

“Promoting and Protecting the Rights of Undocumented Migrant Women: Partnerships for Migration and Human Development”

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1. Introduction: Disempowerment Within the Existing Migration Control Regime

Undocumented migrant women hold an important role in their countries of origin and destination. Frequently however, migration management policies are insensitive to the realities of these women and by limiting the opportunity and flexibility afforded to them in the migration regime, actually increase their chances of falling outside of this process and becoming undocumented or ‘irregular’.

Their *lack of an independent legal status* is a very common challenge for migrant women and means that those subject to violence, exploitation or misinformation can easily find themselves in an undocumented situation with no possibility to re-regularise their status. Non-governmental organisations on the ground report that an overwhelming number of migrant women who contact them are at risk of losing their status following workplace exploitation or the breakdown of a relationship including experiences of domestic violence at the hands of partner or spouse in a regular situation.

Migrant women may also become undocumented following an *unsuccessful claim for asylum*. Women who migrate to seek protection are highly disadvantaged in the asylum system as claims on grounds of gender-based violence have a disproportionately high refusal rate in many of states.¹ Women’s roles in political resistance or experiences of state violence are often more difficult to prove and considered less significant than those of men. Consequently, a larger proportion of women than men who apply for refugee status are refused and either deported to their countries of origin or remain in an undocumented situation.

Irregular entry is another route in which migrant women become undocumented. As restrictive measures controlling entry and employment intensify, migrants may seek alternative and more dangerous routes to enter Europe through which they are particularly vulnerable to trafficking and smuggling networks. Female

¹ Claims for asylum based on grounds of gender-based violence are often inaccurately considered to be unfounded and directly refused. At European level, organisations such as the European Women’s Lobby (EWL) and Asylum Aid have been calling on EU Member States to apply the United Nations High Commission for Refugees Gender Guidelines (2002) on International Protection with regards to Gender-Related Persecution. More information available at: http://www.asylumaid.org.uk/pages/the_projects_purpose.html.

migrants are at particular risk of human rights abuses and trafficking when migrating through irregular channels. PICUM has charted growing reports of violence, abuse and rape of undocumented women and girls at global borders by immigration guards, traffickers and other male migrants.² The UN suggest that as many as 50 per cent of female migrants making the trip from West Africa to Europe via Morocco are either pregnant or are traveling with small children; these are certainly the most vulnerable.³

It is estimated that there are currently between 1.6 – 3.8 million undocumented migrants in the European Union. In the United States, the Department of Homeland Security have referred to figures of 11 million undocumented migrants residing in its territory.⁴ Female migrants represent a significant proportion of these flows. For these women, the growing linkage between migration control mechanisms and access to basic services forms a major barrier to their equality and empowerment. As an irregular migrant, women face multiple legal and structural barriers which prevent their access to essential services such as health, education, housing and workplace protection. Unable to obtain social assistance, they may also face arrest, prosecution and deportation if they make contact with the police to report violent or exploitative treatment.

Non-discrimination, together with equality before the law and equal protection without distinction, are fundamental tenets of international human rights law. The principle of non-discrimination means that any difference in the treatment of migrants must conform to international law and must not breach migrants' internationally recognized human rights. The principle of non-discrimination is considered *jus cogens*, a principle so fundamental that no nation may ignore or attempt to derogate from it. Non-discrimination under international law does not prevent distinctions between groups on the basis of nationality for example, but such distinctions must be based in the law, meet a legitimate and pressing social concern, be justified, and not conflict with the state's other obligations under international law. Distinctions that do not adhere to these criteria are considered unlawful.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) provides a complex body of rights aimed at fighting and preventing all forms of discrimination facing women. Many articles within the convention can be extended to undocumented migrant women. For those who have been trafficked, Article 6 invites states parties to "take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women".

The committee overseeing the implementation of the Convention has argued that "migrant women who live and work temporarily in another country should be permitted the same rights as men to have their spouses, partners and children join them".⁵ In December 2008, this same committee adopted a recommendation on Women Migrant Workers, marking a powerful affirmation that all categories of migrant women, including those who are undocumented, must be protected from all forms of discrimination under CEDAW.⁶ Noting the particular vulnerability of undocumented female workers to exploitation and abuse because of their limited access to basic labour rights and fear of deportation, the Committee underscored States Parties' obligation to protect the basic human rights of undocumented migrant women. Highlighting

² PICUM, "PICUM's 2009 Annual Concerns for Undocumented Migrants", PICUM: Brussels, 2009, pp. 10 – 13.

