

Country Visit to Belgium**Report of the Special Representative of the OSCE Chair-in-Office****On Gender Issues, Wendy Patten****December 8-9, 2011****Introduction**

The goal of the Special Representative's brief visit to Belgium was to highlight issues affecting migrant and foreign-born women, focusing on domestic violence and on the intersection of discrimination on the basis of gender, race, and ethnicity. This issue is a common challenge in many OSCE participating States. The visit therefore sought to understand the experiences of migrant women and women of foreign origin in Belgium, identify barriers that these women confront in protecting their rights, and support greater efforts by government and civil society to develop policies and programs that are responsive to the needs of diverse populations of women.

This issue derives added importance from the larger context of xenophobia, discrimination and intolerance toward migrants, persons of foreign origin, and racial and ethnic minorities across the region, a concern which has been the subject of numerous OSCE Ministerial and Permanent Council decisions. All too often, the voices and experiences of women and girls are marginalized in national debates on these issues, underscoring the need to bring a gender perspective to these issues while affirming the human rights and human dignity of all persons – women and men, citizens and non-citizens.

In 2007, the Belgian Federal Parliament adopted a law on gender mainstreaming, which calls for the integration of a gender perspective in all federal policies and administration, including in the areas of migration and asylum. Implementation of the law is underway and is relevant to the issues considered in this report.

The Special Representative wishes to express her appreciation to the Government of Belgium and to the government officials with whom she met for their excellent cooperation. She is also very grateful to the representatives of civil society who shared their experiences and insights on these important issues.

Migrant Women and Economic Opportunity

Belgium has a diverse population of migrants, including women from countries such as Turkey, Morocco, and the Democratic Republic of the Congo. Among those who migrate in search of work are a growing number of women, often driven by economic necessity. A civil society representative noted that the majority of undocumented women work in Belgium, consistent with the reasons for which they migrated, but systems to recognize and regularize their work and status are lacking.

Migrant women are often marginalized in the labor market. They end up working long hours in difficult jobs, such as domestic work and home health care. According to some NGOs, migrant women workers are particularly vulnerable to abuse and exploitation. Migrant women comprise the majority of domestic workers, many of whom are undocumented and work under conditions that make it difficult to meet the requirements for regularization of their status under Belgian law. Although they want fair working conditions, many undocumented domestic workers are reluctant to speak openly about their experiences because they fear it will cost them their jobs.

Research and the experience of civil society groups working in migrant communities support the assertion that migrant women will achieve gains in socio-economic status if given access to regularized migration status, employment, and education. In this way, many migrant women will be able to improve their economic situation and achieve greater economic independence.

Violence Against Migrant Women

Gender-Based Asylum

The visit did not afford time for substantial attention to the handling of gender-based asylum cases. A few observations, however, can be made. NGOs have focused on gender-based asylum for years in an effort to put the issue on the policy agenda and better protect the rights of women fleeing persecution. For example, Vrouwenraad (National Council of Women of Belgium – Dutch-speaking) conducted an in-depth study, financed by the Institute for the Equality of Women and Men, on the needs of women in asylum reception centers. Published in 2010, the study made recommendations to improve living conditions for women in the centers and to make reception policy for asylum seekers and refugees more gender sensitive. Vrouwenraad provides support to women asylum seekers in asylum reception centers in Flanders in coordination with Fedasil, the federal agency responsible for receiving asylum seekers.

The government has undertaken efforts to address the particular needs of women asylum seekers. The Office of the Commissioner General for Refugees and Stateless Persons has established a Gender Unit led by a full-time coordinator who provides guidance to and receives input from 11 staff who devote a portion of their time to gender issues. The Gender Unit develops interview protocols in sexual violence cases and conducts training for asylum officers on handling gender-based asylum cases, providing information on issues such as how to interview a rape victim and understanding post-traumatic stress disorder. To help women asylum seekers speak more freely, they are given the option of being interviewed by a female asylum officer and the interview is conducted without any family members present. The agency also has child care on site so that children need not be present during the interview.

The Gender Unit has developed a brochure on women and asylum in nine languages that is given to all women applicants for asylum in Belgium. The brochure provides information on the

application process and on organizations that provide legal, medical, and social assistance to migrant women.

