



Arxiu històric FUNDACIÓ JAUME BOFILL

Easy Scapegoats: Sans Papier Immigrants in Europe

State Strategies and Intervention Strategies of the Civil Society

Teresa Jurado

OCTUBRE 2000

FUNDACIÓ
JAUME
BOFILL

DRAFT

By Teresa Jurado

ESBORRANY
CORREGIT AL
JEMINARI

EASY SCAPEGOATS: SANS PAPIER IMMIGRANTS IN EUROPE

STATE STRATEGIES

1217

AND

INTERVENTION STRATEGIES

OF THE CIVIL SOCIETY

4th October 2000

A project of:

- Almeria Acoge, Almeria.
- Centre d'Estudis Demogràfics, Barcelona.
- Centre d'Etude de l'Ethnicité et des Migrations de l'Université de Liège.
- Fondation Roi Baudouin, Brussels.
- Fondazione Cariplo per le Iniziative e lo Studio sulla Multiethnicità, Milano.
- Fondazione di Ricerca Istituto Carlo Cattaneo, Bologna.
- Forschungsgesellschaft Flucht und Migration, Berlin.
- Freudenberg Stiftung, Weinheim.
- Fundació Bofill, Barcelona.
- Fundación Alicante Acoge, Alicante.
- Kölner Netzwerk "Kein Mensch ist illegal", Köln.
- Opferperspektive, Beratung für Opfer rechtsextremer Gewalt in Brandenburg, Berlin.

7 Janne

A project organised within the DG "Employment and Social Affairs" programme "Preparatory Actions to Combat and Prevent Social Exclusion, VP/1999/011"

Easy Scapegoats: Sans Papiers in Europe

Modern migration flows are the expression of the existing world order and the desire of thousands of people not to accept it passively. The most radical demand of "open borders" wants to legalise this "vote with feet", while regularisation campaigns represent programmes which exclude the next "generation" of immigrants and refugees. There are even states, which preach a very selective immigration and deportation of undocumented immigrants as the only possible solution to this other side of the globalisation. The worldwide economic and social exclusion provokes a new European social question, namely the creation of an exploited and discriminated underclass of undocumented immigrants, whose solution is not even a topic of public debate in Europe. This manifesto wants to rise the question and contribute to a reflexive debate.

Papers, permits and passports ... refuse, raids and racism. Is there a link? To be without European papers in the European Union can be a good deal for immigrants who want to earn and save money, and go back home - or stay and begin a new life in Europe. It might be a safe place for refugees who left their home country due to persecution. Yet, it also can be a dangerous situation, because immigrants may be constrained to an irregular job, may fear police controls and may be considered as belonging to an inferior category of people who can be exploited, mistreated and even killed.

Who are the undocumented and the sans papiers? A Bosnian family who lives for over five years in Germany, whose children go to a German school, who is asked to leave the territory because they have lost their legal status as "gedultete" (tolerated) refugees, and who decides to go into hiding: they become "illegalisierte Flüchtlinge" ("illegalised" refugees). A Polish worker who goes as tourist to Spain and decides to stay in order to work in the construction sector at the Mediterranean coast: he is a "sin papeles". An African or Peruvian woman who paid a huge amount of money in order to cross the Atlantic to enter Italy illegally and to work in a family taking care of the grand-father or to work in the streets of Milan as a

prostitute: she is considered a "straniera irregolare".

It is possible to distinguish five types of undocumented immigrants:

1. People who entered the country in an irregular way.
2. People who entered the country with regular documents, but who stay longer than the documents permit.
3. Immigrants who lose their residence and/or work permit, because they cannot renovate it or because they lost it for some reason (e.g. in Germany, in some cases when asking for social assistance).
4. Refugees with residence permit for humanitarian reasons, who are at risk of losing it.
5. Immigrants who were released from deportation centres, because they cannot be deported.

Thus, undocumented immigrants are very different categories of people, from countries all over the world, but who have in common to be searching for a better future through emigration. Their shared problem: the European Union has no immigration policy, on the contrary, it closes its borders for non-rich people from outside the Union.

Four European foundations, fourteen researchers and 48 NGOs from Belgium, Germany, Italy and Spain have also something in common. They are interested in knowing more about the socio-economic and legal situation, and the daily needs of sans papiers. They want human rights to be valid for all people in their countries and they think that social exclusion of immigrants facilitates racist actions against them.

