**UN Migrant Workers’ Committee Discussion on 25th Anniversary of the Migrant Workers’ Convention**

**Geneva**

**8 September 2015**

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

**Introduction**

* Situation in the Mediterranean: emblematic of security to approach to migration for nearly two decades, since the EU adopted its common asylum and migration policy in 1999
* Over the past 16 years in the EU’s common migration policy, we can notice a gradual shift from the initial goal of “equality for all residents” to a *security approach* to migration is needed to protect the fundamental rights of EU citizens.
* Yet evidence from the ground clearly indicates that increasing securitisation and discrimination against migrants has not reinforced or strengthened the freedom, security or well-being of EU citizens, nor curbed irregular migration.
* What is the evidence that a security approach to migration is having long-term negative impacts?

1. **Lack of regular channels for migration leading to increased risks and loss of lives**

* DG Home of the European Commission states that in 2014, more than 276,000 migrants entered the EU irregularly, increase of 159% from 2013.
* Last year also saw an unprecedented number of deaths at sea: 3,500 people died in the Mediterranean Sea alone in 2014 trying to reach the EU.
* The Migrant Files: over 30,000 refugees and migrants died in their attempt to reach or stay in Europe since 2000.
* Photo of Aydan Kurdi now circulating throughout the world as symbol of political crisis concerning migration
* Yet another young boy – 8-year old from Ivory Coast found on x-ray machine in Ceuta – not as well-known but also symbolizes the potential tragedies that await migrants at EU borders
  + Father regular migrant worker in Canary Islands; salary short by 100 Euros to do official family reunification
* What is the main determinant of human smuggling?
  + Insufficient regular migration channels for migrants to seek protection, employment, family reunification, etc. Without these alternatives, some migrants and refugees must turn to smugglers.
  + Family reunification criteria very strict and should be examined from human rights perspective (right to family life)
* Labor migration channels
* Eurostat projects that **the EU workforce will shrink by 50 million over the next 50 years** and even if all the planned policies to create jobs for the unemployed succeed, it will not be enough to compensate for the shrinking European workforce without labour migration.
* **Labour market demand exists in low wage occupations across the EU**. Yet migrant workers able to work in these sectors are prevented by national and EU migration policies from obtaining work and residence permits for regular work.
  + The Spanish organisation, Fundación Surt ([Surt Foundation](http://www.surt.org/quefem.html" \t "_blank)) launched a report entitled “Fronteras difusas, víctimas invisibles. El tráfico de personas para la explotación laboral en el sector doméstico en España” (“Blurred boundaries, invisible victims: Towards an understanding of trafficking of human beings for labour exploitation in domestic work in Spain”) on 30 June 2015.
    - **The report highlights that domestic work is an important sector of the Spanish economy as between 14% and 17% of Spanish households employ a domestic worker, that it is mostly carried out in the informal economy and that it is performed mainly by migrant women from specific regions (Latin America, Eastern Europe and North Africa).** To read the report (in Spanish), please click [here](http://picum.org/picum.org/uploads/file_/fronterasDifusas_1.pdf).   
      Sources: [El Diario](http://www.eldiario.es/catalunya/sociedad-trafico-empleadas-servicio-domestico_0_404210086.html), 1 July 2015; [El Periódico](http://www.elperiodico.com/es/noticias/sociedad/los-servicios-domesticos-caldo-cultivo-para-explotacion-laboral-4321232), 1 July 2015
* **When a structural labour demand is not met through formal labour migration channels** there are losses in tax revenue and more irregularity, as these workers are pushed into the informal economy and into an irregular situation.

Some preliminary recommendations on regular channels:

* Address the demand and supply for irregular work by establishing a better regulated EU labour market by facilitating the **creation of more entry and stay opportunities** for third country migrant workers across skill levels and labour sectors in member states.
* Allow for **transition to permanent migration** in circular and temporary migration schemes as labour shortage in these sectors is not temporary and could lead into more irregularity and undeclared work.
* Reduce undeclared work and irregular migration by **strengthening the residence status of third country migrant workers by uncoupling residence and work permits** so that loss of employment would not automatically lead to loss of residence status.
  + “Kafala” system in Middle East – where worker is tied to one employer through their work and residence permit – also exists in some EU MS.

