

## **Women Migrant Workers and Reproductive Rights**

**CEDAW side event 21 July 2016**

Thank you very much for the opportunity to speak at this important event.

The Center for Reproductive Rights is a global human rights organization working to advance the protection of women's reproductive rights across the world. We work on a broad range of reproductive rights issues, including access to quality reproductive health care for marginalized women, and in Europe that work involves a new focus on migrant women.

In the previous presentations we have heard about the severe inequalities and inequities that women migrant workers experience and how they face intersecting forms of discrimination, as women, as non-nationals and based on their ethnicity or color or religion.

We know that these acute human rights violations often result from states' deliberate denial of rights and protection to this population group in disregard of their international human rights obligations.

Before I turn to what the CEDAW Committee and Committee on Migrant Workers can do to address the critical issues facing women migrant workers, I want to briefly focus-in on what it means in reality for the lives and health and well-being of women migrant workers when states deny them rights protections.

My work is focused on reproductive rights in Europe and so I want to bring to the discussion some concrete examples and country illustrations of emblematic violations of women migrant workers' reproductive rights in this region.

At a time where much attention in Europe and internationally has been on the arrival of high numbers of refugees and asylum seekers, I think it is particularly important that we do not lose sight of the longstanding denial of rights and inequalities affecting women migrant workers, and in particular undocumented migrant women in Europe. We must also bear in mind that concerted action on these issues is even more urgent in light of the growing nationalism and xenophobia across Europe that is likely to lead to a worsening of the situation for women migrant workers in this region.

So, what are some of the key reproductive rights violations women migrant workers face in Europe?

First, in many countries in the region undocumented women migrant workers encounter discriminatory laws and policies that exclude them from access to essential reproductive health services based on their immigration status.

For example, in countries such as Austria, Denmark Finland, Ireland, Luxembourg and Sweden undocumented migrants are only legally entitled to receive emergency health care.

The impact of these legal restrictions can be very serious. For example, they mean that most undocumented migrant women do not have access to family planning or to regular sexual and reproductive health check-ups and screening for STIs.

But they also mean that these women very often do not receive any antenatal care during pregnancy and in fact are only entitled to care during labour itself, which is considered an emergency.

But even when it comes to emergency care, which they are legally entitled to, undocumented migrant women are still not getting access due to cost. In many European countries undocumented migrant women must pay out of pocket for emergency care. For example where delivering a child in hospital may be free for European nationals, it may cost over 2000 Euros for undocumented migrants.

In some countries, a duty to report undocumented migrants to the immigration authorities effectively undermines their access to health services. For example, in Germany undocumented migrants are entitled to primary health care, but administrative rules require the welfare office to report them if they seek care that is not emergency care. And so in practice undocumented migrant women can only really access emergency care without fear of being reported.

In some European countries, legislation also discriminates against women migrant workers on grounds of pregnancy status. For example, in Denmark a new law specifies that au pairs who become pregnant during their stay can have their residence permit revoked and are only protected from deportation two months prior to and two months after the birth.

The second example of emblematic violations I want to highlight is the disproportionate impact on women migrant workers of generally restrictive reproductive health policies and laws. Not surprisingly, when reproductive rights are curtailed the negative impacts hit migrant women especially hard.

For example, highly restrictive abortion laws affect women migrant workers in specific and disparate ways. In Ireland where abortion is criminalised and prohibited in all situations except when a pregnant woman's life is at substantial risk, the law forces many women to travel to another country to access abortion services.

For women migrant workers and undocumented women in particular, the practical difficulties in making this trip, from obtaining visas to gathering the necessary funds to pay for the plane ticket and the procedure, means that they are more likely to be forced to carry to term pregnancies, even where there is a risk to their health, or the pregnancy is a result of sexual violence.

Another example is where restrictive policies ban or impose restrictions on the sale of emergency contraception. For example in Hungary emergency contraception requires a prescription, which will often be inaccessible for undocumented migrant women who are only entitled to emergency care - under which emergency contraception, paradoxically, is not

provided - and moreover they may be unable to pay the doctor's fee and the full price of the medicine.

Finally, I want to highlight the data gap across Europe regarding the reproductive health situation of women migrant workers. The vast majority of European countries fail to collect disaggregated statistics by ethnicity and migration status in the field of health. From a region that has the most sophisticated health systems and administrative infrastructures to collect such data this is simply quite shocking I think. It suggests not an inability to collect this data, but frankly an unwillingness to do so.

The small amount of data that is available paints a very worrying picture of what we might learn if countries in Europe systematically collected disaggregated data. For example, the UK is one of very few European countries to collect disaggregated data on maternal mortality and morbidity and for many years now its data has shown that women born outside the UK are significantly more likely to die in childbirth than those born in the UK. In fact the 2015 confidential inquiry into maternal deaths in the UK found that women of African descent had a maternal mortality rate four times higher than women from white ethnic groups. Similarly, in France official statistics show that the maternal mortality rate for migrant women from Sub-Saharan African countries was more than twice that of native French women for the period 2007-2009.

In some European countries, as we all know, collection of ethnic data is seen as problematic for historical reasons. But we must not let those historical reasons stand in the way of obtaining the information that is absolutely critical in modern times for the design and implementation of effective policy responses that can eliminate significant disparities and inequalities in migrant women's enjoyment of their rights.

So, in light of the very concerning rights violations experienced by women migrant workers, not just in Europe but globally, how can the CEDAW Committee and the Committee on Migrant Workers contribute to enhancing accountability and state compliance with human rights obligations?

The low ratification rate of the Convention on the Rights of Migrant Workers unfortunately means that it has limited direct impact on the protection of the rights of women migrant workers globally, and particularly in Europe where only Albania and Bosnia and Herzegovina have ratified the Convention. As the most specific international instrument for the protection of the rights of migrant workers it is critical that more countries accept the Convention and the Committee's scrutiny.

And in this regard, I would recommend that the CEDAW Committee during its country reviews and in its concluding observations continue to recommend that states that have still not done so consider ratifying the Convention.

However, in the meantime, as advocates, we must look to other accountability frameworks to increase protection for the human rights of women migrant workers. The CEDAW Committee is very well placed to hold states to account for failures to meet their obligations under the

Convention in respect of women migrant workers. I would like to make three concrete suggestions for what the CEDAW Committee could do in this regard:

First, I would encourage the Committee to consistently ask states parties to provide disaggregated data on women migrant workers, including in the area of reproductive health, and where they fail to do so, engage in a critical dialogue with them during the review and highlight the matter in recommendations.

Second, specifically in the area of health, I would encourage the Committee to be very explicit in its recommendations about the exact scope of state obligations. I think it is important to make it clear to states that they have an obligation to provide primary health care, including preventative, curative and palliative care, to all migrant women, including undocumented migrant women. States seem to have been interpreting references to basic health care to only mean emergency care which is clearly not what is meant or required by human rights law.

Third, I would encourage the Committee to raise questions regarding women migrant workers at its own initiative and without waiting for the matter to be brought to its attention by civil society submissions.

As the Center for Reproductive Rights it might be natural for us to turn to the CEDAW Committee. But many migrants' rights organisations and advocates, both in Europe and beyond will be less familiar with the Convention and the Committee's work. As a result I would like to encourage the Committee to be proactive in obtaining information about issues affecting women migrant workers and prioritizing these concerns even in the absence of specific information from civil society.