With this manifesto we want to attract the attention of politicians, administrators and the public opinion toward this **European social question** and we want to show that intervention against social exclusion of undocumented immigrants is an urgent task for governments and for the civil society. Intervention is possible as the day-by-day work of the interviewed NGOs demonstrates. This manifesto is based on the four country reports of the project, which the interested reader can have access to via the internet (www.....) or through a

demand to the Freudenberg Foundation (cf. addresses). (What about a publication?)

States Close Borders but Do Not Solve the Social Question

The project members analyse four state strategies and find two types of strategies. In Belgium, Italy and Spain the states mix restrictive immigration policies with frequent regularisations of undocumented immigrants. In Germany, the state has chosen to restrict "immigration" via the political asylum mechanism and it ignores the increasing number of undocumented immigrants.

In Spain, public policies towards immigrants are of recent nature, since the first law for foreigners was enacted in 1985. Until the last polemic law of January 2000, which is entitled "Law On Rights and Liberties Of Foreigners In Spain and their Social Integration", state policies focused always on immigration from a perspective of border and public control. Yet, this new law will be revised in the coming weeks, and as a consequence human rights of undocumented immigrants might be restricted again. The Spanish state has a two-sided approach to immigrants. On the one hand, it wishes to integrate legalised immigrants and, on the other hand, there is the tendency to demonise and marginalise undocumented immigrants, who are supposed to be dangerous and to commit all sort of crimes. Yet, these immigrants are recruited for jobs in many economic areas, such as agriculture, construction and domestic services, which cannot attract nationals anymore. Instead of guaranteeing human rights to undocumented immigrants, the state constructs many legal barriers for the acquisition of the right to stay and to work.

There are three lines of state actions, which are in contradiction with the general restrictive approach towards sans-papiers:

1. There have been three regularisation campaigns (1985, 1991, and 2000) and since 1993 there are annual quota, through which a limited number of immigrants obtain residence and work permits (30,000 in 1999). The regularisation based on the law for foreigners of 2000 gives all (?) undocumented foreigners who were living continuously in Spain before the 1st July 1999 the possibility to ask for a

work and/or residence permit. If their demand is accepted, they obtain a residence permit for one year. In July 2000, 225,000 demands of regularisation have been filed.

2. State administrations support NGOs, so that these can offer help and social services to undocumented immigrants.
3. To live in Spain without residence permit is not a criminal offence, but only a breach of administrative rules.

In Belgium the state intervenes in a similar way as in Spain. It sees immigration mainly as a law and order problem, but with some exceptions, too:

1. The state recognised the need of regularisation of the *sans papiers* who live in Belgium at several moments (1974, 1998, and 2000). A mass regularisation under individualised and precisely defined criteria has begun in January 2000. Nearly 50,000 persons with about 23,000 children have asked for their regularisation. The acceptance of the demands will be decided by the regularisation commission, which consists of eight chambers (each has a magistrate, a lawyer and a representative of a NGO) and a secretariat. The chambers will be called upon only for the most difficult and problematic cases, normally it will be the minister who decides upon the demands.
2. In 1998, the Flemish parliament adopted a decree relative to policy concerning ethno-cultural minorities. The decree foresees minority representation in all newly created organs and authorities, and extends the target groups to asylum seekers who are still involved in the procedures, nomads and people who live illegally in Belgium and who ask for aid or accommodation because of their precarious situation. As a consequence undocumented people may profit from the Flemish integration policy, an accommodation policy in case of family reunification and social assistance in the Flemish linguistic region or in the bilingual Brussels-capital region. In addition, NGOs who work for the defence of the rights of cultural minorities have the right to public support.
3. The French and Flemish communities, the Walloon region, and the federal government support NGOs which work with undocumented immigrant by granting non-recurrent

subsidies. In addition, in 1999, Article 77 of the foreigner law of 1980, which punishes anyone who knowingly helps or assists a foreigner who stays illegally in Belgium, was changed in order to exclude from punishment those who help foreigners mainly for humanitarian reasons.

