

INTERNATIONAL CONFERENCE ON GENDER, MIGRATION AND DEVELOPMENT:
Seizing opportunities, Upholding rights

Michele LeVoy, Director, PICUM
Platform for International Cooperation on Undocumented Migrants

1. EU policy priorities concerning irregular migration

- Addressing irregular immigration has been central part of EU's common immigration policy since:
 - 1999: European Council meeting in Tampere, Finland. EU leaders set out elements for a common EU immigration policy.
 - 2004, was confirmed with adoption of Hague Program – the multi-annual work program in the area of justice, freedom security – which sets objectives for strengthening freedom, security and justice in the EU for the period from 2005-2010.

Concerning irregular migration, EU policy priorities have mainly been focused on the fight against irregular migration. This has taken various forms, and has been most recently confirmed by a pillar in the Immigration Pact, which was launched by the French Presidency in July 2008 and is expected to be approved by the European Council in October 2008.

The following are some of the components of the EU policy priorities concerning the fight against irregular migration:

a. Community return policy

- European Parliament adopted directive on 18 June 2008.
- Serious concerns about human rights of UDM.
 - Detention for up to 18 months for people who have committed no crime
 - Amnesty International calls it “excessive and disproportionate,” since in international law, detention to return UDM should be exceptional and short as possible
 - Detention of families with children and unaccompanied minors
 - Re-entry ban of up to 5 years
 - Amnesty International considers these “blunt and inappropriate” instruments, as they do not take into consideration changing circumstances in countries of origin and in changes in individuals’ needs for international protection; can also interfere with the right to family life
- Concerning detention, various actors (European Parliament, civil society, etc.) have stressed the very poor conditions of detention throughout Europe, even before the directive was passed. An example can be given of children at the Yarl’s Wood

detention centre in the UK, who are suffering serious emotional damage according to an official report on 22 August.

- Along with wrongful detention of disabled children, records have been kept inaccurately. In one instance, a child who had been detained for a cumulative 275 days was reported to have been in the centre for only 14 to 17 days in full.
- Along with physical health concerns, the mental health concerns included depression, bedwetting, refusal to eat and insomnia with the conditions presenting themselves after arrival at Yarl's Wood for many detained children.
- The centre currently does not have a registered sick children's nurse, though they claim to have posted for the position, and there is no children's counselor.

<http://www.guardian.co.uk/uk/2008/aug/22/immigration.childprotection>

The mothers of these children in recent months staged a protest against these conditions, and having no other means of protesting but standing naked in the corridors of the center, resorted to this measure as a protest.

b. Reinforcement of Frontex powers, operations in the Mediterranean

- If increased security in one part of the border, then migrants will look for other routes – which often are the most dangerous.
 - Head of the Organisation for Human Rights in Andalusia, Spain, Francisco Majuelos, blamed the tighter surveillance of the Mediterranean Sea for being the one of the main causes for the increase of the deaths of undocumented migrants at sea, mainly referring to the Comprehensive System of External Surveillance (SIVE), which consists of radars and thermal cameras and has cost millions of euros. He argues that the new systems has merely forced undocumented migrants to take greater risks to cross over to Spain by using sea routes further east that are longer and more dangerous. Reacting to the criticism, the authorities claimed that thanks to the SIVE system, the number of migrants intercepted off or on the Canary islands has been falling sharply. Source: Migration News Sheet, August 2008
 - NGO "Fortress Europe" reports that nearly 10,000 migrants died trying to reach Europe since 1988.

Channels for legal migration virtually non-existent, so migrants left to the mercy of trafficking, smuggling, risking their lives

2. UDM largely invisible to policy makers in Europe

- Regardless of efforts at border controls, estimates of up to 8 million UDM in EU
- Measures taken by EU focus on entry or return of UDM, not on those currently in EU

- Face problems in accessing decent housing, education, health care, fair working conditions
- Exclusion leads to marginalization, exploitation and destitution (poverty)
- Enormous strain on local actors (NGOs, health care and educational professionals, and local authorities, etc.), who often work with limited resources to defend undocumented migrants' fundamental rights.

3. Contradictory messages

- There is a policy incoherence between various policies on the EU level. While undocumented migrants are among the most impoverished in the EU today, they are largely absent from policies elaborated by EU member states and the European Commission under the Social inclusion-Social protection process . Undocumented migrants are also absent from the EU Integration Strategy, which is focused on legally resident third country nationals.
- EU member states also try to tackle irregular migration by restricting access to basic necessities with the aim of discouraging further irregular migration and encouraging those already in the country to depart.
- UDM criminalized and chased on the one hand, but desired and exploited on the other hand
- UDM people with rights, recognized in int'l human rights law, but these rights systematically abused
 - Undocumented Migrants Have Rights! An Overview of the International Human Rights Framework (PICUM, 2007)