assistance on the phone or counselling services to people visiting her in the verikom office in either German or Spanish. In 2009, they handled 40 cases involving undocumented women, assisting and accompanying them through various bureaucratic processes.

The film “Always Wear A Smile...”, shows the story of Ana, one of many undocumented migrants who contacted Ms. Orjeda with regards to exploitative employment. Despite her isolated situation as a domestic worker, a chance meeting with another young Peruvian woman, provided Ana with the first step needed to improve her situation.

#### “Always Wear a Smile: An Undocumented Domestic Worker Goes to Labour Court”

*A film by Anne Frisius in cooperation with Nadja Damm and Mónica Orjeda*

Ana, a Peruvian woman in her twenties, worked as an au-pair in a wealthy district in the city of Hamburg. She had worked for a couple, a doctor and a successful financier. While the family were clearly wealthy, with a large home and a swimming pool, Ana earned only €50 per month for caring for their two children.

This seemed like a considerable amount of money to her, but her day started at 6.30 am and she worked until 9pm, every day so in fact, she earned less than €1 per hour. Furthermore, the children slept in her bedroom meaning that she was responsible for attending to them during the night as well. The family never gave Ana money directly, although they did send some funds to her family in Peru when requested – eventually this amounted to €8,000, a sum deemed exploitative by German legal standards.





A chance meeting with another Latin American woman enabled Ana to get in contact with Verikom to whom she expressed a strong desire to leave the house where she was living and working. Though she lacked residence papers, verikom informed her of her right to claim unpaid wages.

After three years of underpaid domestic work with the family, Ana decided to go before a labour court and claim her unpaid wages. The film “Always Wear A Smile” shows that despite an irregular status, workers can still defend their rights. The film also highlights the vital work of social and organisational support structures which empower undocumented migrant workers.

Ana explained: *“I thought that, without papers, I didn’t stand a chance. It came as a complete surprise when they told me I could claim my rights even though I am an undocumented person. I always thought one can’t do a thing without papers. At first I was very nervous too, but not any more. I’ve become a lot more courageous. Now I say, I am only claiming what’s mine. I don’t expect anyone to give me anything for free. I am only claiming the wages for work I have already done.”*

In Hamburg, this case was supported by various organisations, anti-racist initiatives and the **ver.di** trade union who together with verikom, have built up an outreach centre for undocumented workers in search of advice related to labour law.

For more information on this film, visit: <http://www.kiezfilme.de/smile/index.htm>

A trade union chief affiliated with verikom realised how important Ana’s case was and so the organisation mobilised to support her claim. They calculated she was due €46,000 in unpaid wages for her labour. Unfortunately, the first hearing did not go so well. Ana’s employers claimed they were more like parents to her, and that she never worked for them, but loved their children, enjoying life in their home and participating in family activities. The judge failed to invite Ana to appear at the hearings. At the end of the proceeding, the judge had doubts about whether the case was simply a family conflict, so assigned the case for mediation. Ana and Verikom were dissatisfied with this approach, because the complaint was about a labour issue, not a family conflict.

Once the case was sent to mediation, the family paid Ana €5,000, but this fell far short of the full amount

she was owed. Although the judge also passed the case file to the public prosecutor, the fact that at that time German law imposed a duty on public officials to denounce irregular residents, the first judge’s decision to assign the case to mediation ultimately had a positive outcome. The mediator was an experienced judge who was also a member of the trade union and ensured that the police did not intervene.

Ana received psychological support during the procedure and had the opportunity to confront her employer during the mediation. She was disadvantaged however, by the fact that the entire proceeding was conducted in German. Following the mediation, Ana won one third of the unpaid wages she initially sought. She accepted this settlement on the advice of her lawyer, and because she feared the police might become involved if the proceedings continued.



Unfortunately, despite her unfair treatment and the fact that her employers were responsible for her losing her status Ana had to return to an undocumented life in Germany and continue working irregularly in order to earn money to send to her

children in Peru. Her case demonstrates the complex challenges facing undocumented migrants wishing to regularise their status. Her status still impacts upon many basic areas of her life; for instance, since the case began a relationship and had a baby. During her pregnancy however, she received no standard health services while the social services department, who were unaware of her rights, told her that she must pay all her medical bills and threatened to denounce her to the police.

According to Ms. Orjeda, Ana's case highlights how judges should give more attention to the facts of the case, rather than the migrant's undocumented status. It was after Ana's case that the trade union ver.di took the initiative to create an advice centre for undocumented migrants which is a milestone in Germany as it opens up a safe channel for migrants to become informed and find support to claim their rights. Ana, like many other migrant workers, was not primarily concerned with the money she was owed, but with claiming her rights.

**"In promoting Ana's experience, verikom seeks to motivate other migrants, promote public awareness, and send a clear message to German employers that undocumented workers are not alone."**

MONICA ORJEDA, VERIKOM

Made by an independent group of female filmmakers, the film "Always Wear a Smile" was helping to achieve these aims. Ms Orjeda stated that many more migrants were going to court to claim their rights but at the political and legal level there was still much to be done. For example, migrant women subject to violence are granted a permit during any related legal proceedings but, as they must register with the police and immigration authorities, once the permit expires they have to leave the country. For this reason, many prefer to avoid the courts. To enable migrants to stay if they can find a job, verikom is advocating for the law to be changed,.

Following these presentations, the workshop was divided into two smaller thematic groups. The first focused on strategies for organising undocumented migrant women in the workplace while the second discussed methods to address gender-based violence against undocumented women.

## WORKSHOP 1: Strategies for Organising Undocumented Migrant Women in the Workplace



**Edel McGinley**, project leader on Forced Labour and Irregular Migration with the **Migrant Rights Centre Ireland (MRCI)** acted as moderator for the workshop. She began by highlighting that the issue of organising undocumented women in the workplace does

not occur in a vacuum; it was not just an issue for women but for the trade union movement in general and it should be viewed in the broader context of access to rights.

**Elke Gutiérrez** of **Organisation for Undocumented Migrant Workers (OR.C.A.)** presented their initiative which aims to protect the legal rights and promote the empowerment of undocumented workers in Belgium. She provided an insight into the practical difficulties encountered by OR.C.A. in their project with undocumented domestic workers and also the strategies which have allowed them to reach an increasing number of these workers.

Since 2009, the Brussels based NGO OR.C.A has been focusing on the problems experienced by domestic workers. Most of the undocumented women that OR.C.A. has contact with work either in the domestic or restaurant sector. OR.C.A. offers individual advice through a phone and e-mail help-desk which undocumented workers can contact

with questions relating to employment and specific workplace problems. The most common queries they receive relate to workplace accidents, how to enter legal employment, and assistance in receiving wages from employers. Strategies used by OR.C.A to address these issues include direct negotiations with employers and filing complaints with the work inspection services.

Due to the isolated nature of migrant domestic workers' living and working situation, OR.C.A. faced difficulties to initiate contact with them. Their work is done in private houses and their private life is confined to their own communities which serve as social and information networks. Because of the long hours that they tend to work, their free time is very limited and language often serves as an additional barrier.