In Italy, immigration policy is similar to that of Spain and Belgium, but it is the most generous with respect to the number of regularisation campaigns. Italian policy makers try to counteract the arrival of new immigrants through greater control at the borders and increased efficiency in deportations, and at the same time, by trying to "reabsorb" the already present irregular immigrants through recurrent amnesty programmes. It displays the following "non-restrictive" characteristics:

1. Since 1982, there have been five amnesties (in 1982, 1986-88, 1990, 1995-96, and 1998). The first concerned 12,000 immigrants, then 118,349, 234,841, 227,272 and finally 250,792 demands were filed in 1998, of which 36% are still in process of decision. The current regular immigrants are mostly all the outcome of regularisation campaigns, which means that before they have been living as *sans papiers* for some time. This differentiates Italy and also Spain from Germany and Belgium, where immigration was allowed and officially promoted in the 1960s.
2. Since 1998, foreigners who are victims of criminal organisations, in situations of exploitation and serious violence, and who are willing to co-operate with the authorities, have the possibility of obtaining a residence permit for reasons of protection.
3. An illegally employed foreigner has the possibility of returning to his/her home country and returning to Italy at a later date through the channel of the employer requesting him/her by name abroad. This is possible due to the quota system, which was introduced in 1998 according to which every year 50,000 immigrants may be granted a work permit. (?)
4. Like in Spain, to live in Italy without residence permit is not a criminal offence, but only a breach of administrative rules.

In Germany, the policy towards immigration differs from the other three countries of the project in the sense that it is a much more prohibitionist immigration policy due to two reasons. First, there are few exceptions to the repressive approach towards undocumented immigrants. Second, the law of foreigners is applied in a more rigorous way.

In Germany no regularisation campaign or amnesty for undocumented people has taken place. There were only two "regulations of old cases" (*Altfallregelungen*) with respect to asylum seekers. If they were waiting for many years (5 to 8) for the decision of their cases, if they had an employment (though since 1997 asylum seeker are not entitled to work permits) and if they lived in a dwelling (not in a hall of residence), they were granted a two-year residence permit. In 1996 and in June 2000, 7,800 and 4,500 asylum seekers respectively received a residence permit.

The German law for foreigners includes two very problematic paragraphs. First, there is §76, which is an obligation for public institutions to denounce undocumented people to the office of foreigner's affairs. This led to cases, like in Berlin, where civil servants of the social assistance administration were instructed to denounce *sans papiers* who seek their help. Some hospitals have informed the police while they were treating undocumented immigrants. Undocumented people who want to demand their human rights are confronted with the "right" of the state to deport them. Second, §92 of the same law punishes people who help a foreigner to an illegal sojourn and who do this repeatedly for more than five foreigners. Priest and members of refugee organisations have been prosecuted according to this paragraph.

Socio-economic Situation of Undocumented Immigrants

In all the countries of the project undocumented immigrants are confined to some economic sectors: agriculture, construction, hotels, cafes, restaurants, domestic jobs, cleaning and prostitution. In Spain and Italy, many are employed in the informal sector, which in Italy is estimated to produce 27% of the GDP. Thus, undocumented immigrants have difficulties to find a legal job, they face excessive working hours, salaries under the legal minimum and sometimes they are not paid at all. In addition, undocumented immigrants en-

counter enormous barriers in the access to a dwelling, they are not entitled to public services, in particular health services and education, and they have very restricted legal means to defend their human rights. Since the beginning of the 1990s all countries have set up deportation centres, which should serve as a step to expulsion of undocumented immigrants who have been found in the respective country. These centres are very contested by the civil society, for instance, after many pressures, the Belgian government declared in July 1999 a moratorium on forced deportations.

In Spain, until the enforcement of the new law of January 2000 and probably also after its imminent reform, undocumented immigrants face the general above-mentioned multiple exclusions. The public authorities have no substantial housing programmes, *sans papiers* had no access the public health system and until recently it was impossible for children of undocumented immigrants to obtain an official school certificate. However, the extent of exclusion depends to a great extent on the town where the immigrant lives and on the civil servant asked for support and services. In Catalonia, there are municipalities like Alcarràs (Lérida), Vic (Barcelona), Banyoles (Girona) and Mataró (Barcelona), where various measures towards social inclusion of immigrants have been taken independently of them possessing documents or not. In addition, the law of January 2000 entitles all immigrants to means-tested public health services, if they register as residents in their municipality. It has to be remarked that in Spain it is possible to register officially as resident without having a residence permit. This mechanism facilitates undocumented immigrants the access to several public services. (Is this not dangerous?)