Migrant Women and Domestic Violence

In Belgium as in many countries in the region, migrant women who experience domestic (intimate partner) violence face significant barriers in seeking legal protection, safe shelter, and other services. Many of these women depend on their abusive husbands to regularize their status. Abusers often manipulate this situation to trap women in violent relationships, threatening them with deportation if they report the abuse.

A major challenge for migrant women in Belgium is access to safe shelter. For women who are undocumented or who are seeking to regularize their status, the barriers to shelter access are largely about funding. Domestic violence shelters generally do not serve undocumented women because they cannot receive reimbursement from the state for services provided to undocumented women. Shelters typically give priority to women who are in status and can contribute to the cost of services through reimbursable social assistance or other means. A few shelters may house undocumented women on a case-by-case basis, provided they have space, but the possibilities are extremely limited. Civil society groups report that most undocumented battered women are not able to find a place in a domestic violence shelter and have to seek housing elsewhere.

To raise awareness among migrant women of how to seek assistance, the Institute for the Equality of Women and Men has produced brochures on domestic and other forms of violence against women, which are available in 27 languages and have been widely distributed. The Institute was assigned this task under the fourth National Action Plan to Combat Intimate Partner Violence (2010-2014) in recognition of the particular vulnerability of migrant women to domestic violence owing to risk of isolation, language barriers, and difficulties in accessing protection and services. Several community-based organizations provide direct services to migrant women who are survivors of domestic violence. These organizations help migrant women seek protection against domestic violence, facilitate their access to legal, health and other services, and support their efforts to move on with their lives safe from violence.

A crucial part of the solution to the problem of domestic violence for migrant women lies in access to regularized migration status. Civil society groups working at the local level see the profound impact that migrant women's dependence on their abusive husbands for status has on their ability to break free from violent relationships. Migrant women fear the consequences of reporting abuse to the authorities. With an independent path to regular status, migrant women would be better able to seek protection against violence and to support themselves and their children economically. NGOs pointed to the development of legislative responses in Spain and also in the United States, where access to regularized status for migrant victims of domestic violence has been successfully implemented, but noted that despite the pressing need, consideration of such a change in the law is not very far advanced in Belgium.

At the request of the Institute for the Equality of Women and Men, the Free University of Brussels conducted a study on the legal status of non-citizens who are victims of domestic violence and who have temporary resident status based on their marriage or partner relationship to a Belgian national. The study recommends new protections that would allow persons in this situation to obtain a residence permit independent of their spouse or partner. Similarly, it recommends the creation of a temporary status for undocumented migrants who are victims of domestic violence, citing the Spanish law as a possible model. The interdepartmental working group of the National Action Plan to Combat Intimate Partner Violence approved the results of the study in October 2011 (they were subsequently communicated to the relevant Ministers in March 2012). The study's recommendations should be considered and implemented in a timely manner.

Improving policies to address domestic violence against migrant women relates to the broader issue of migrant victims of crime. Police training is especially important because police officers have a dual role: they deal with persons who are out of status and they deal with violent crime. How the police handle cases of violence against migrant women can directly affect women's access to protection against violence as well as law enforcement's ability to hold perpetrators of violent crime accountable. NGOs are working on raising awareness of this issue, focusing on the need to ensure safety first for victims.

Currently, discussions are taking place regarding the formalization of procedures that have been used informally when the police encounter an undocumented crime victim. In such cases, the police submit a report regarding the crime and they also inform the Aliens Office about the undocumented person, who is then typically detained. If, however, the police inform the Aliens Office that the person is a crime victim, then the person is not usually detained. This informal process has been used successfully, particularly in major cities where immigrants live, such as Brussels, Liège, and Antwerp, but the practice remains inconsistent. If an agreement could be reached to make this informal process more formal, it would be applied more consistently, giving crime victims more confidence in interacting with the police. The Center for Equal Opportunities and Opposition to Racism, an independent public entity, addressed this issue in its 2010 annual report on migration, helping to bring needed attention to barriers facing migrant victims of crime in seeking help from the police.

Another policy change also bears mention. The compensation fund for victims of deliberate acts of crime previously required crime victims to have citizenship or lawful status in Belgium. The requirement was changed in 2009. Today, all crime victims and their families may receive compensation, regardless of status.