OR.C.A. addressed these problems by initiating contact with domestic workers and their community networks. As Sunday is often the only day off for domestic workers, with many Latin American and Filipino communities attending mass on that day, OR.C.A. was able to raise awareness about its work by approaching domestic workers after Sunday mass. By connecting with community networks of domestic workers, OR.C.A. was able to make itself more accessible to them. This has resulted in a significant increase in the numbers of domestic workers who avail of OR.C.A.'s services.

**“Activities are proposed to the domestic workers but they can also suggest activities according to their needs. One example of an activity proposed by domestic workers themselves was the French class, which proved to be more successful than other activities suggested by OR.C.A. This underscores the importance of building a project collectively and developing tools for participative input. It is necessary to listen to and address the immediate needs of domestic workers before finding an openness to talk about other issues such as workplace rights. This is a gradual process and requires patience. The language classes also provided an opportunity to speak about domestic workers’ rights and other relevant issues such as the International Labour Organisation’s (ILO) proposal to develop a Convention on domestic work.”**

ELKE GUTIÉRREZ, OR.C.A.

Ms. Gutiérrez stated that OR.C.A. aims to make recommendations which are acceptable to both employers and employees. The information gathered from the helpdesk and field research allows OR.C.A. to ensure that these policy recommendations are realistic. Being familiar with the situation on the ground and being able to provide statistics strengthens OR.C.A.'s position when dealing with policymakers. For example, OR.C.A. has recently begun to register wage theft reported to them by undocumented workers: from January – June 2010 over €45,000 in unpaid wages was recorded.

Through interviews with public service officials, regional government representatives, employment inspection services and trade union representatives, OR.C.A. remained abreast of legal changes which affect the protections for undocumented workers. The organisation was particularly concerned with ensuring that trade unions addressed the issue of domestic work. Ms. Gutiérrez noted that while the two big trade unions in the Brussels region had a special department for undocumented workers, domestic workers were a particular group with particular needs and there was a need for the unions to tailor their services accordingly. Because of this, it was necessary to continue to raise awareness within the unions and advocate for change.

Undocumented domestic migrant workers have labour rights. If these rights are violated, OR.C.A. assists them in filing a complaint with the Belgian employment inspection service. The complaint may go to court but this is an extremely lengthy process. Alternatively, the inspector can arbitrate between both parties and thus avoid a court case. However, inspectors do not always give much attention to

cases involving undocumented workers because they are very time-consuming and it is difficult to prove employment. In practice, inspectors often send a letter to employers but do not follow up on this first step. OR.C.A. continued to advocate for inspection services to provide better services to undocumented migrant workers and encouraged domestic workers to keep as much proof as possible regarding their employment situation.

**“The success of a filed complaint depends heavily on the case work conducted by the labour inspector. OR.C.A. has had a good experience in a case which involved a domestic worker who had moved from Africa with her employer and had not been paid for three years. The inspector gathered vital information about the case by interviewing neighbours and going to the house to retrieve clothes belonging to the domestic worker. The inspector ultimately organised a meeting between the employer and employee which led to a resolution of the situation.”**

ELKE GUTIÉRREZ, OR.C.A.

**Pablo Rojas Coppari**, project worker on Irregular Migration with the **Migrants Right Centre Ireland** (MRCI) introduced the **Domestic Workers Action Group** (DWAG) which was set up in 2004 as a result of the increasing numbers of domestic workers using MRCI's drop-in centre with work permit and employment-related complaints which the government was not addressing.

DWAG is a Dublin-based initiative with 200 members nationally, mostly migrant women employed in the private home as childminders, carers and cleaners. DWAG seeks to respond to the exploitation and unfair treatment that many domestic workers experience in Ireland by using a community work approach to the work, which aims to empower members to take action and campaign for improved protections and standards and ultimately to bring about positive social change.

Mr. Rojas Coppari explained that many of the women involved in DWAG have to work excessively long hours, sometimes more than 80 hours per week, and are often paid below the legal minimum wage. Some did not have contracts of employment and a number had become undocumented due to the action or inaction (not renewing their work permit) of their employers. The group has also encountered domestic workers who do not receive breaks or time off and are not paid for additional hours worked. Unfair and illegal deductions are sometimes made from their pay.

DWAG has also identified that migrant domestic workers are often disrespected, threatened and treated badly by their employers and fear leaving exploitative situations in case they become homeless and undocumented. Furthermore, they are often unaware of their legal rights and entitlements and do not know where to seek help. Mr. Rojas Coppari added that policies such as binding workers to their employers through the work permit system create an obvious power imbalance, particularly for those who reside with their employers.

DWAG seeks to address these issues by taking a holistic approach which includes informing all domestic workers of their rights and entitlements. DWAG assists domestic workers to gain compensation and

to change their situation by seeking out new opportunities, such as training. DWAG ultimately seeks to build a strong organisation representing the voices of domestic workers while working towards better enforcement of existing laws and the introduction of new laws to improve conditions for domestic workers.

The core principles of DWAG are *participation*, *empowerment* and *collective action*.

*Participation* is promoted by providing a safe sharing space and offering relevant information to domestic workers about workplace and immigration issues. By building relationships and trust with individuals, it is possible to move beyond individual contact to group participation. Opportunities for participation are provided through meetings, overnight planning sessions, leadership development courses as well as social and fundraising events. Media training, film and photography workshops build confidence and allow leadership roles to emerge. Social events are important for building group identity, developing relationships and sharing personal experiences. While it is important to identify problems, solutions and concrete actions to bring about change also have to be explored.

**“Different members of the Domestic Workers’ Action Group benefit in different ways from the meetings. For some, it is about providing a space to meet others and share experiences. For others, it is about planning joint actions for change, such as public campaigns to raise awareness and organising visits to key politicians.”**

PABLO ROJAS COPPARI, MRCI

**“The quilt and multi media installation *Blurred Boundaries* was created by 45 members of DWAG to address the social and economic barriers facing migrant domestic workers in Ireland. The title is a reference to the blurred boundaries between the private lives and working lives of domestic workers. The project was a creative way of exploring issues and facilitated the participation of members. It conveyed a political message and created links with policymakers.**

**The installation was used as an awareness-raising tool to aid DWAG’s campaign for improved working conditions for domestic workers and enabled cooperation with the trade union movement in developing a ‘Code of Practice for Protecting Persons Employed in Other People’s Homes’. Working at such a high policy level was a huge achievement for the group.”**

PABLO ROJAS COPPARI, MRCI

*Empowerment* is another of the DWAG’s core principles. The first step toward empowerment is to share experiences and stories. This enables domestic workers to identify common problems and thus feel less isolated and divided from others. Sharing experiences and stories also facilitates the shift of focus from individual problems to collective issues. As understanding of the barriers that domestic workers face increases, and methods for positive change are explored, these issues become political and campaigns are conceived and planned to bring about solutions. Empowerment is generated as political capacity is built.

*Collective action* is also incorporated by DWAG and these types of actions have increased over recent years. Examples include the ongoing “Campaign of Inspections in the Private Home” and the “Campaign to End Abuse of Diplomatic Immunity”.