1. **Security focus to migration is leading to human rights violations – detention of children**
   * The Committee on the Rights of the Child – with near universal ratification - has clarified that:
     + Detention of children for immigration purposes always is a child rights violation and *can never be justified as in their best interests*.
   * Yet most migration laws currently do not meet child rights standards as they do not prohibit the detention of children and families.
     + EU law governing detention of migrants (the ‘Returns Directive’) states that it must only be used a last resort and for the shortest appropriate period of time.
     + Nonetheless, 17 European countries detain unaccompanied children and 19 European countries detain families with children - thus the practice is widespread.
   * An increasing body of research has found that:
   * Holding children and their families in detention does not deter either migrants or people smugglers.
   * Detention of children (as well as separation from parents if children are put in foster care while parents are detained) – even for limited periods of time – leads to serious negative impacts on their mental and emotional health and development.

* A study by the UK-based Bail for Immigration Detainees (BID) examined the cases of 111 parents who were separated from 200 children by immigration detention between 2009 and 2012. The findings indicated that 85 of these children were in fostering arrangements or local authority care during their parent’s detention. Some children moved between unstable care arrangements, were neglected, and were placed at risk of serious harm. Children lost weight, had nightmares, suffered from insomnia, cried frequently and became extremely isolated during their parents’ detention. Parents were detained without time limit, for an average of 270 days. In fifteen cases, parents were deported or removed from the UK without their children, and in 92 out of 111 cases, parents were eventually released, their detention having served no purpose.
  + Upcoming general comment from MW Committee and CRC on children in context of detention
    - Represents good working relationship between both; we already see good uptake by CRC on this issue through some states’ reports that increasingly look at children in context of detention (through our members)
    - Could MW Committee and CEDAW also strengthen working relationship to build on previous general comment on migrant women workers, as well as highlight gender issues on migration?

1. **Restricting access to social services will lead to increased costs, public health issues as well as professional ethics**

* No EU member state has ratified the Migrant Workers’ Convention, and one of the main reasons is that it grants rights to undocumented migrants.
* Yet some EU member states enacted legislation nearly 20 years ago allowing UDM to have access to a wide range of subsidized care – going beyond the scope of the convention:
* The Belgian law on urgent medical care dates from 1996;
* Italy’s National Immigration Law of 1998 stipulates the health care provisions for undocumented migrants;
* France’s 1999 law states that UDM that have resided in France for more than three months are entitled to basic health care services through state medical aid.
* These countries and their progressive legislation concerning undocumented migrants’ access to health care are the exception rather than the rule in the EU; two thirds of EU member states grant UDM emergency care only.
* But recent report from FRA suggests that providing wider health care coverage than emergency care is cost-saving.
* **Costs to health system**
  + Increased costs for emergency care vs. preventative and curative care
  + Increased costs for administration
  + Other public health-related costs
  + Strain on health professionals = contrary to medical ethics & practice & reality → many do provide in practice as volunteers
  + Lack of regulation (“grey” health economy)
* **Costs to society in general**
  + Not respecting human rights = principle & legal obligation
  + Reduced productivity
  + Ethical implications = fairness (migrants contribute), medical ethics & humanitarian necessity
  + Costs of NGO service providers
* Mobilization of human rights advocates and health professionals to change legislation (Sweden, Italy, France)
  + Health care professionals: also make up the general public – perception of migrants: see migrants as individuals with health care needs

**Conclusion**

* Alongside efforts at political solutions and development that address root causes of migration, it is crucial to develop wider resettlement and humanitarian channels for migrants seeking protection.
* Policy makers must also go beyond an almost exclusive focus on highly skilled labor migrants, to develop other avenues for low-skilled labor migrants.
  + Only recently has the EU adopted new legislation on low-wage workers in seasonal employment but this does not apply to sectors such as domestic work and construction where migrant workers fill essential roles in an irregular way.
* Discourse/terminology – use of the term “illegal migrant” or “illegal migration”
  + Choice of correct terminology is crucial, as often language contributes to shape the reality which national authorities present to their population and the world.
  + In a context where the use of language associates the concepts of migration and criminality, irregular migration becomes, beyond language, intrinsically linked with security concerns and crime.
  + PICUM campaign to use accurate terminology – also directed at languages other than English
  + “Migrants” vs. “refugees”
* Public opinion
  + Recent citizens’ movements to offer welcome to migrants and refugees throughout Europe
  + “We apologize”; “We are ashamed” – targeting EU policy makers
  + Challenge also discriminatory statements by policy makers
  + “I am an immigrant” – positive images and messaging