³ UNFPA, *State of World Population 2006*, p.32, available online at:

http://www.unfpa.org/upload/lib_pub_file/650_filename_sowp06-en.pdf

⁴ Michael Hoefer, Nancy Rytina, and Christopher Campbell, "Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2005", Department of Homeland Security, Office of Immigration Statistics, August 2006, cited in "Estimating the Undocumented Population", GAO Report #06-775, at page 17, available online at:

http://www.dhs.gov/xlibrary/assets/statistics/publications/ILL_PE_2005.pdf

⁵ Committee on the Convention on the Elimination of All Forms of Discrimination Against Women, General Recommendation No. 21, "Equality in 10 marriage and family relations". Available online at:

http://www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_en.pdf

⁶ Committee on the Convention on the Elimination of All Forms of Discrimination Against Women, General Recommendation No. 26, "Recommendation on Women Migrant Workers".

the grave abuses and acts of discrimination facing female migrants, the recommendation clarifies the standards set out in the Convention which are relevant to these abuses. While CEDAW aims to further women migrants' rights and advance equality in all spheres, the Committee also encouraged States Parties to ratify other international instruments which protect the human rights of undocumented migrant women, in particular the International Convention on the Protection of All Migrant Workers and Members of their Families (ICRMW).

This paper outlines PICUM's key concerns regarding the human rights situation of undocumented migrant women. Representing a network of over two hundred organisations and individuals from grassroots to regional level, PICUM has monitored and reported on the fundamental rights of irregular migrants since 2001 and highlighted good practice examples within law, policy and practice in both Europe and the United States. This body of research has formed a comprehensive evidence base regarding the gap between international human rights law and the policies and practices existing at national level. PICUM is now revisiting its key themes of healthcare access, fair working conditions and access to services from a gender-specific focus by conducting an in-depth study regarding the specific experience of undocumented migrant women who are subject to a double discrimination on grounds of their gender as well as their migration status. This paper builds on PICUM's extensive expertise regarding undocumented migrants' basic social rights and presents initial findings of its women-focused research initiative.

2. Key Issues Facing Undocumented Migrant Women in Europe

As workers, mothers and carers for children or the elderly, undocumented migrant women frequently serve as the main negotiator for their family unit with front-line administrators in the social, educational and healthcare systems. As a result, the trend among state parties to detect irregular migrants through these systems places undocumented women at additional risk of being detained and deported. Paradoxically, it is the active agency of migrant women, in addition to their urgent needs regarding education, healthcare, working conditions and housing, which results in their disproportionate discrimination when holding an undocumented or "dependent" migration status.

The following three issues impact undocumented women:

2.1. Limitation of sexual and reproductive health rights

Undocumented women's migration status significantly limits their access to sexual and reproductive health rights (SRHR), including family planning, pre and post-natal care as well as intravenous treatment to stop mother-to-baby transmission for those with HIV/AIDS.⁷ Due to the urgent health needs of undocumented migrant women throughout their life cycle, they are disproportionately impacted by discriminatory laws and practice which limit healthcare to those with an irregular status. Furthermore, the denial of education and training to this group on the same grounds as the national population significantly limits their capacity to negotiate and enforce these rights, thus serving to compound existing gender-related inequalities. The UN Special Rapporteur on the Human Rights of Migrants, Mr Jorge Bustamante, has emphasised the obligation of states to provide adequate, appropriate and specialized medical assistance to all migrant

⁷ UNAIDS and the WHO have reported that in "high-income countries where antiretroviral drugs have long been widely available, access to treatment has had an extraordinary impact on HIV-related mortality" resulting in mortality among people living with HIV in comparison with the HIV uninfected population to decline by 85% following the introduction of highly-active antiretroviral therapy". Source: http://data.unaids.org/pub/Report/2009/JC1700_Epi_Update_2009_en.pdf However, PICUM's research on access to healthcare for undocumented migrants has identified that across Europe, significant legal and administrative barriers prevent undocumented migrants' access to these services. For example, the UK government refuses to subsidise the cost of antiretroviral prophylaxis for pregnant undocumented migrant women with HIV/AIDS. While treatment is readily available in Europe, it is regularly denied to migrant women because of their administrative status. Source: PICUM, "Access to Healthcare for Undocumented Migrants", PICUM: Brussels, 2007, p.100.