The campaign against diplomatic immunity arose following an attempt by Valentyna Khristonsen, a Ukrainian domestic worker, to take an employment case against the South African ambassador to Ireland. Valentyna was employed by the ambassador between 2006 and 2008 and filed formal complaints against her employer relating to unfair dismissal and non-payment of wages with the Labour Relations Commission (LRC). At the court hearing in the LRC, the ambassador used her privileged diplomatic

status to avoid having Valentyna’s employment complaint heard.<sup>15</sup> Mr. Rojas Coppari described how DWAG members took to the streets to protest against the decision of the South African ambassador and demand that she was granted her right to due process by having her complaint heard in court.

MRCI has identified a number of cases involving domestic workers employed in embassies and believes that the area needs attention and public exposure. DWAG is committed to campaigning for justice for workers employed in embassies and will continue to put pressure on embassies to change this behaviour. Valentyna’s case is an example of DWAG’s strategy of turning a negative experience into positive actions and illustrates the possibility of shifting the focus from the individual to the collective and through these actions redress power imbalances which are empowering by their very nature.

Since its establishment, DWAG has emerged as a dynamic group with a strong voice, clear goals, a coherent political message and the active participation of its members. It has effective planning and decision-making structures in place and is strengthening and growing with each new challenge. The group’s flexibility allows it to reflect and revise its agenda and to adapt the work plan to the changing needs of the collective as they arise.

<sup>15</sup> For more information on this case see Marie O’Halloran, “Call for laws on diplomatic immunity in contract cases”, *Irish Times*, 22 November 2009, <http://www.irishtimes.com/newspaper/ireland/2009/1222/1224261109173.html>

## Discussion



Participants from across Europe highlighted the various **barriers which make it difficult to organise undocumented women in the workplace**. While lack of awareness of rights was a key factor, another issue which arises in all countries is the isolated nature of the work that many migrant women do. All participants agreed on the power of collective action to improve the situation of undocumented women in the workplace.

Edel McGinley drew attention to the challenges involved in organising domestic workers collectively. Pablo Rojas Coppari agreed that it can be difficult to identify women working in this area due in part to the fact that they do not always identify with their role as domestic workers and that this work is often not valued. The DWAG responds to this by providing a space to build confidence and to acknowledge and assert their rights as both human beings and domestic workers. This type of organising and support makes it easier for individuals and the group to fight collectively. Participants from across Europe agreed that one way of reaching isolated groups such as domestic workers is through publicity campaigns.

One participant noted that the fear of being denounced and deported can make many undocumented women reluctant to access **workplace inspection services**. Panellist Elke Gutiérrez informed the group that in Belgium an undocumented migrant may make contact with the labour inspection services and that no information will be passed on to the immigration authorities. Information is disclosed to the immigration authorities only when a workplace inspector visits a workplace which has undocumented migrant workers. Given that a labour inspector in Belgium requires a police warrant before entering a private home, domestic workers are essentially protected from such visits. Furthermore, undocumented domestic workers generally only seek workplace inspection when they no longer work at the place they want to have inspected. In many cases, it is only after they have left employment and want to recover money owed to them that they are willing to contact labour inspectors. Another factor making inspection more difficult is that migrant domestic workers often reside in their place of work. A participant from the United Kingdom noted that workplace inspectors there were unable to enter the premises of private homes.

However, **good practice examples were evident**. In the UK, migrant workers who can prove an abusive employment situation do have the right to change employer. A Spanish participant informed the group of a good practice in Spain, in which undocumented domestic workers can regularise their stay in Spain. According to Spanish law, an undocumented migrant may regularise their status if they can prove three years' residence there. Furthermore, if someone can prove employment for at least a year they will be granted a work permit and a residence permit. The work permit, however, will be specific to the type of work that the undocumented migrant had been doing when applying for regularisation.

A representative from Belgium suggested that labour inspectors who deal with the issue of domestic work will require special skills and inquired whether OR.C.A. had access to institutions which train inspectors. Panellist Elke Gutiérrez responded that OR.C.A. is gathering more information on how inspectors are selected and trained and noted that there is a need for a direct service within the labour inspection services for undocumented domestic workers. An activist with the trade union movement added that Belgian labour inspectors were very well trained. The main problem was that Brussels had too few of them. Furthermore, not all inspectors were sensitive to the situation of undocumented migrants and the outcome often depended on the individual inspector.

A participant from Germany described the **absence of a definition of domestic work** as a black hole in German law. She instanced the case of a Guatemalan domestic worker whose employer wanted to give her an employment contract but was unable to because such work is not considered work under German immigration law.

Participants from across Europe voiced concern about the **abuse of diplomatic immunity to facilitate exploitation of domestic workers**. One representative from Germany had experience of a number of domestic workers who had been employed in diplomats' houses. One domestic worker had not been paid and over the course of two years had been threatened and lived in fear. A participant from Belgium noted that it is very difficult to deal with employers who use diplomatic immunity to avoid answering questions about exploitation of domestic workers. Even in the case of documented workers employed by diplomats it is difficult to successfully pursue a claim and trade unions have limited access to domestic workers in embassies.

Panellist Pablo Rojas from Ireland discussed DWAG's campaign to end abuse of diplomatic immunity which essentially calls for diplomatic immunity not to apply to the private homes of diplomats. As part of the campaign, two protests were organized, one in front of the South African embassy and the second in front of the ambassador's residence. This attracted media and public attention. DWAG also tried to contact both the South African government and the Department of Foreign Affairs in Ireland.

**“One solution to the problem of exploitation of domestic workers in embassies is to try to devise a code of practice or memorandum of understanding in the area of domestic work. It would also be better not to have domestic workers employed under embassy visas but to give them work permits instead. We should try to dissociate their embassy status from their work status.”**

PABLO ROJAS COPPARI, MRCI

The issue of the international campaign to promote the development of an **ILO Convention on Domestic Work** by 2011 was also discussed. One representative noted that Asian organisations seemed to be much better organized on the issue than their European counterparts. Moderator Edel McGinley noted that she had been involved in ILO discussions through MRCI and the RESPECT network, but that these were ongoing and RESPECT had organised meetings to explore this. Participants were in agreement about the need to engage with the drafting process of the ILO convention.



In light of the proposed seasonal workers EU directive another participant from Belgium raised the issue of **undocumented migrant women employed in the agricultural sector**. Panellist Edel McGinley observed that there is an intersection between domestic work and agricultural work as many women leave the former for the latter. MRCI works with trade unions in Ireland to organize mushroom workers, 75% of whom are women. Organising in the mushroom sector is now carried out by the SIPTU trade union in Ireland, through working in collaboration with MRCI. While in the past cases of exploitation were settled on an individual basis, it is becoming increasingly common for workers on one farm to come together to agitate for a settlement for one worker, using different means and actions. This sort of collective action is extremely empowering for workers and sends out a clear message to an unscrupulous employer.

The issue of isolated work environments was echoed by many representatives of organisations in contact with migrant women working in the sex industry.