Discrimination Against Migrant Women and Women of Foreign Origin

Discrimination is an important concern for both migrant women and Belgian women of foreign origin. Foreign-born women face discrimination in employment, especially women of sub-Saharan African and North African origin. Because they have visible signs of their race or ethnicity, they tend to experience greater discrimination, whether in applying for a job or in

other areas of their lives. Stereotypes about migrant and foreign-born women are widespread and media portrayals tend to reinforce negative or limiting stereotypes. The discrimination that these women experience stems in part from the larger dynamics of race, ethnicity, and identity in the region today. Debates about women's rights issues have proven challenging within this context.

Even though women from diverse racial and ethnic backgrounds experience discrimination, there is a certain reticence to speak of differences among women who are Belgian citizens. To help recognize and combat discrimination against women of foreign origin, it may be useful to highlight positive examples of innovations in anti-discrimination and integration policy, as well as efforts to build tolerance and respect for diversity in Europe and elsewhere.

Migrant and foreign-born women from diverse racial and ethnic backgrounds often confront the challenge of multiple forms of discrimination. Is the discrimination they experienced in a given situation based on gender, race, or a complex blend of the two? Should they bring their complaint to institutions that focus on gender discrimination or to those that focus on racial and ethnic discrimination? The intersection of race and gender in their daily lives means that the problems they experience differ in important ways from those of white Belgian women and from those of migrant and foreign-born men.

The Institute for the Equality of Women and Men has primary responsibility for addressing gender discrimination in Belgium. A federal public institution, it was created in 2002 and operates autonomously, having evolved in response to an EU directive on equality. The Institute responds to complaints, conducts research, and also gives counsel and advice. The Institute collaborates with the Center for Equal Opportunities and Opposition to Racism on discrimination against women who face multiple forms of discrimination.

According to the Institute, the Center receives more complaints from women of foreign origin than does the Institute. In their view, the reasons may lie in several factors. First, the Center is better known, having been in existence for many more years. Second, the Center is associated with racism and primarily known for its work in this area. Third, while both entities conduct outreach to migrant and foreign-born communities, women from these communities may be more inclined to seek help from the Center. The Institute gave the example of discrimination against women who wear a veil, noting that they would be unlikely to come to the Institute for help. Further, the issue of wearing a veil at school is handled at the local rather than federal level and therefore the Institute does not address this issue. NGO representatives affirmed that community-based migrant women's groups tend to work more with the Center than with the Institute. These discussions highlighted some of the challenges that migrant and foreign-born women face in addressing the multiple forms of discrimination they experience.

The Institute will soon release its latest report on gender equality in Belgium, entitled "Women and Men in Belgium" (the report was released in February 2012). The report contains a full chapter on migrant women, which is a positive step. It does not, however, provide data on

women from different racial and ethnic backgrounds. While some limited additional analysis is provided in a few areas, such as employment, the Institute explained that it made a conscious decision not to disaggregate data based on race, ethnicity, or national origin. “Ethnic statistics” are not accepted in Belgium; it is seen as improper and potentially harmful to equality to talk about distinctions among Belgians based on race or foreign origin. While the impetus to reaffirm equality is commendable, it does not negate the existence of discrimination. The lack of adequate data inhibits efforts to examine the nature and scope of discrimination against women of diverse racial and ethnic backgrounds and to develop effective policies to address such discrimination.

Civil society organizations play a very important role in protecting the rights of migrant and foreign-born women. Migrant women’s groups are engaged in efforts to promote greater understanding of the intersection of gender, race, and ethnicity and to build networks. Such efforts can help to increase awareness of migrant women’s issues among mainstream NGOs and to expand access to programs and services for migrant women in areas such as domestic violence, providing much needed support to the work of community-based groups to assist these women. Similarly, several NGOs described their commitment to increasing collaboration among different anti-discrimination movements, recognizing the particular experiences and challenges faced by different communities while coming together in pursuit of equal rights and opportunities. They offered examples of successful collaboration among different women’s organizations.

One further point should be noted regarding the visit. The Special Representative had the opportunity to meet with the Chairperson of the Mexican National Commission to Prevent and Eradicate Violence Against Women, who was in Brussels at the time. The meeting allowed for a very useful exchange of ideas.