women. Noting “particular concern...in relation to irregular pregnant women and girl children who are charged for services rendered other than emergency basis” he stressed the growing recognition of the far reaching impact of good health during pregnancy and childhood on adult health.⁸

2.2. Exploitation in the workplace

Despite the increased feminisation of labour migration, the needs of female migrant workers are often under addressed by policy makers. General Recommendation 26 of the CEDAW committee confirms “Undocumented women migrant workers are particularly vulnerable to exploitation and abuse because of their irregular immigration status, which exacerbates their exclusion and the risk of exploitation. They may be exploited as forced labour, and their access to minimum labour rights may be limited by fear of denouncement”.⁹ Gender inequalities existing in the country of destination may often limit migrant women to the low-wage sector, working in care work, domestic work, agricultural and cleaning positions. In these isolated work environments, women face additional barriers to access their workplace rights or find solidarity with other workers. Employers in these domains often have unilateral control of their migrant workers’ immigration status, may withhold their identity documents and can denounce them to the authorities if they choose to leave an exploitative situation. Nonetheless, undocumented women are taking action to assert their workplace rights and an increasing number of actors are promoting their recognition in the workforce.

2.3. Exposure to and experience of gender-based violence

Limited economic independence fuelled with exclusion from basic social support services can significantly compound gender-based inequalities. Many women migrating to Europe for work or for family reunification find that control of their immigration status is generally given to an employer or spouse – and this status can be withdrawn if the relationship breaks down. This dependency factor puts migrant women in an especially disenfranchised position, creating a power imbalance which very often amalgamates into violence. Because of their excluded and unprotected status, undocumented migrant women are significantly more exposed to gender-based violence than other segments of the population¹⁰.

An irregular status impacts upon victims of gender-based violence in two main ways:

- *Inability to hold perpetrators accountable leads to perception as a “zero risk” victim.*
Undocumented migrant women experience numerous structural barriers to report violence to the police or pursue legal remedies. They are at significant risk of arrest and deportation if they seek assistance from the police as their irregular status frequently supersedes their need for protection. Free legal assistance is denied to them and they are prevented from being party to criminal proceedings as they are generally deported to their home countries before legal action has got under way. By removing undocumented women’s access to justice and punishing those victims who report violence, state parties have effectively made them a “zero risk” victim whom perpetrators can coerce to engage in degrading or exploitative acts, or threaten to denounce if they seek police assistance.
- *Inability to access shelters or support services increases suffering.*
Despite their unprotected status and heightened exposure to ill-treatment, numerous administrative and financial barriers prevent undocumented women from accessing shelters and other support

⁸ Mr Jorge Bustamante, “Key Note Address” in *Health of Migrants – The Way Forward,; Report of a Global Consultation in Madrid, Spain 3-5 March 2010*, WHO, 2010, p. 92.

⁹ Committee on the Convention on the Elimination of All Forms of Discrimination Against Women, General Recommendation No. 26, “Recommendation on Women Migrant Workers”.

¹⁰ Recent research completed in Switzerland shows that undocumented women had more unintended pregnancies, delayed prenatal care, use preventive measures less frequently, and are more exposed to violence during pregnancy. Source: Hans Wolff et al, ‘Undocumented migrants lack access to pregnancy care and prevention’, BMC Public Health 2008, 8:93.

services for victims of violence. The difficulties undocumented women face to access domestic violence shelters, obtain physical or mental health care or receive financial assistance significantly compounds the impact of gender-based violence.

With nowhere to turn to for help, undocumented women are disproportionately exposed to physical and sexual abuse, 'honour' killings and trafficking for forced labour or sex. By sanctioning the removal of support, protection and justice for victims on grounds of their status, national governments and public institutions are actively fostering a culture of impunity, sending a clear message to perpetrators that undocumented migrant women warrant neither humane nor impartial treatment as their irregular status supersedes their most fundamental human rights. Such policies are incoherent with human rights principles and also risk undercutting positive initiatives existing elsewhere in society to combat discrimination and address gender-based violence and exploitation of women.

3. Initiatives by Governments and / or NGOs to Promote Regular and Protected Migration of Undocumented Women Migrant Workers

3.1. Promoting access to sexual and reproductive health rights

Maisha International Humanitäre Health Counselling Centre
Frankfurt, Germany

Project developed by the City of Frankfurt in cooperation with an African Women's NGO to provide confidential and culturally appropriate services to undocumented migrant women.