**“The trade union movement has to take account of the migrant’s reality. We have to put more pressure on trade unions when they are negotiating EU directives which affect migrants.”**

PARTICIPANT FROM SPAIN

A representative from France noted that it was an area in which it was difficult to organise women and sought advice from other participants. A representative from Germany who works with sex workers felt that a significant obstacle to organizing them is that they are isolated and sometimes work only in apartments and have no contact with other sex workers. Furthermore, sex workers working in the same place often do not speak the same language. A participant from Ireland informed the group that a campaign is currently under way to criminalise the purchasing of sex but that an Irish sex workers alliance is organising to fight against it. A representative from the United Kingdom mentioned that the GMB trade union has a sex workers branch which has a very vocal spokeswoman. The branch covers a broad spectrum of activities from massage parlours to lap dancers.

Panellist Edel McGinley brought the discussion to a close by noting that there are significant gaps in our knowledge about a number of sectors of employment for undocumented women and by emphasizing the potential for change through collective action.

## Challenges and Recommendations

### Challenges

1. The hidden nature of domestic work and the difficulty for undocumented workers to leave due to the fear deportation increases the potential for exploitation. Employers often use the legal status of the domestic worker as a means of coercion. Another issue is the barrier faced by labour inspectors because of the unclear definition of the work place – in the UK, for example, inspectors usually need a warrant to enter and in some countries they have a duty to denounce undocumented migrants. There is no transparent set of rights for people who are undocumented and exploited as domestic workers.
2. Diplomatic immunity presents a significant challenge as diplomats can invoke their immunity to avoid prosecution for exploitation of domestic workers.
3. There are particular difficulties associated with organising hidden groups of workers and there are wide gaps in our knowledge of many other sectors of employment for undocumented migrant women such as agriculture, the hospitality sector and the sex industry.

### Recommendations

1. Define domestic work, work permits for domestic work and a set of rights for people who are exploited. Engage with the drafting process of the ILO convention on domestic work to ensure undocumented women's rights are represented and their issues reflected. On the specific issue of labour inspectors it is important to increase their number and to offer training courses specifically on domestic work. It is also necessary to address the more practical needs of undocumented migrants by, for example, providing safe places of residence for those who have lost their job.
2. In relation to breaches of employment rights by diplomats, it is recommended to: mobilize nationals of the embassy in question to put pressure on their ambassador; devise a code of practice or memorandum of understanding for waiving diplomatic immunity in the case of labour disputes; establish an advisory committee in the host country to inform workers about their rights before employment begins. Such a committee is already in place in Belgium under the auspices of the Ministry of Foreign Affairs.
3. Collectivise experiences and increase knowledge about other sectors of employment for undocumented women by creating spaces for undocumented migrant women to come together to advocate for their rights. This can be achieved by engaging people through training, legal advocacy and provision of support, though organising in sectors where migrant women and undocumented migrant are employed.

## WORKSHOP 2: Strategies to Tackle Violence Against Undocumented Women



**Pierrette Pape**, Policy Officer at the **European Women's Lobby (EWL)** Centre on Violence Against Women, served as moderator for this workshop and opened by inviting all participants to contribute to the discussion as each person was viewed as

a valuable resource. She introduced EWL as an umbrella organisation of women's associations in Europe whose diverse membership saw it address violence against many different groups of women. This workshop session would offer a valuable opportunity to identify challenges in tackling violence against undocumented women and highlight the successful strategies being used.



**Ibtissem Chamhki**, a volunteer at **La Cimade**, gave a practical insight into the telephone line they operate to assist migrant women who have been subject to violence and highlighted the experiences of women with an unsecure residence status who contact this service.

Callers to the hotline are offered initial assistance before being orientated towards a permanent office where they could obtain more comprehensive support. The helpline remains open in the evening, allowing a broad group of women to speak about their situation and obtain advice and assistance regarding administrative issues and legal aid. Ms Chamhki noted that while the majority of those seeking assistance were women, La Cimade had also received calls from migrant men who have been confronted with domestic violence.

In her presentation, Ms Chamhki highlighted the three main pillars on which this service relied: *confidentiality, follow-up and consistency*.

Confidentiality was essential when initial telephone contact was made as it could be difficult to develop trust with the caller. La Cimade made significant efforts to facilitate callers wishing to speak in their own language as it allowed them to express themselves more freely and transmit precise details of their case. Volunteers such as Ms Chamhki staffed the phone lines. She emphasised the importance of a procedure in which callers felt listened to and not treated merely as a number. For this reason, the volunteers developed an approach that took into account the caller's experiences and ongoing administrative procedures.

Once the caller's problem was defined, the second stage of the process began: the orientation of the person to La Cimade's "day-office" or the "night-office". The helpline volunteers pass on the information to a case worker who meets with the client to hear their experience in greater detail and gather all information required to really understand their situation. In order to effectively address their situation, it is vital to have a clear sense of the administrative elements within each person's situation as well as the type of violence they have suffered.

**"It's very important for them to feel at ease and feel secure, so it takes time before they can confide in us. We need time before the person gives her real identity; it's very important to have trust in this relationship."**

IBTISSEM CHAMHKI, LA CIMADE

Follow up was another issue emphasised by Ms Chamhki who noted the importance of ensuring that the person was followed by the same caseworker for a stable period of time. Helpline staff pass the information onto a coordinator who meet with the callers to establish their file and take details of their case. Since many of them had multiple administrative procedures ongoing at the same time, their situations were complex. For this reasons, it was important that a second caseworker was also briefed on the situation so that progress would not be interrupted at any stage. Each office is staffed by approximately six caseworkers.

When asked if the information gathered by La Cimade from the telephone helpline was used for lobbying and other activities, Ms Chamhki stated that the experiences of the migrant women in contact with the helpline certainly gave strength to La Cimade's campaign and helped in raising awareness within French society about the issue but no specific statistics had been gathered.



**Rosa Logar** of **Women Against Violence in Europe (WAVE)** and the Austrian Domestic Abuse Intervention Centre discussed the need for improved legislation and services to address violence against undocumented migrant women.

The Domestic Abuse Intervention Centre assists victims in enforcing their rights (individual advocacy) and also improves methods of intervention and inter-agency co-operation (institutional advocacy). The intervention centres are financed by the Ministry

of the Interior (police) and the Ministry for Social Security and Generations.<sup>16</sup> The centre receives approximately 100-150 undocumented migrants per year, which Ms Logar noted were a diverse group. For instance, one undocumented client was the wife of a consultant working for the United Nations who had lost her status for reasons of domestic violence.

Women Against Violence in Europe (WAVE) is a network of over 4,000 women's organisations working in the field of combating violence against women and children. WAVE was founded in 1994, as a response to the reality that European women's organisations were less organised those in other world regions. Inspired by examples from Latin America, WAVE established a European-wide network to address physical and sexual violence against women. The Austrian women's shelters network served as the legal entity of WAVE which itself has no core funding, receives some project funding. WAVE's membership stretched across 47 countries, including EU member states as well as the Balkans. The principles of the organisation state that all victims of violence, regardless of nationality or status, have a right to legal support and protection.