In Belgium, the socio-economic situation of *sans papiers* is not better than in the other countries. In theory the constitution of 1994 entitles them to social protection, but those who have received social assistance have all gone through the courts. Exceptions are asylum seekers whose demand is in course. They are entitled to social assistance and they can ask for a temporary work permit. Since April 2000, those undocumented immigrants who have asked for their regularisation can obtain a temporary work authorisation. In case of a work accident, illegal workers have in theory the

right to compensation, but in practice it is very difficult to obtain. Access to health services is granted to *sans papiers* only in cases of emergency. Many undocumented people fear to be arrested, if they go to the health administration.

In Italy, the situation of undocumented immigrants varies between regions and between towns and the countryside. In some places the formal exclusion is paralleled by *de facto* inclusion (frequent among immigrants working in the informal economy), but in other places the formal inclusion is accompanied by a substantial negation of rights (for instance immigrants with temporary residence permits for humanitarian reasons). Since the informal labour and housing markets are very large, the possession of a residence permit is less relevant than in other countries. However, this does not prevent cases of exploitation and discrimination. More recently, the events in Legnano (the death of immigrants in a fire in a derelict factory where various families lived) revealed once again the tragic reality of the problem of accommodation for immigrants in Italy. The same applies to Rom gypsies, who are continually pursued by violent police operations or attacks by gangs of racists in various cities. In addition, *sans papiers* cannot access public services, with three exceptions: first, they have the right to emergency treatment and preventive treatment to avoid the risk of spreading disease; second, children of undocumented immigrants who cannot be deported or in the respite of deportation can enrol in schools; and, third, pregnant women have the right to health assistance.

In Germany, the socio-economic situation is similar to the other countries, but in addition *sans papiers* fear more administrative and police controls. Regularly, the police controls people of dark colour, because they assume that they are committing an offence. In general, asylum seekers live under different conditions than undocumented immigrants. Asylum seekers are entitled to social assistance benefits. Yet, due to the fact that most demands of asylum seekers are refused, the division line between both legal situations is small. In addition, there is an east-west cleavage in the living conditions of refugees. In eastern Germany they live mainly in hall of residences of 100 to 300 people, they represent the main group of for-

eigners and it is more difficult to find lawyers who know the asylum legislation. In western Germany they live more frequently in dwellings, they are a small percentage of the total foreign population and they find more easily legal support. Since 1997, asylum seekers cannot ask for work permits and it is only recently that this prohibition is being discussed within the government. Frequently, employers do not pay the salaries to irregularly employed people and they can push exploitation to its limits by denouncing *sans papiers* to the police. The German trade unions refuse to represent or support irregular workers. Since 1997, the right to health services for asylum seekers has been restricted to emergency cases, maternity and abortion. This does not apply to undocumented people, who have not even access to health service in emergency cases (contrary to Spain and Italy). An exception are undocumented women who work as prostitutes, since they can go anonymously to the public health office in order to pass a check for venereal diseases. In many schools and municipalities, the right of children to education up to age 16 (UNO convention) is not applied. In some towns the education administration instructs school directors not to accept children from undocumented parents or even to denounce them. Asylum seekers are excluded from official German language courses and their children cannot enrol in vocational training or university. In contrast to all other European Union countries, asylum seekers cannot leave the assigned province of residence without an authorisation (*Residenzpflicht*). Unaccompanied children from 16 years onwards can be imprisoned in deportation centres and be deported, if their asylum request is refused.

Social Exclusion is a Fertile Ground for Racism

The life of *sans papiers* is not only characterised by difficult living conditions and fear of deportation, but also the increasing racist violence is a danger for health and life of undocumented people. In all four countries episodes of racist attacks are well-known. The following summaries of the three case studies of the project show a common feature: the victims of the persecutions and homicides are all immigrants which are excluded from basic human rights by the respective states, and who are socially and economically segregated by

the host societies. There is a reinforcing relationship between racist day-to-day discrimination, restrictive laws for foreigners and racist violence.