In Germany, access to publicly subsidised medical treatment for undocumented migrants in financial distress is limited to few instances. Eligibility for HIV treatment or pre- and postnatal care requires undocumented migrants to successfully apply for a '*Duldung*', a temporary permit which provisionally suspends the possibility of deportation from German territory. Due to the extremely restrictive legal framework and existing risk of deportation, undocumented male migrants often seek alternative or informal routes for treatment.

However, the urgent sexual and reproductive health needs experienced by many undocumented women mean they are more compelled to contact these services and experience the repercussions of becoming known to the authorities. Those who become pregnant may apply for a *Duldung* but these are usually only granted during the "period of maternity" when mother and child are deemed "unfit for travel".¹¹ After this period however, they are re-eligible to be deported from German territory. Children born to undocumented women who remain unregistered, either by giving birth at home or in a private hospital, are at risk of being born into 'illegality'. Without a birth certificate, it is difficult to prove parenthood and the child may be removed from their mother, for example, during the deportation process.¹²

Recognising the urgency of undocumented women's situation, the *Department of Health of the City of Frankfurt* (Gesundheitsamt der Stadt Frankfurt) joined with *Maisha*, an African women's group in the city, to provide culturally sensitive health services for undocumented migrants. The centre offers anonymous

¹¹ The time period of being "unfit for travel" is from six weeks prior to delivery to eight weeks after delivery; 12 weeks in cases of multiple or pre-term births. PICUM, "Access to Healthcare for Undocumented Migrants", p. 38.

¹² See PICUM, "Healthcare for Undocumented Migrants: Germany, Belgium, The Netherlands, United Kingdom", PICUM: Brussels, 2001, p. 49. Available online at: <http://www.picum.org/Publications/Sample%20pages%20Health%20care.pdf>

medical consultations and treatments to cater for migrants fearful of detection. Targeted services are offered towards migrant women; those working in prostitution can receive information on the prevention of sexual transmittable diseases and specific consultation hours are available for African and Roma women. Following the success of this initiative, several other municipal authorities have followed suit and similar projects now exist in Munich, Dusseldorf and Berlin.

3.2. Addressing exploitation in the workplace

Migrants Rights Centre Ireland (MRCI)

Dublin, Ireland

Participation and empowerment of undocumented female workers to mainstream their concerns within the trade union movement and effectuate change on governmental policy.

Based in Dublin, MRCI is a national organisation concerned with the rights of migrant workers and their families in Ireland. They operate a drop in centre, engage in community work and lead policy engagement on issues relating to irregular migration, forced labour and workplace rights.¹³ Undocumented migrant women workers constitute a central focus of MRCI, and the organisation has developed a participatory based strategy to empower these workers in bringing about effective social change at community, organisational and political level. Between 2006 and 2009, MRCI assisted migrant workers and victims of trafficking to achieve settlements and awards of €1.3 million in unpaid wages and other gross violations of their employment rights.¹⁴

i. *Building joint participation of undocumented migrant women working in highly isolated work environments and empowering them to actively improve their situation.*

*The Agricultural Workers Association (AgWA)*¹⁵

Amid increasing reports of workplace exploitation on Ireland's mushroom farms, an industry dominated by undocumented women workers from Latvia, Lithuania, Ukraine, Moldova, Belarus, China and Thailand, MRCI began outreach work in a very large, isolated and rural region in the north of the country. Beginning with a public "rights and information" talk in the area in early 2006, MRCI's community worker organised a series of 'house meetings' and 'relationship building exercises' before bringing each of these smaller groups of women together for regular public meetings. Generally held during the weekends, these meetings enabled the undocumented migrant mushroom pickers to develop a collective realisation and analysis of their situation, identify priority issues and suggest solutions.

These discussions furnished the report "Harvesting Justice: Mushroom Workers Call for Change" which the Mushroom Workers Support Group launched at a media event in November 2006 during which several of the women recounted their experiences as undocumented migrant workers in this sector. Following their success in changing the situation on the ground, this support group has since evolved into the Agricultural Workers Association (AgWA), a nationwide initiative which has helped to improve pay and conditions for hundreds of other agricultural workers. In 2007 alone, AgWA assisted migrant workers to retrieve €250,000 in unpaid wages. The involvement of undocumented domestic workers in this process marks a significant political achievement.