**“Although the police could intervene on behalf of undocumented women who had experienced violence without checking their residence permit, cases in which they became aware of an irregular status have resulted in irregular migrant women being taken from the shelter and deported.”**

ROSA LOGAR, WAVE

<sup>16</sup> More information on the Domestic Violence Intervention Centre is available at: [http://www.europrofem.org/contri/2\\_02\\_de/de-viol/09de\\_vio.htm](http://www.europrofem.org/contri/2_02_de/de-viol/09de_vio.htm)

Ms. Logar explained that in Austria, undocumented migrant women's level of access to domestic violence shelters and support from public funds was rather discretionary. Because of their status, undocumented women are not entitled to public funds. While all women's shelters were independently operated so they could and did admit undocumented women, funding was a major constraint in this regard. Furthermore, shelters also faced conflict with the police

**"It is especially important that national action plans on violence identify undocumented migrant women as a target group. Currently they are almost totally absent from these strategies! Change will require lobbying but it is extremely important that their situation is identified and targeted in these strategies."**

ROSA LOGAR, WAVE

Ms. Logar identified several challenges preventing the provision of support and protection to undocumented migrant women who had experienced violence. She reported that several backlashes were taking place in Europe which had resulted in the "gender perspective" becoming quite lost and many states were developing so called "gender-neutral" laws, which systematically failed to address the inequalities at the root of violence against women. This was particularly evident in the overwhelming focus on "domestic violence" rather than "gender-specific forms of violence".

She provided several recommendations to address this situation. Firstly, there was an urgent need for an *intersectional approach* which includes other forms of discrimination (such as colour, race, religion, poverty, etc) and this was best applied by examining "who" is excluded from policies and practice and "why". Secondly, it was essential to *make undocumented migrant women visible* in national legislation and strategies designed to address violence against women. The *right to access services* was the final issue highlighted by Ms. Logar who noted the vital role played by support services to enable undocumented migrants to claim their rights. However, despite the necessity of support services for undocumented women, many state and civil society services were inaccessible to them.

**"The right to access services is essential! Without support of committed organisations and individuals, Ana, the undocumented woman featured in the film "Always Wear a Smile", could not have done what she did. The network of services that support these women are SO essential. We do not have this at the moment. NOT all shelters in Europe take in undocumented migrant women and this is a shame. This is SO important and it is something that we really need to push."**

ROSA LOGAR, WAVE

## Discussion

Participants from across Europe highlighted the **various barriers which prevent undocumented women from accessing shelters and other support services** in their countries. While legal entitlement was a key element, other issues such as the low availability of services to women experiencing violence as well as the financial barriers to seeking legal assistance and lodging a complaint were evident in many countries.

A representative from the United Kingdom stated that while some shelters would accept one or two migrant women with “no recourse to public funds”<sup>17</sup>, such as migrant women in an undocumented status as well those on spousal visas, it was not always possible due to lack of space and financial resources. As the appeal procedure was extremely expensive, violations of migrant women’s basic human rights could be perpetuated by their economic destitution. A participant from France noted that many support structures refused to accept undocumented victims of violence and thus, these women were left in a very precarious situation.

**“In the United Kingdom, it seems some shelters will take one or two women with no recourse to public funds if they have space available. Sometime it is possible to get support from social services but this often depends on applications they can make under Article 8 of Human Rights Act and their ability to pay the £500 (€600) application fee. In UK, you can actually refuse someone their human rights because they can not pay for them.”**

PARTICIPANT FROM UNITED KINGDOM

One participant commented that in Belgium, undocumented women were not permitted access to homeless shelters. The so-called “accommodation crisis” in the asylum system meant that undocumented women were generally unable to access shelters or emergency reception centres and consequently, were left with little option but to live on the street. This lack of safe and secure accommodation significantly increases their exposure to violence and abuse.

**“Much of the exposure these women experience to violence comes because they do not have a safe place to live.”**

PARTICIPANT FROM BELGIUM

The moderator, Pierette Pape (EWL), asked participants to share examples of the **strategies** being used **to overcome the barriers facing undocumented migrant women**.

Many of the strategies identified by participants involved the *use of legal avenues*, from informing undocumented women and support services about the legislation in place to actively engaging in the enforcement and protection of their legal rights and entitlements.

Many participants stressed the importance of raising awareness that violence against undocumented women was a crime and providing information to facilitate the access of these women to essential support services. Encouraging the participation of migrant women themselves was very effective method, as they are often the main distributor of information within their own communities. Several

<sup>17</sup> UK regulations defines ‘No recourse to public funds’ (NRPF) as “destitute people from abroad who are subject to immigration control and have no entitlement to welfare benefits”, for more information visit: <http://www.yourrights.org.uk/yourrights/rights-of-immigrants/persons-subject-to-domestic-immigration-controls/no-recourse-to-public-funds.shtml>

examples were mentioned including use of media, including radio, songs and print media.

Discussion highlighted a general lack of knowledge regarding the laws and practices governing undocumented women's access to shelters and support services. A number of participants stated that not only NGOs, but many domestic violence shelters, medical professionals and social workers had inadequate knowledge about the legal entitlements of those with an irregular status to social support and services.

One representative shared a strategy to manoeuvre the complex laws and procedures which impacted undocumented migrant's access to services. This NGO had developed a proposal to provide an overview of "what the law actually said" about undocumented migrants' access to health services, homeless shelters, etc. They received funding to hire a consultant with good legal knowledge to develop a guidebook for frontline NGO workers to use in their work with undocumented migrants. The guide has proved a success and is kept up to date through subscriptions.<sup>18</sup>

A Dutch NGO shared an informal yet practical strategy to improve access to domestic violence shelters for undocumented migrant women. Once an undocumented migrant woman enters a women's shelter in the Netherlands, she must begin a procedure to apply for an independent legal status during which she may receive a payment from the state. However, as this process can take up to two years, shelters are generally reluctant to accommodate them. By contacting the gender-unit of the Dutch administration, where one officer was responsible to guide their client through the whole procedure, the NGO had found an effective method to overcome

this barrier. While it still requires a case-by-case approach, the strategy had enabled more undocumented women to access secure accommodation. Panellist Rosa Logar also suggested "second-step" housing to accommodate undocumented women during the two-year process. It was not necessary that they continued to be housed in an emergency shelter; another 'safe house' could be used for the duration of the application process for legal status.

**"It is vital that undocumented women are not turned away from shelters and support services. Another solution needs to be found."**

ROSA LOGAR, WAVE

In France, where access to legal assistance was a problem for migrant women with an insecure migration status, French civil society had pushed for a provision in the law so that in specific situations, migrants could receive assistance from a lawyer paid for by the French state. This civil procedure could be extended to undocumented migrant women.

Housing was a huge issue for undocumented migrants in France, as they are unable to use services available to nationals who are either homeless or victims of domestic violence. There is an insufficient number of shelters in France to meet current demand so, as a result, the only alternative for undocumented migrant women seeking to escape from partner or family violence is to live on the street or use the homeless shelters often frequented by those with substance abuse problems.

<sup>18</sup> More information on this publication and information on subscription are available at: [http://www.praxis.org.uk/index.php?page=5\\_29](http://www.praxis.org.uk/index.php?page=5_29)

**“If you have no residence permit, you have no housing, no dwelling. In France, those under 25 years of age who do not receive minimum wage cannot take advantage of these shelters - it’s not even available to French nationals. Victims of violence are being forced into unsuitable accommodation that are used by men with substance abuse problems or who had lived on the streets for almost a decade.”**

PARTICIPANT FROM FRANCE

Another strategy was to **ensure “women focused” services were available for victims of violence.** Panellist Rosa Logar noted that although general services existed, specific “women-focused” services were needed for refugee and migrant women, and this must include those with an irregular status. It was essential that a mainstream approach operated in parallel with specific services for marginalised groups.

