

Addressing the challenges faced by migrant and minority women in the EU¹

Despite the fact that migrant women make up nearly half of the migrant population worldwide there is “remarkably little reliable information about women as migrants”². Research on immigration has for a long time focused on the male migrant worker, reinforcing a model of migrant woman only expected to assist her husband and children, with no independent status (family reunification). As stated in the European Commission’s reflection paper “Migration and public perception”, this “static model does not correspond to the reality of the majority of migrant families (and) contributes to keep women migrants out of the official labour market, and to undermine the benefits for the receiving society of the empowerment process entered into by migrant women”³.

The issue of immigration and asylum is a critical area of concern in Europe today, particularly so for women as these policies are being pursued in a framework of security and border control and for most parts lacking a gender perspective. Despite the Treaty requirement that the European Community should “eliminate inequalities and to promote the equality of women and men in all its activities” (i. e. gender mainstreaming), in practice the European Union fails to integrate a women’s perspective in its activities on immigration and integration. Although we can note some recent positive developments (see for example the “Roadmap for equality between women and men”⁴, adopted in March 2006, which recommends a gender perspective on migration and integration), issues related to gender and to ethnic minorities tend to be covered by separate and compartmentalized policies rather than an integrated approach.

This article seeks to identify some of the specific challenges experienced by migrant and ethnic minority women in the EU today, to demonstrate the need to reevaluate the role of women in immigration and integration, moving away from the male breadwinner model.

Although the term “migrant” used in this paper refers mainly to non-EU citizens, some of the issues addressed are also valid for persons of third-country origin with an acquired European nationality, as well as women refugees and ethnic minority women.

1. The status of migrant women

1.1 Family reunification

The status of migrants who are joining their spouse under family reunification - the majority of whom are women - is linked to that of the principal legal status holder, i.e. their partner, depriving them of an independent residence/work permit. This directly affects the situation of migrant women who may lose their provisional residence permit

¹ The research and analysis in this article were conducted in the framework of project “**Equal rights, Equal Voices – Migrant women in the EU**” (2006-2007) – More information on EWL website.

² Female migration: Bridging the Gaps through the Life Cycle, UNFPA-IOM Expert Group Meeting, May 2006, 3

³ Migration and public perception, Bureau of European Policy Advisers, European Commission, 4.10.06, 33

⁴ Roadmap for equality between women and men, Communication from the European Commission, 1.3.06, COM(2006)92 final.

in the event of divorce or the departure of their husband, in the year following their arrival. It can dissuade women who have experienced domestic violence from making an official complaint. It can also result in “brain waste”⁵, with skilled migrant women remaining unemployed or in occupations far below their qualifications.

At the EU level, family reunification is ruled by a 2003 Directive on the right to family reunification. The directive does not provide for an independent resident/work permit to the spouse once arrived in the host country.

► **How to move forward?**

Grant automatically an **independent status and work permit** to the spouse of the principal legal status holder at the earliest opportunity in order to fully guarantee and protect their rights and to facilitate their social integration.

1.2 Personal status law

The personal status of migrants in Europe is regulated either by the law of a person’s habitual place of residence or by personal status law. In absence of bilateral agreements, the situation differs from one country to another, with each country using its own private international law, and it is up to the national courts to identify and apply the law pertaining to the situation. This sometimes results in legal conflicts between foreign family codes, international conventions signed by the host country and the fundamental values and rights guaranteed by the host country.

Some women may be required to refer the matter to a court in the host country in order to set aside judgments delivered by a foreign court (e.g. repudiation) that are incompatible with women’s fundamental rights guaranteed in the EU. This might be difficult for migrant women who may not know their rights or the language of the host country well enough⁶ or do not have the means to afford legal aid.

► **How to move forward?**

Develop European guidelines ensuring that any provision in foreign legislation relating to migrant women living in EU member states which is **contrary to the Charter of Fundamental Rights of the EU, the European Convention on Human Rights and its protocol 7** is identified and not applied and/or that any sections of bilateral agreements and rules of international private law which violate the fundamental human rights, in particular with regard to personal status in the field of marriage, divorce or child custody, are renegotiated, rejected or denounced.