¹³ More information on Migrants Rights Centre Ireland is available on their website: www.mrci.ie

¹⁴ MRCI, "Work Permits and Exploitation: Time for Reform", Policy Paper 2010, p.2, available online at: <http://www.mrci.ie/publications/documents/MRCIPPWorkPermitsandExploitation.TimeforReform.pdf>

¹⁵ See Migrants Rights Centre Ireland, *Tools for Social Change*, (Dublin: MRCI, 2008), pp. 54-55.

ii. ***Placing the concerns of migrant women workers at the heart of the policy debate and facilitating their participation at every level of the campaign.***

One common concern expressed by undocumented women workers in MRCI's participation fora was the direct relation between their work permit and their immigration status. Ireland's employment permit scheme, which is typical of European regimes, significantly disadvantages migrants employed in low-paid or "female dominated domains". Ireland issues "Green Cards" providing significant autonomy and flexibility to migrants working in the IT, health and architectural sectors, whereas those employed in domestic care work, agriculture, hotel and restaurant work receive "work permits" that limit them to work for one employer in the specific employment stated on the permit.¹⁶

80% of the exploitation cases MRCI address through their information and advocacy service involve migrant workers holding employment permits and these workers also represent the most serious cases of exploitation witnessed by the organisation. This system is a major factor for migrant workers becoming undocumented as it enables exploitative employers to deliberately undermine their workers' immigration status as a means of controlling them and preventing them from reporting or pursuing a case under labour legislation. Essentially, when workers attempt to assert their labour rights, exploitative employers have an incentive to denounce them.

To address this situation, MRCI facilitated the following campaign led by migrant women to address changes in the work permit system and regularise workers who had become undocumented due to exploitation:

Undocumented Workers Scheme (Bridging Visa)

MRCI has successfully lobbied the Irish government to introduce a Bridging Visa for undocumented migrant workers who become undocumented for reasons beyond their control (e.g. non-renewal of work permit by an employer, workplace exploitation, deception/false promises.) Female migrant workers have been a driving force throughout the campaign, playing a leading role in the Domestic Worker Action Group (DWAG) and Restaurant Worker Action Group (RWAG) established by MRCI. These campaign groups have conceptualised and produced short films available on DVD and 'YouTube' to voice their experiences of extreme exploitation¹⁷ and highlight the political actions they are undertaking¹⁸ such as public demonstrations and discussions with key governmental figures. By involving female migrant workers who became undocumented, this campaign and the subsequent regularisation it brought about, stand as good practice examples.

The Undocumented Workers Scheme visa allows a migrant worker to change or seek employment within a defined period. By becoming documented, the worker is in a position to make an official complaint and seek new employment. Irish government issued guidance on the scheme¹⁹ but as little effort was made to disseminate news of the initiative, MRCI workers travelled the country to provide training to migrant community workers, public information centres and unions on the applicability and procedural elements of the regularisation campaign.²⁰

¹⁶ MRCI, "Work Permits and Exploitation: Time for Reform", Policy Paper 2010 p.2, available online at:

<http://www.mrci.ie/publications/documents/MRCIPPWorkPermitsandExploitation.TimeforReform.pdf>

¹⁷ See radio interviews and written testimonies with undocumented migrant women online at:

http://www.mrci.ie/policy_work/lrregMigrant_UndocuMigrant.htm and also video footage 'Secret Recording by Domestic Worker in Ireland', available online at: <http://www.youtube.com/watch?v=7CBvVOdoMg0>

¹⁸ See 'Migrant Workers Stage Demonstration at Supermacs in Galway', available online at:

<http://www.youtube.com/watch?v=YnstML0oLQ8>

¹⁹ Irish Naturalisation and Immigration Service information, available online at:

http://www.inis.gov.ie/en/INIS/Pages/Undocumented_Workers_Scheme

²⁰ MRCI information leaflet on applications, available online at:

http://www.mrci.ie/news_events/documents/UWSPointsofInformationEnglish.pdf

3.3 Social Support and Protection from Gender-Based Violence

Legislative initiatives to support undocumented migrant women subject to gender based violence United States and Spain

Specific laws providing rights and protections for migrant women who are subjected to violence, including those who are undocumented, exist in the United States and Spain.