**“Currently, all resources go exclusively to those shelters working with legally residing groups. Ensuring support is available to those working with migrant and refugee women regardless of their immigration status is an essential first step in encouraging all women’s shelters to accept undocumented migrant women.”**

ROSA LOGAR, WAVE

One method of **mainstreaming undocumented women in existing services** was for organisations working with irregular migrants to provide training to women’s shelters or support services. Such collaborations significantly increase the understanding within the shelter movement of the specific situation of undocumented migrant women subject to violence, and equips them to better respond to these needs. It can also prove an eye-opening exercise for the migrant organisations regarding the realities facing the shelters. By engaging in joint initiatives with women’s shelters or even state agencies, NGOs working with undocumented women can significantly impact on their vision and approach.

A participant from the Netherlands noted that the mainstreaming strategy was one they were pursuing as the knowledge about migrant women’s issues was far below what was needed. Having visited many shelters in the Netherlands, it was evident that some procedures were easy but the more complicated ones were a huge drain of resources. Migrant women pursuing a claim of gender based violence were often completely dependent on the good will of their lawyer. As lawyers only receive a small subsidy from the state, they often do not dedicate the necessary time to the case. Women’s shelters have an important role in encouraging these lawyers to dedicate the necessary time to these cases.



“Women’s NGOs are often working in a very tough climate; due to a lack of resources they have often focused on the day-to-day issues and find it hard to engage at policy levels or dedicate much time to information sharing. There is a need to create a joint vision. State agencies have a tendency to become very bureaucratic and often lack the vision needed to do this work. Law enforcement and violence prevention personnel need to involve NGOs more in their training. NGOs have the expertise and passion, but just need some more resources.”

ROSA LOGAR, WAVE

The **important role of civil society in addressing violence** against undocumented migrant women was another key element highlighted in the discussions. The role of the church was raised by a PICUM member from Germany who noted that often, little space was available for those in shelters to protect German nationals – it was a widespread problem and not only reserved to undocumented women. Churches had just taken on the role of protector for victims of violence and trafficking. Big

improvements were needed among women’s shelters in Germany as they were often unaware of the difference between migration and residence status and had no idea of what steps to take if the woman in question was pregnant or needed emergency health care.

A Brussels-based organisation working with the Brazilian community noted they had dealt with many cases of undocumented women experiencing violence in recent years. Theoretically, all women have the right to access shelters in Belgium, but because of the lack of space this was not always the reality. This organisation had witnessed cases in which the police visited victims of violence while they were in the hospital to pursue their irregular status and secure arrangements for their deportation.

The important role of migrant-led groups as an initial contact point for undocumented women seeking emergency support as well as access to housing and justice was highlighted by a Philippine diaspora group based in Belgium. Initially established for cultural and educational purposes, the organisation soon received requests for assistance and protection from Philippine women who were experiencing gender-based violence. The majority of these women were at risk of losing their status, or had already become irregular, due to violent or controlling relationships with an employer, partner or spouse.



“We have had experiences of women who have been beaten by their husbands after having been in Belgium only a few months. One woman arrived at my door in the middle of the night only wearing her slippers. Something was coming from her ear...we realised it was blood. I told her not to go back and we would get medical assistance for her. But she was undocumented, we did not know if we could take her to the hospital. So we telephoned my local doctor, he checked her and gave her medication. I told him to use the details of my medical card to cover the cost of the treatment but he said he could treat her for free on a humanitarian basis. We were lucky.

I then told her we had to go to the police and take her to a shelter but the following day she decided that she wanted to return to her husband. The next week, she returned to me because the same thing had happened again. She wanted to leave Belgium, but her husband had her passport. We had to speak with the husband and get her passport back so she could return. Similar cases have happened since. These shelters are always full; we drive from one province to another always looking for a space for these women.”

PHILIPPINE WOMEN'S ORGANISATION BASED IN BELGIUM



The organisation realised they were ill-informed about the levels of entitlement these women had to access social services in Belgium and it was very difficult for them to gather useful contacts both among women's shelters but also within the police force. To more effectively deal with such requests, they had developed into a non-profit organisation but it was difficult to secure funding for their work. In closing, the participant stressed the relevance of the workshop for their work and the importance of sharing information with other participants: “We are very interested in hearing more about undocumented migrants as we are receiving calls from many women for help and we need to know more.”

**“Before it was just phoning on the women’s behalf and giving advice but then we established a non-profit so there would be a clear idea of who to contact and how to contact them. However, funding is a still a major issue for us; often the money has to come from our own pocket.”**

PHILIPPINE WOMEN’S ORGANISATION BASED IN BELGIUM

Panellist Rosa Logar praised the approach of this organisation in assisting undocumented migrant women adding that despite the lack of resources, they were handling a range of issues, from emergency healthcare to perpetrator intervention. She suggested that NGOs identify a person within the government services in order to maintain direct and effective contact. Regarding the difficulties to identify women’s shelters, she noted that WAVE were working to gather the contact details of all women’s shelters in Europe and would ensure PICUM members were kept informed about its release.<sup>19</sup>

Ms Logar made some recommendations for civil society organisations working on the issue. Firstly, she encouraged organisations to resist framing undocumented women as “a burden” for support services. States often argued that undocumented women were placing a strain on the system when the state had an obligation to provide shelter for all victims, and not discriminate against them on the basis of their passport. Secondly, it was essential

that all organisations prioritised undocumented women in their policy and advocacy work relating to gender-based violence. One participant highlighted the importance of placing marginalised groups to the fore of the debate: “When you bring undocumented women to the centre of your debate, you’re demanding more of a response and you’re more effective in getting one”.

**“In the words we use we often create a hierarchy. We need to stop using distinctions on grounds of passports when dealing with women subject to violence. These women have not been ‘put on’ our society, but our society has created the problem by taking away their basic rights. Notably, minimal standards exist in the Council of Europe region, and member states are required to provide shelter space for one woman and her children per every 10,000 inhabitants. This is not being fulfilled and governments should be made to take responsibility for this situation.”**

ROSA LOGAR, WAVE

PICUM Programme Officer Eve Geddie concluded by highlighting the work of PICUM in mapping the laws and practices regarding undocumented migrants’ access to basic social rights in Europe including healthcare, education, housing and fair working conditions. Available free of charge on

<sup>19</sup> This list is now available at: <http://www.wave-network.org/start.asp?extra=dbkarte&b=3>

PICUM's website, these reports inform NGOs and service providers of existing legislation and identify gaps and failures in need of change. PICUM's current strategy on undocumented migrant women sought to map the specific situation of undocumented women in terms of their access to sexual and reproductive health services, barriers to seek justice and lodge a complaint to the police as well as their level of access to women's refuges. Finally, PICUM's monthly newsletter was a useful source for legislative and policy updates on issues relating to undocumented migrants across Europe and in the United States.