The Spanish NGO **Almeria Acoge** has analysed the racist attacks against immigrants in El Ejido, in the province of Almeria. We want, very briefly, point out the main factors that, in their opinion, led to the well-known massive persecutions of immigrants in El Ejido in February 2000. El Ejido is a town of 55,000 inhabitants, which since the 1960s experiences a very rapid growth of its population and economy. The latter is based on a booming intensive agriculture, mainly for exportation. 97% of its current native population comes from other Spanish provinces, most of them are from day-worker origin and have a generally low educational level. The need of labour force for the new type of agriculture attracted immigrants from very different countries, which mainly work under very hard conditions in the greenhouses. In 1999, there were 17,738 officially registered immigrants in the province of Almeria, of whom 74% from Morocco. The Moroccan immigrants are to 88% men aged 21 to 40 with a low educational level. Many of these Moroccan men are socially segregated because they have to live "like animals" in the farms outside the town. Among these men, there is a minority who commits offences, such as human traffic, thefts, etc., which exasperates the non-acceptance of all immigrants by the native population. In addition, both sides do not accept their cultural differences. The leading politicians and administrators of El Ejido identify delinquency and criminality with immigration. Local social policy towards immigrants consists of permanent segregation. The author concludes: "How different would local policy be, if the immigrants had the right to vote at the municipal elections?"

The Italian country report includes a recent case of exploitation and violence against a Rumanian immigrant. Gallarate, in the province of Varese and in the heart of one of the richest areas in Italy, has seen on 14th March 2000 the homicide of Ion Cazacu. This 41-year-old Rumanian technician worked together with other nationals in a building firm, where he worked 12 hours a day paid by the job, fixed at 10,000 lire for every metre of wall or floor laid. On average the Rumanians 110,000 lire a day (ca. 50 EURO), but in exhausting working

conditions to say the least. A part of their earnings returns to the pocket of the firm's owner, Cosimo Iannece, from the rent for the place where the Rumanians live on top of each other: 200,000 lire per head per month for six of them in a one-roomed apartment. In the evening of the 14th March the entrepreneur went to the dwelling of his Rumanian workers and he set Ion Cazacu on fire, who died one month later due the third degree burns on 90% of his body. It seems that the entrepreneur was angry because the Rumanian employees had complained about their working conditions and because he feared that the legalisation of Ion Cazacu would make the latter "free" and that he would look for work elsewhere. Which is the context of this homicide? According to trade unionists and NGO representatives, many immigrants arrived in order to work in jobs that Italians refuse to do. The enlargement of the Malpensa airport (Milan), for instance, created new jobs in the building sector. Some enterprises have specialised in recruiting illegal cheap labour for building sites run by others. Frequently they are linked to organised crime. For instance, the ten work-mates of Ion Cazacu have fled because they were afraid of retaliation. Usually, the firms employ men who work ten hours a day for around 40,000 lire, often foreigners, including university graduates, without residence permits, who can be blackmailed and are frightened, ready to share a two-roomed apartment with five others, people who can be deported from one day to the next. In 1999, 77,409 employees were controlled in the province of Varese and 6,231 were found not to have regular contracts. At national level the number of inspections have decreased: in 1991 there were 100,000 inspections identifying a rate of irregularity of 50%, whilst in 1998 only 50,000 inspections were made, identifying irregular situations in 75% of cases. The homicide led to manifestations, to public denunciation of the informal economy by politicians, but also to discourses about the exceptional character of the event and discourses in "defence" of the people of Gallarate. It has to be noted that the Lega Nord (right-wing party) governs the province, whose representatives frequently make xenophobic affirmations. A rapid and positive reaction was that of the prosecutor Giuseppe Battarino, who decided that about ten Rumanian workers should be granted a residence permit for reasons of social

protection as laid down by art. 18 of the new law for foreigners.