1.3 Undocumented migrant women

Undocumented migrant women are, for many of them, in situations of severe distress and precariousness and their basic fundamental rights are denied. Yet undocumented migrants do have rights, including the right to health care, to fair labor conditions, to education and training, shelter, the right to family life and to moral and physical

⁵ UNFPA 2006, 34

⁶ Marina Da Silva, *Ces Françaises, victimes d’un droit personnel étranger*, Le Monde Diplomatique, November 2005

integrity⁷. These rights are guaranteed by international conventions, including the European Convention on Human Rights and the EU Charter of Fundamental Rights.

The European discourse on undocumented migrants mainly focuses on the issue of returning illegally staying third-country nationals⁸, and do not encompass the “push factors” for migrant women to migrate, such as oppressive gender relations, sexual violence and more generally political and cultural structures and practices that violate women’s human rights.

► **How to move forward?**

- ❖ Before taking a return decision, EU Member State concerned, in cooperation with the country of origin, should undertake a **risk and security assessment procedure** in order to ensure that women are not placed in situations of gender inequalities, violence and other gender-based human rights violations that they have been trying to escape by leaving their country of origin.
- ❖ Inform undocumented migrants of their **basic fundamental rights**, as guaranteed by national legislations as well as European and international human rights instruments.

2. Violence against women

2.1 Domestic violence

The phenomenon of domestic violence is underestimated by the EU and the European governments and not being considered a political priority. Even if there are important differences among the member states, the overall trend is a lack of appropriate legislation and protection against gender based violence and of services for the support of victims. Domestic violence penetrates every society, group and income level. Migrant women can however be extra exposed in that “the strains of moving to a new environment, unemployment, inadequate wages and racism can lead to frustration that finds its outlet in the abuse of female partners”⁹, the United Nations Population Fund report 2006 notes.

► **How to move forward?**

Develop services and shelters for women victims of domestic violence and guarantee access to all migrant women regardless of their status.

2.2 Harmful traditional practices

Cultural and religious practices that systematically violate women’s human rights and discriminate against women and girl children are still present in the EU today.

In its report on women’s immigration¹⁰ adopted in October 2006, the European Parliament affirms that “Human rights violations against immigrant women and girls in the form of so-called honour crimes, forced marriages, genital mutilation, or other

⁷ PICUM “Ten ways to protect undocumented Migrant Workers, October 2005

⁸ See for example the proposal of Directive on common standards and procedures in Member States for returning illegally staying third-country nationals, 09/2005

⁹ UNFPA 2006, 36

¹⁰ Ibid.

violations cannot be justified on any cultural or religious grounds and should in no circumstances be tolerated”.

▶ **How to move forward?**

- Recognise that **all forms of gender violence are crimes** and that particular forms of violence are faced by migrant women, such as honour based violence.
- Ensure that services to support victims of violence are equally accessible to all migrant women.

2.3 Sex trafficking

Human trafficking is the third most lucrative illicit business after arms and drug trafficking. Increasingly, restrictive immigration policies in the EU limit the possibility of entry of migrant women, which drives would-be migrants to unwittingly entrust themselves to traffickers¹¹. The 2004 Council Directive¹² grants temporary residence permit to victims of trafficking in human beings *if* they assist the competent authorities and give evidence against the traffickers. This conditional element undermines the support to the victims of trafficking.

Overall, the European legal framework on trafficking fails to address the main causes of trafficking, which is the demand for commercial sex and women’s unequal status and access to resources in the countries of origin.

▶ **How to move forward?**

- Develop programmes of **social inclusion and rehabilitation** for women and children who have been the victims of trafficking and to introduce measures enabling special residence authorisation to be granted in special cases in order to enable foreign victims who are in an irregular situation to escape from violence.
- Address at national and European level in a coherent and sustainable way the demand for commercial sex as one of the main causes of sex trafficking.