The Spanish “Gender Based Violence Act” (2004)

The legal system existing in Spain to protect migrant women from gender-based violence regardless of their status is the most comprehensive among all European or Council of Europe states and considered a significant good practice in the region. Article 31 of Spain’s Gender-based Violence Act (2004) guarantees rights to ‘All women suffering gender violence, regardless of their origin, religion or any other personal or social condition’ and affirms that ‘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.’

Significantly, undocumented migrant women are also guaranteed the right for a court order which provides legal protection. This order gives a series of rights, and is the first step to access the comprehensive system of protection available from the Spanish government. The right to a court order thus contains subsequent rights: irregular women who are victims of gender based violence and wish to have a temporary protective order can receive a residence and work permit from the authorities. Significantly, the administrative file for a penalty on the basis of their irregular residence in Spain is automatically suspended until the resolution of the criminal proceedings. The Spanish authorities have also issued an instruction to all police stations to inform them of the protocol for dealing with undocumented foreign women victims of domestic or gender-based violence.

The United States “Violence Against Women Act” and “U Visa” initiatives

The Violence Against Women Act (VAWA) of 1994, 2000, and its 2005 reauthorisation recognise the predicament of immigrant survivors of domestic violence and offer them protection and assistance. The VAWA 1994 was the first federal legislation in the United States to make provision to protect immigrant women from domestic violence. The VAWA 1994 allows immigrant women married to citizens or permanent residents to self-petition for immigrant status. The VAWA 1994 also includes provision for all legal service organizations to assist victims of domestic violence, sexual assault, and trafficking regardless of the victims’ immigration status. The VAWA 2000 and its 2005 reauthorization made amendments to ease VAWA requirements and expanded services to include a broader category of immigrant women and children who previously did not qualify for VAWA.

‘The U-Visa’ was created by the VAW 2000 legislation. It is a non-immigrant visa for victims of certain crimes, including domestic violence. This visa allows victims to reside legally in the U.S. while cooperating with law enforcement to prosecute offenders and prevent these crimes.

The American Civil Liberties Union (ACLU) has praised VAWA as “one of the most effective pieces of legislation enacted to end domestic violence, dating violence, sexual assault, and stalking” having “dramatically improved the law enforcement response to violence against women and has provided critical services necessary to support women and children in their struggle to overcome abusive situations” while

providing significant support and protection to immigrant victims of domestic violence and human trafficking.²¹

These initiatives are looked to by governments and law makers across the world as a good example of legislative action to tackle violence against migrant women with an insecure or irregular migration status.

La Cimade “Ni Une, Ni Deux” campaign

France

French civil society campaign to support undocumented migrant women subject to violence and promote a change in national legislation and practice.

In France, undocumented women who flee violent situations are often forced to sleep in bus shelters, train stations or telephone booths. Despite their inherent rights and need for protection, they are generally refused emergency lodging. Investigations into the treatment of foreign victims of violence in 75 police stations across the city of Paris found that in over one third of cases, women with an irregular status face a direct risk of expulsion if reporting violence.²²

To address this situation, the NGO ‘La Cimade’ is currently running a national campaign “Ni Une Ni Deux” (meaning “Do Not Hesitate”) to address the double violence against vulnerable migrant women in France. Through their telephone helpline and drop-in centre for migrant women, La Cimade has witnessed how, in addition to forms of gender-based violence such as female genital mutilation, forced marriage, sexual as well as physical abuse, female victims with an unsecured migrant status face retribution from the French police, judiciary and public services. Bringing the experiences of these women within the public and political debate through innovative use of media and public space, La Cimade has developed a highly effective awareness raising and advocacy campaign to overhaul legislation and practice towards undocumented migrant women in France.²³

Over 14,000 demonstrators have taken part in the campaign, a level of support which has enabled 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, accommodation and follow-up for migrant women with a vulnerable status who are subject to violence. The campaign has sensitised the French public to the realities facing migrant women 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 with the Parliament, Senate and other actors. In addition to trying to influence the development of new legislation similar to that existing in Spain or the United States, La Cimade has 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 force.