The German country study contains a very detailed case study of the homicide of Farid Guendoul in Guben, a town near to the Polish-German border in the province of Brandenburg. In the Friday night of 13th February 1999, a group of around 11 young people aged 17 to 20 prosecuted Farid Guendoul and two friends. Farid kicked into a door of glass in order to find protection in a house, but the consequent wounds caused his death, while his friends were able to escape. Guben has 26,500 inhabitants, an unemployment rate of 23.5%, an important part of its inhabitants work in subsidised jobs or is enrolled in training programmes, and more than 30% of the social assistance beneficiaries are under age 18. After the German reunification many enterprises closed or reduced their staff. Around 2.3% of the population is non-German (many Poles) and 160 inhabitants are asylum seekers. They live in a one-floor house, which was the former kindergarten of a chemical plant and which is surrounded by electrically controlled doors and a wire-netting fence. Farid Guendoul, an Algerian, lived together with six men from Sri Lanka, Togo and Algeria in a 20m² room. At the beginning of the 1990s around 200 skinheads organised themselves as "Patriotic Front of Guben" and later the National Party of Germany (the successor of the National Socialist Party) organised many young people in the town. Since then, the municipality organised a regular Forum on Foreigners, a Round Table on Right-Extremism and it employed 36 social assistants for six youth centres in order to combat the increasing right-extremist attitudes among the youth. Yet, a part of the young offenders of February 1999 went regularly to one of these centres, which provoked many critics about the pedagogic approach of these centres. The social workers had tried to re-integrate right-extremist into the society, which is a problematic approach due to the fact that xenophobic attitudes are part of the mainstream culture in Guben. The trial against the 11 offenders began in June 1999 and the court had not yet decided about the case in October 2000 (?). In 1999, the German Office for the Protection of the Constitution (Verfassungsschutz) counted two racist homicides, 13 attempts and 602 racist

and right-extremist aggressions (the real number is even higher).

The authors of the German case study conclude due to their general experience that following are the current mechanisms of reaction after a racist aggression:

1. The aggression is interpreted as an exceptional accident caused by misled youth. Racism is seen as a construct of scandal-seeking media (**Ignoring problem**).
2. The attacks are seen as individual acts of marginal people and sometimes it is affirmed that the foreigner provoked the aggression (**Playing down and changing problem**).
3. Authorities take the political responsibility seriously, but their intervention is restricted to moral exhortations (**Consternation and symbolic gestures**).

The following reactions would be more appropriate:

1. Solidarity with the victims and incomprehension towards offenders, which should be demonstrated through official visits to the victims, public responsibility for financial consequences, and financial and ideal support of democratic youth and refugee associations (**Official solidarity with victims and their supporters**).
2. Change of image of immigrants in media ("criminals", "problem", financial charge, etc.) (**Change of public opinion**).
3. Abolition of discrimination of immigrants through special laws, in particular the law for foreigners (**Same rights for all**).

Interventions of Civil Society

The civil society and politicians of the different countries have been sensitised toward *sans papiers* by two types of events: First, by protests and self-organisation of *sans papiers*, like in France after the occupation of the church of Saint Bernard in Paris in 1996. Second, due to the death of immigrants after the use of police force or racists attacks coming from the civilian population. In Belgium in 1998, the death of Semira Adamu, a demander of the refugee status from Nigeria, during the police's sixth attempt to forcibly expel her, was a turning point for the creation of solidarity movements with undocumented immigrants. The

"National Movement for the Regularisation of Undocumented Immigrants and Refugees" was created. The MNRSPR pushed strongly for a across-the-board regularisation and was to a large part successful. In Germany, Italy and Spain similar events happened, and they originated movements such as "Papeles para todos" in Spain, "Kein Mensch ist illegal" in Germany and a movement against the deportation centres emerged in Italy.

In the following part, the work of NGOs in Belgium, Italy, Germany and Spain is presented. The NGOs were selected according to the capacity of the researchers to reach them (Brussels, Berlin, Cologne, Barcelona, Almeria, Alicante and Milan). In addition, it has been tried to find NGOs working in different areas (work, housing, health, education, lobbying, sensitising, combating racism, self-organisation, legal counselling, social assistance and women & children). A total sum of 48 NGOs, which work with immigrants irrespective of their legal status, have been interviewed and are presented hereafter.

It is interesting to note that some of the interviewed NGOs have received support from the European Union, while others have great financial problems. Most NGOs have serious financial problems, because public and private subsidies are small and mainly non-recurrent. Some NGOs are able to finance the salaries of permanent workers through subsidised employment contracts, but frequently this prevents them to employ the most apt candidate and it originates a great fluctuation within the staff. The majority of the interviewed NGOs act in a difficult "economy of survival".

In Belgium, Italy, Spain (and Germany?), the researchers see in the scarcity of resources of the NGOs one of the reasons, which explains their jealousy, competition, or, in the best of cases, the absence of communication and understanding.