**“This session has highlighted the different strategies, activities, campaigns, use of case studies, legal avenues, reporting on the situation and demonstrations. It is very important that we share these practices, so we know what worked, where it worked, and how it worked.”**

EVE GEDDIE, PICUM

# Challenges and Recommendations

## Challenges

### 1. Funding

The lack of financial resources to adequately address violence against undocumented migrant women was identified as a core concern. Because of their insecure status, undocumented migrants normally seek assistance from volunteer-based, migrant community groups whom they trust. While these groups often lack the resources and expertise to adequately support survivors of gender-based violence, it is also the case that organisations specialised in violence intervention and support may only receive funding for their work with legally-residing women.

### 2. Legal status.

In addition to limited access to services, an irregular migration status can pose significant barriers for survivors of violence to seek support from statutory agencies such as health, social services, police and judiciary. This impacts on undocumented women's experience of violence, and also restricts the referral options for support agencies.

### 3. Lack of awareness

Many participants alluded to the lack of awareness regarding structural violence against women and also regarding the status-based discrimination facing those with an irregular status. The marginalisation of these issues has led to a situation in which those with an irregular status who experience gender-based violence will be further impacted by structural violence.

## Strategies

### 1. Information provision

Many strategies shared in the workshop highlighted the need to inform women that gender-based violence was a crime, where to get information and also how to access services. As migrant women are often the main distributors

of information within their communities, it was essential to ensure their participation in these strategies. A number of innovative methods were identified by participants, including radio, songs, media, and information leaflets.

### 2. Training of professionals within shelters, women's organisations, police, etc.

Migrant organisations often require more information on national legislation, while law enforcement and violence prevention personnel can learn a great deal from their practical experiences. Appointing 'contact persons' or 'liaisons' to facilitate the link between civil society and professional services was identified as a key method to improve ongoing communication and cooperation.

### 3. Sharing and shaping good practices and initiatives.

Participants stressed the value of learning how other NGOs provide services and liaise with authorities and other partners as well as the strategies used by undocumented women experiencing violence in various contexts. Sharing models and experiences among organisations working on this issue was identified as a key strategy to improve existing services, campaigns, methodologies, legal avenues, etc.

## Recommendation

### 1. Terminology

Participants also made a recommendation regarding the particular significance of terminology. Noting that the language regarding violence against undocumented women can often create distinctions, it was important that all women experiencing violence are viewed as equal by support organisations and are not categorized as an 'inconvenience' to the state or civil society.

## Closing Plenary Session

### The Way Forward: Upcoming Strategies to Address Violence and Labour Exploitation

The final plenary session was moderated by **Sara Buchanan**, Programme Officer for Minority Rights at **The Sigrid Rausing Trust**. The panel focused on actions and policies which were taking place at the international, European and national level in regards to positively affecting the rights of undocumented migrant women.

Ms. Buchanan contributed some remarks about the Sigrid Rausing Trust's commitment to the human rights of undocumented migrants and its support of PICUM's gender strategy. The Trust is currently supporting 190 human rights organisations and has an annual budget of €23 million. Among the Trust's grantees are groups working in Europe and internationally to promote the rights of refugees and migrants, including those with insecure status. The Trust is also one of the leading funders worldwide of the women's rights movement. PICUM's mission resonates with the Trust's support of both top-down and bottom up strategies to strengthen protection of groups most vulnerable to human rights violations. PICUM is one of a number of groups supported by the Trust's Minority Rights portfolio, working at the grassroots on issues which do not easily attract public funds.

### Campaign for EU ratification of the UN Migrant Workers' Convention



**René Plaetevoet**, Director of **December 18**, introduced the campaign to promote the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.<sup>20</sup>

December 18 works on the promotion and protection of migrants worldwide particularly encourage the ratification and effective implementation of the UN Migrant Workers Convention. It is a member of PICUM and both organisations are involved in the European Platform for Migrant Workers Rights, an ad-hoc platform in Europe working on this Convention.

The Migrant Workers Convention is one of nine core UN human rights treaties. Since it entered into force in 2003, the Committee on Migrant Workers – the committee of experts that monitors the implementation of the Convention – assesses the reports submitted by the state parties to the Convention. This monitoring process provides civil society with opportunities to engage in the process by producing and submitting shadow reports to monitor states party adherence to its international obligations, and how national laws reflect the principles of the Convention.

<sup>20</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, adopted by General Assembly resolution 45/158 of 18 December 1990, available online at <http://www2.ohchr.org/english/law/cmw.htm>

The adoption by the UN General Assembly of the Convention on 18 December 1990 was preceded by a decade-long process of negotiation, not only indicating the complexity of international labour migration but also the innovative approach of the Convention. Notably, it is the first UN convention to specifically mention undocumented migrants' fundamental rights. Another innovation is that it talks about migrants and their families, considering the needs of the individual as part of the family unit. Finally, it looks at the whole process of migration: transit, destination, and the return home. By June 2010, 42 states had ratified the Convention.

The Convention provides international accountability with regard to migration policies and it looks at responsibilities of countries of origin, transit and destination. Mr. Plaetevoet stressed the importance of holding states accountable to an international forum. By definition, international labour migration is an international affair, so it cannot be considered in a solely national or European context. He stated that it was therefore unacceptable that the EU member states have not ratified this core UN human rights treaty.<sup>21</sup>

**“The European Union and its member states frequently declare that fundamental rights and the rule of law are core values. If respect for human rights is a fundamental value, then why are states afraid to be held accountable in front of an international forum?”**

RENÉ PLAETEVOET, DECEMBER 18

Mr. Plaetevoet reported how the Steering Committee of the Global Campaign of the Ratification of the Convention are campaigning throughout 2010 to mark the 20<sup>th</sup> anniversary of this Convention. As a member of this committee, December 18 took the lead in Europe. The first step was a petition campaign over six months to urge wider ratification of the Convention and put the issue on the table. The results of this petition will then be presented to the Belgian and Hungarian presidencies of the EU. December 18 was also planning to organise actions in EU capitals, as well as in several capitals of countries that have ratified the Convention. As of June 2010, 1,500 people had signed the petition. December 18 will extend its efforts to the national and local levels. The campaign is gaining support from prominent actors such as trade unions, MEPs, and the president of the European Economic and Social Committee.<sup>22</sup>

He noted that a consistent and comprehensive approach was needed to ensure ratification in the European Union and that it was important for organisations to work together on this. Despite the lack of political will, the 20<sup>th</sup> anniversary of the UN Migrant Workers Convention is an opportunity to raise awareness around migrants' rights.

## **Council of Europe Convention on Violence Against Women**

**Rosa Logar**, Coordinator of **Women Against Violence Europe (WAVE)** presented the status of the Council of Europe discussions leading to a convention on violence against women.

<sup>21</sup> All 27 member states of the European Union have ratified the first six of the existing nine core UN human rights treaties. None have ratified the Convention on the Rights of Migrant Workers and their families, and only some have ratified the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>22</sup> View the Petition Asking EU Member States to Ratify the Migrant Workers Convention at: <http://www.december18.net/ratify-migrants-workers-convention>

Ms. Logar began by noting that Europe was in fact quite late to develop a convention on violence against women as that the Organisation of American States developed the Inter-American Convention in 1994.<sup>23</sup> Due to the ongoing prevalence of violence against women across Europe, the Committee of Ministers of the Council of Europe decided to establish a task force on violence against women in 2005. Ms Logar was a member of this task force which launched its first campaign on domestic violence. It became clear that there was a need for a legally binding instrument in Europe to address, prevent and eliminate violence against women. Thus the Ad-Hoc Committee on Preventing Violence against Women (CAHVIO) was formed by the Council of Europe member states to draft this convention.