Recommendations

- Consider adopting a new legal procedure to allow migrant victims of domestic violence to regularize their status without depending on their abusive spouses. Such approaches have proven successful in other countries in enabling migrant women to escape violent relationships and move on with their lives in safety.
- Establish a separate government fund to provide access to safe shelter for women who are ineligible for public social assistance, so that shelters can be reimbursed for serving undocumented victims of domestic violence.
- Increase training for police, prosecutors, immigration officers, and health and social workers on the particular needs and concerns of migrant women who are victims of domestic violence, working in collaboration with local civil society organizations that have in-depth knowledge of issues affecting battered migrant women from different migrant communities.

- Continue ongoing efforts to formalize current informal processes to prevent the detention of migrant victims of crime who are encountered by police in the course of investigating the crime. More consistent application of such policies is needed. This procedure can then be evaluated and more fundamental legal protections for crime victims can be considered.
- Increase recognition of domestic work to enable migrant workers in this field to have opportunities to regularize their status. Enhance policies to ensure fair working conditions for women working in this sector, many of whom are migrant women.
- Develop a deeper understanding of the intersection of gender, race, and ethnicity, with an eye toward improving anti-discrimination policies for migrant and foreign-born women, whose voices and experiences are often marginalized both in work on gender equality issues and in anti-racism efforts.
- Develop and implement procedures that disaggregate data based on gender, race, and ethnicity so that discrimination against migrant and foreign-born women can be better identified, analyzed, and addressed. Data collection policies should contain appropriate privacy controls and data protection procedures, but such concerns should not preclude data collection on discrimination against migrant and foreign-born women.
- Take advantage of the opportunity presented by Belgium's next report to the CEDAW Committee, due in the fall of 2012, to address efforts to ensure access to protection against domestic violence for migrant women and to combat discrimination against migrant and foreign-born women.

APPENDIX -- LIST OF PARTICIPANTS IN MEETINGS WITH THE SPECIAL REPRESENTATIVE

Governmental Institutions

MINISTRY OF FOREIGN AFFAIRS, FOREIGN TRADE AND DEVELOPMENT COOPERATION

Ariadne Petridis, OSCE Director

Chiraz El Fassi, Attaché for Security Policy

MINISTRY OF JUSTICE

Marc Tysebaert, General Counsel, General Directorate for Legislation and Fundamental Rights and Liberties

Representatives of the Criminal Policy Service, Criminal Law Service, and Guardianship Service

CENTER FOR EQUAL OPPORTUNITIES AND OPPOSITION TO RACISM

Fatima Hanine, Diversity Service, Anti-Discrimination Department

Koen Dewulf, Migration Monitoring Service

INSTITUTE FOR THE EQUALITY OF WOMEN AND MEN

Carine Joly, Gender Mainstreaming Expert

FEDERAL POLICE

Gery Carpentier, Chief Commissioner, Team Leader CIT/Contact and Information Team, Air Traffic Police, Brussels National Airport

MINISTRY OF THE INTERIOR, MIGRATION AND ASYLUM DIRECTION

Valentine Audate, Gender Issues Coordinator, Office of the Commissioner General for Refugees and Stateless Persons

Sylvie Kormoss, FPS Home Affairs

Civil Society Organizations

PLATFORM FOR INTERNATIONAL COOPERATION ON UNDOCUMENTED MIGRANTS (PICUM)

Eve Geddie, Program Officer

LA VOIX DES FEMMES (*Women's Voice*)

Maria Miguel-Sierra, Director

MOUVEMENT CONTRE LE RACISME, L'ANTI-SEMITISME ET LA XENOPHOBIE (*Movement Against Racism, Anti-Semitism and Xenophobia (MRAX)*)

Tommy Bui

RESEAU DES FEMMES IMMIGREES ET D'ORIGINE ETRANGERE (*Network of Immigrant and Foreign-Born Women*)

Suzanne Monkasa, President

VROUWENRAAD (*National Council of Women of Belgium – Dutch-speaking*)

Gard Goorden

Additional Meeting

MEXICAN COMMISSION FOR THE ERADICATION OF VIOLENCE AGAINST WOMEN

Dilcy Garcia Espinoza de los Monteros, Chairperson, Mexican National Commission to Prevent and Eradicate Violence Against Women (CONAVIM)

Alejandro Sousa, Legal Affairs and Human Rights, Embassy of Mexico to Belgium and Luxembourg