3. Women’s sexual and reproductive rights

Women’s sexual rights include the right to control their sexuality and the provision of sexual and reproductive health-related services. These rights concern not only women’s health, but also their dignity and freedom.

Migrant women tend to be vulnerable due to their insecure economic and social situation. Studies have found that migrant women in the EU receive inadequate or no antenatal care, and show higher rates of stillbirth and infant mortality¹³. Migrant women also have a higher incidence of unplanned pregnancies owing to poor access to family planning and a lack of information regarding contraceptive and how to obtain them.

▶ **How to move forward?**

¹¹ UNFPA 2006, 44

¹² Council Directive 2004/81/CE of 29th April 2004 on the residence permit issues to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

¹³ UNFPA 2006, 36

Migrant women, irrespective of their legal status, should have access to public funds to ensure **safe, equal, culturally sensitive health services and rights**, in particular sexual and reproductive health and rights.

4. Health

In all EU countries the feminisation of poverty, the high unemployment rate among women and the large presence of women in jobs with bad or no social protection, accompanied by an increase of women as heads of single-parent families, are obstacles for the improvement of the level of health for women.

For migrant women, the absence of knowledge of the host-country language and of the health/social security system or the low-paying and exploitative labour conditions constitutes additional obstacles to access to health care. Mental health is also an issue for migrant women: “women migrants are a main source of physical and emotional support for older and younger family members. As such, women have additional responsibilities, whether they migrate with their families or leave them behind, and additional stress that can strain the fabric of their lives. The cost to their families and communities may not be completely quantifiable, but it is none the less real”¹⁴.

► **How to move forward?**

Guarantee free access to **information, counselling as well as appropriate, affordable and quality health care** for all women, including women who do not have a valid residence permit.

5. Education and employment

Education is important, not only to acquire knowledge, but also formal and informal information on norms and values in society. 50% of migrant girls in Europe do not go beyond compulsory education, while approximately 17% go through tertiary education¹⁵.

Economic empowerment of migrant women is crucial to improve their situation. Barriers preventing migrant women from accessing the formal labour market are often linked to social isolation, lack of access to information, language barriers, racist attitudes and the absence of an independent legal status under family reunification¹⁶.

A significant proportion of migrant women work in the **domestic sector**, caring for children of others and/cleaning in private homes. The fact that many domestic workers are undocumented increases their vulnerability. Many work in intolerable conditions, are exploited, held in virtual captivity and physically and psychologically abused¹⁷.

► **How to move forward?**

- All migrant women, whatever their status, should benefit **special training courses** allowing access to the labour market.
- Facilitating access to employment for migrant women (who often do not benefit from the support of extended family in the host country) requires the availability,

¹⁴ Female migration: Bridging the Gaps through the Life Cycle, UNFAP-IOM Expert Group Meeting, May 2006, 3

¹⁵ Eurostat, Statistics in Focus, 3-2/2003, p. 1

¹⁶ ‘L’Union européenne et les femmes immigrées et le marché du travail’ I. Carles, Rabat, mars 2006

¹⁷ UNFPA 2006, 51

accessibility and affordability of **care services for dependants and people with additional support needs** (children, older people, disabled persons.);

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The European Women's Lobby

Founded in 1990, the European Women's Lobby (EWL) is the largest alliance of women's non-governmental organisations in the European Union with more than 4000 member organisations.

The mission of the EWL is to work to achieve equality between women and men, to promote women's empowerment in all spheres of public and private life and to eliminate all forms of violence against women.

EWL provides regular input on all areas of EU policy development and implementation that have an impact on women's lives. It ensures that women's NGOs across Europe are informed of European issues and it supports their involvement in advocacy, lobbying and campaigning.

EWL works within democratic, open and transparent procedures of communication, decision-making and accountability, including financial accountability.

<http://www.womenlobby.org>