Due to her involvement in the movement to address violence against women, Ms. Logar had been selected by the Austrian Ministry for Women to represent the government institution on this committee, while her colleague, Ms. Hilary Fisher, represents the WAVE network.<sup>24</sup> Other NGOs also participate in CAHVIO committee, including the European Women's Lobby, Amnesty International, and a number of NGOs accredited by the Council of Europe. The draft document of the convention is expected to be ready in early 2011, after which it goes before the Committee of Ministers, followed by the ratification process.

According to WAVE, the draft Convention is not very strong in several areas; firstly the chapter on migration was rather short and undocumented migrant women were not specifically mentioned. Also, while many of the negotiating group want to target all forms of violence against women, some of the more conservative governments, as well as some countries such as the Netherlands who were traditionally quite progressive, are arguing for a "gender neutral" convention.

Migrant women were addressed in two paragraphs covering migrants and refugees: *Article 47* on residence status deals with the right of women who are dependent on their husband and who are survivors of violence to apply for an independent residence permit "irrespective of the duration of the marriage". *Article 48* addresses the recognition of gender based asylum claims. There are other provisions relating to forced marriage and suspension of deportation, but no reference is made to the situation of undocumented women. Ms Logar had made attempts to get this issue included, but there was much resistance.

**"There is a lot of resistance to including the protection of undocumented women in this convention. Immediately, States claim that migrants will abuse such protections in order to enter the country. Sometimes you have the feeling that they are not drafting a human rights convention, but instead have become immigration officers.**

**If you want to have a human rights convention, you have to mention the rights of the rightless and the situation of the most marginalised groups of women who are living in such horrific conditions in our countries. It is important that NGOs lobby the governments on this; many tend to only agree on the level of protection that exists in their national legislation. What is the point in having a convention if we only agree on what we already have?"**

ROSA LOGAR, WAVE

<sup>23</sup> Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women 1994, available online at: <http://www.unhcr.org/refworld/publisher/OAS...3ae6b38b1c.0.html>

<sup>24</sup> At the PICUM conference, Ms Logar was representing WAVE and speaking about its role in the CAHVIO Committee; she was not representing the Austrian government at this event.



Ms Logar concluded by highlighting that the Parliamentary Assembly of the Council of Europe consisted of hundreds of national parliamentarians, some of whom were very progressive on this issue. The Chair of the Committee on Equal Opportunities for Women and Men, Mr José Mendes Bota of Portugal, has advocated for the inclusion of a recommendation by his committee regarding the provision of a residence permit to female victims of violence: “Parties shall take the necessary measures to issue a temporary residence permit to women victims of violence without a residence permit or with a precarious residence permit”. Such initiatives were extremely positive and should be encouraged.

### Launch of the Spanish Edition of PICUM’s report *Ten Ways to Protect Undocumented Migrant Workers*



**Julia Fernández**, Director of **ACCEM**, spoke next about measures ACCEM is taking to combat violence against undocumented women in Spain. ACCEM is a PICUM member, and coordinated the Spanish translation of PICUM’s report *Ten Ways to*

*Protect Undocumented Migrant Workers*. ACCEM offers advice, and welcomes migrants and refugees who arrive in Spain, many of whom are undocumented workers. ACCEM considers it very important to defend the rights of these people, and seek out networks that support policies and legislation which respect and empower migrants in Spain.

Ms. Fernández stated that Spain has a high rate of violence against women, mostly inflicted by their partners. Spain is working against this violence, and ACCEM and other organisations are trying to find strategies to help fight against it. A main challenge is that migrant women are isolated, and living in precarious situations.

According to Ms. Fernández, ACCEM is taking legal advice to try to empower migrant women to resolve their situation. PICUM membership offered ACCEM an opportunity to advance their campaigns and ideas. PICUM’s *Ten Ways to Protect Undocumented Workers* was published in 2005 to promote recognition that undocumented workers have the right to a legal contract, a fair salary, safe working conditions, to join a union, as well as other labour rights.

Ms. Fernández explained that in Spain, undocumented workers can access resources such as health, education, and there is a right and obligation to register in the town hall as a resident. However, undocumented migrants, and women in particular are not always aware of their rights, they may also be afraid, and lack support networks. Furthermore, negative public attitude towards irregular migrants puts them in a very vulnerable situation.

The economic crisis was very prominent issue in Spain. Ms. Fernández commented how public figures often mentioned the crisis, treating it as an element that destabilises society. Instead of helping the integration of migrants, this approach raises obstacles. Many who were documented are becoming undocumented, with all its consequences, in terms of lack of rights, social exclusion, and other unfortunate effects.

Ms. Fernández expressed the view that PICUM's report *Ten Ways to Protect Undocumented Workers* can assist specialised organisations understand what they can do to support undocumented migrants. The report is addressed to community associations, migrant organisations, unions, town halls, and other places where migrants seek information and assistance concerning their rights. Ms. Fernández and ACCEM have found it to be a very useful tool, and were happy to now launch a Spanish language edition.

## Closing Remarks



**PICUM Chair Don Flynn** delivered the closing remarks of the workshop. He observed that, typically of a PICUM event, the speakers had the privilege of addressing a highly informed audience that could just as easily have made valuable presentations as speakers themselves.

A great deal of the workshop's value lay in the exchange of ideas and experiences. PICUM and its members are well aware of the activity that is taking place with undocumented migrants, but too often, governments and public authorities seem to have very limited knowledge, and certainly do not work to facilitate it. PICUM knows that it's possible to have an influence by working with its membership and continuing to encourage policies based on evidence and facts on the ground.

Mr. Flynn observed that quite a few people at the workshop talked about the economic crisis, and

the hostile policy environment. He noted, however, that people, NGOs, and activists should not despair. Instead, there is a need to see how organisations can transfer hardship to practical agency which will positively effect the environment we work in. At first glance, the situation does not appear promising, as if all of society is conspiring against migrants in order to deny them basic human rights. This workshop serves an important purpose as it can support transformation.

**"We should view this crisis as an opportunity for change and not a disaster. Radical plans for changing the situation should be pursued and equality, social justice, human rights and democracy will actually be even more important. The voices of NGO advocates for undocumented migrants should be loud and prominent voices."**

DON FLYNN, CHAIR OF PICUM

Mr. Flynn invited attendees to visit the PICUM website, which was continually being improved so that it can become an even more useful tool for members. He also called on participants to become a member of PICUM as the more members PICUM has, the better it is able to integrate organisations into its discussions and strengthen its governance.

Finally, Mr. Flynn asked those attending "to keep in touch". He stated that it was more than a conference; it was a conversation that began before, and will continue after the conference, as there was never an end to discussing ideas, perspectives, and programmes for action to secure the fundamental rights of undocumented women across Europe and beyond.

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on Undocumented Migrants**

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