²¹ See ACLU, “Letter to the Senate Judiciary Committee Regarding the Violence Against Women Act of 2005, S. 1197”, available online at: <http://www.aclu.org/womens-rights/aclu-letter-senate-judiciary-committee-regarding-violence-against-women-act-2005-s-119>

²² <http://www.cimade.org/nouvelles/2293-Inauguration-d-un-commissariat-mod-le-dans-l-accueil-et-la-protection-des-femmes--trang-res-victimes-de-violencesriat-mod-le-dans-l-accueil-et-la-protection-des-femmes--trang-res-victimes-de-violences>

²³ More information on this campaign is available on: <http://www.cimade.org/minisites/niuneneideux>

4. Conclusion and Recommendations

The policies and practices that tend to push undocumented female migrants into the margins and limit their autonomy need to be addressed. In this paper, PICUM has highlighted a number of experiences and strategies used by grassroots or migrant-led organizations as well as policy makers that have enabled undocumented migrant women to access their innate rights and thus make a valid contribution to the communities and societies in which they live. From the concerns identified by those in the field, and the good practice examples highlighted in this paper, PICUM has identified the following nine overarching themes which can enable policy makers from a variety of fields (migration, employment, social inclusion, health, gender equality, education or justice) to significantly address the vulnerability facing migrant women with an irregular or insecure migration status and thereby, ensuring that their policies are coherent with principles of equality, non-discrimination and international law.

1. **Women first and foremost.**

Undocumented women should be entitled to the same treatment and rights as national or resident women and should be treated as women first and foremost. The only concern of the state should always be the best interest of migrant women as outlined in international human rights standards.

2. **Respect international obligations.**

State parties should comply with their obligations under international human rights law and therefore guarantee undocumented women equal access to services and protection as to national women. State parties to the Convention on the Elimination of Discrimination Against Women (CEDAW) have committed to abolish all discriminatory laws and acts of discrimination against women residing in their territory regardless of status.

3. **Address the multiple legal and structural barriers which prevent vulnerable migrant women from accessing essential services and social justice to which they are entitled.**

The current impunity existing for violence and human rights abuses against undocumented migrant women and girls is incoherent with state obligations under international human rights law. Disproportionate exposure of women with an irregular migration status to violence constitutes discrimination and therefore, the barriers that prevent undocumented women's access to support services or legal proceedings are incompatible with human rights obligations and should be removed.

4. **Make undocumented migrant women *visible in national legislation and strategies* designed to address gender inequality, social exclusion and gender-based violence.**

It is especially important that national action plans on social exclusion, sexual and reproductive health, gender-based violence and workplace rights identify undocumented migrant women as a target group as currently they are almost totally absent from these strategies. There is a need to examine 'who' is excluded from these policies in practice and then address 'why' through the development of an *intersectional approach* to tackle the multiple forms of discrimination facing undocumented migrant women on grounds of their colour, race, religion, poverty etc.

5. **Stop the criminalisation of organisations and individuals providing legal, humanitarian and social assistance to undocumented migrants.**

International human rights law guarantees migrant women's entitlement to a comprehensive set of rights regardless of their administrative status. However, a significant number of signatories to these conventions deny undocumented migrant women their most basic level of human rights. The burden has therefore fallen to civil society organisations to guarantee a decent and humane

standard of living for migrants. Instead of supporting these organisations, a growing number of governments have actively criminalised the provision of humanitarian, legal and social assistance to undocumented migrants residing on their territory.

6. Strategies to combat gender-based violence, workplace exploitation and health inequalities must encompass funding and support for organisations working to improve the human rights of undocumented migrant women.

There is an urgent need to support individuals and groups working on the front line or at policy level by removing the legal, structural, financial and administrative barriers that oblige many health, housing and support services to deny access to undocumented migrants.

7. Remove barriers which hinder undocumented women's social and political participation.

Although undocumented women are disproportionately exposed to human rights violations, they are largely underrepresented within traditional women's rights organisations. There is an urgent need to overcome the barriers which prevent the direct participation of undocumented migrant women within the policy debates and increase visibility of the realities they face. It is unacceptable that those members of our society most exposed to physical, sexual and institutional forms of violence face threats to their freedom and security if they become politically engaged at national, regional or international levels.

8. Protect the victim's dignity and privacy within the framework of proceedings related to gender violence against migrant women and ensure that justice is made safe and accessible.

State parties must take steps to protect victims when they report violence and also, facilitate the prosecution of perpetrators regardless of the status of their victim.

9. Undertake a gender-sensitive review of existing laws and policies at both regional and national level so that discriminatory measures can be identified and removed.

State parties that fail to allow exploited workers to change employers or provide a 'domestic violence concession' for those on a partner-dependent visa are compliant in the physical, sexual and psychological abuse of migrant women by employers or partners who take advantage of their limited options.