In Italy and in Belgium, the researchers have interviewed NGOs, which excluded undocumented immigrants from their target groups. In Italy, in recent years, the majority of NGOs with few exceptions and in particular with the exception of those who work in the area of health care, exclude *sans papiers* for reasons that they attribute to pres-

sure from public authorities. This might be in relation with the dominant public discourse, which designates gypsies and immigrants as responsible for every ill, to the point of considering that those who offer assistance and aid to sans papiers are almost jointly responsible for criminality and insecurity. Indeed, at times, even involuntarily, some NGOs have accepted the role of selecting "deserving" immigrants from "problematic" immigrants.

The research team in Spain has conducted interviews to NGOs of very different types and activities, which work mainly in the region of Catalonia, and it has described some other well-known NGOs. Some NGOs work as multifunctional service providers and others concentrate in one area. The Belgian team interviewed NGOs, which since the regularisation campaign carry out concrete and privileged actions in favour of sans papiers. Most actions consist in legal counselling, collaboration in the design of the regularisation law, but also support in the areas of accommodation, health and training. In Italy, many NGOs, which support undocumented immigrants, are religious NGOs, but the work they do is not very different from the work done by non-religious NGOs. It is interesting to note that, since the 1970s, Italian Catholic organisations working in the countries of emigration help people wishing to emigrate to find work and housing in Italy. Most Italian NGOs act as assistance, humanitarian and charity organisations, and few direct their work towards the emancipation and self-organisation of immigrants. In Germany, the fear to be prosecuted due to the law for foreigners influences most NGOs only at the beginning of their work. After they become known, for instance through an offensive publicity campaign, it is improbable that they suffer prosecution. Most of the NGOs, which support sans papiers, have their origins in associations for asylum seekers and civil war refugees. Only a few NGOs have been created explicitly for the defence of the rights of undocumented immigrants (cf. below Büro für medizinische Flüchtlingshilfe and Kmii). A third group are ad-hoc groups which have been created in order to support specific actions to protect sans papiers (cf. below WKA)

Innovative Activities in the Area of Work

In Catalonia, the greatest trade union of agricultural workers and employers in Catalonia (**Unió de Pagesos**) conducts sensitisation campaigns among their affiliated employers in order to encourage them to regularise their foreign employees. In addition, they have started specific campaigns for the recruitment of immigrants and they support immigrants in their demands for regularisation. The **Centre of Information of Foreign Workers (C.I.T.E)** is a labour office for immigrants created by the Spanish trade-union CCOO. **C.I.T.E.** supports undocumented foreign workers in 130 offices all over Spain in order to help them to obtain residence and work permits.

In Italy, officially no NGO deals with the problem of looking for jobs for immigrants, but in fact, all the NGOs try to take best advantage of the networks of relations and acquaintances to help immigrants who are looking for a "decent" job. The NGOs most active in this sector are in general the Catholic ones, also because they take on a role of selection and guarantee for the employers. As far as the protection of the foreign worker is concerned (as for Italian workers), compared to discrimination, devaluation and forms of neo-slavery, the action of NGOs and in particular of the trade unions remains fairly poor. One exception is the **Centre for Foreign Workers (CELSTRA)**, which informs and assists immigrants in the area of employment and trade unions through a continuous activity of study and training on work and all related aspects. The counselling activity of Celstra concerns carrying out bureaucratic and administrative formalities, legal counselling; labour disputes with internal co-ordination of immigrants belonging to the CGIL trade union; more general work-related issues and lastly, representation on behalf of CGIL on issues of immigration with the authorities dealing with this.

In Belgium, the multifunctional NGOs SMZP and Point d'Appui are active in this field (cf. below).

Contrary to Spain and Italy, German trade unions have not started any initiative to support undocumented immigrants, with the exception of some small trade union sections, which even permitted their affiliation. In Berlin, the **Central Service for Migrants from Eastern Europe (ZAPO)** sup-

ports migrants in questions related to work. Every week 20 to 30 people request their counselling services. The most pressing problem is the refuse of the employers to pay the salaries. In these cases ZAPO asks the migrant if he/she wants only to receive the salary or also the employer to be controlled by the official instances and/or to bring the event into public light. Then the counsellors find out the sum of the official salary (according to the respective collective agreement) and they ask the employer by a letter to pay the salary. If the employer does not react, then they propose to go to the tribunals. In this case they help to find a lawyer. According to German law undocumented immigrants have a right to their salary. The problem is that very few sans papiers have the energy to go to court and to wait until the final decision is taken.

Insufficient Pioneer Actions in Housing

The associations **Alicante Acoge**, **PROVIVENDA**, **COLUMBARE**, **ENAF (ANAFE?)** and **Santa Lucia** try to solve the most acute housing needs through different means:

1. Subsidised dwellings for very urgent cases and for a limited period of time;
2. Co-operation with estate agents in order to obtain rented dwellings for immigrants;
3. Creation of exchange centres for offers and demands of rented dwellings;
4. Subsidies for rents to immigrants and offer of securities for landlords;
5. Information centres on housing;
6. Rehabilitation of dwellings with volunteers.

Other multifunctional NGOs also support immigrants in their search of dwellings or offer directly housing, for instance, **CARITAS**, and **SSIM**.

In Belgium, some associations (**Steunpunt Mensen Zonder Papier** (SMZP), **CIRE**, **Point d'Appui**, and **ADP**, cf. below) fight to try to find housing and accommodation for undocumented immigrants. Sometimes, they take upon themselves the necessary steps. **CIRE**, for instance, has an accommodation centre with three hundred beds, and it has some funds for rent guarantees. **SMZP** has set up a housing project in order to have a welcome house, which is always ready to open its doors to undocumented immigrants.

In Italy, the response to the housing demand by NGOs has always been almost completely insufficient. Apart from the Catholic NGOs (**Caritas Ambrosiana** and **Secretariat for Foreign Affairs of the Diocese of Milan**) which have a limited number of beds in special hostels, there is the temporary hospitality by the **Association of Senegalese of Milan and Province**. There are also associations or co-operatives that have been set up to act as intermediaries between landlords and foreigners, providing guarantees. In some cases these organisations buy and renovate houses to rent permanently to foreigners. These include the co-operative **Dar Casa** and the **Associazione Una Casa per l'Amico** which own houses for rent and act as intermediaries. However, all these initiatives are of a very limited number.

In Germany there are some housing projects for sans papiers, for instance in Berlin, Cologne or Freiburg, but they are clandestine.

Providing Health Care

In Spain, **Caritas** and **Alicante Acoge** help sans papiers in finding solutions for their health problems through co-operation with public and private institutions. **Solidarity and Missionary Services of Caputxins in Catalonia (SSIM)** organise 18 doctors, who volunteer in rotation in order to offer daily health services from 17 to 22 hours. Recently, a psychologist works with children. In addition, they offer medicines.

In Belgium, **Doctors Without Borders (MSF)** holds consultations and tries that undocumented immigrants and asylum seekers have access to care. They reached a consensus with hospitals to treat children without asking too many questions about their situation.

In Milan, in this sector more than in the others there has been a particularly important voluntary surge by hundreds of doctors and welfare workers, creating special surgeries with a number of patients certainly greater than those of public structures in past years. We can therefore say that this is the "demand" of services for immigrants which is best satisfied by NGOs, even if obviously it succeeds in satisfying only a part of the potential demand. It is also to be said that thanks to the fact

that a large part of the medical and nursing staff in public structures have now become aware of this situation. minimum services tend to be guaranteed there as well today. **NAGA**, a voluntary non-religious association and the **Opera San Francisco**, which has a religious orientation, offer health services, and they have contributed on many occasions to the fight for immigrants' rights. For example, **NAGA** has actively collaborated on drawing up the law on immigration. The main activity of **NAGA** is to offer **welfare and health care**, in the first place in offering basic care alongside special care (gynaecology, orthopaedics, urology, dermatology, cardiology, surgery, ophthalmology, otolaryngology, psychology-psychiatry and infectious diseases). Minor surgical operations and specialist tests are carried out in the own clinic. Between 1st January and 31st March 1999, 5055 visits were carried out in the clinic. There is also a network of voluntary specialists for difficult cases or requiring special needs, which cannot be supplied in the clinic. Health care also covers treatment with free distribution of medicine and undertakes to provide physiotherapy and prostheses.

In Germany some chambers of doctors have made a call to its members to cure undocumented immigrants. In addition, **Offices for Medical Support to Refugees** have been created in Berlin (**Büro für medizinische Flüchtlingshilfe**) and eight other towns. In Berlin they open two times a week and assist ca. 30 people in this time. There is always a doctor and a Spanish-speaking person present, and sometimes an interpreter. Due to financial problems they cannot support all the needs, despite of 80-100 volunteering people from the medical professions and ca. 30 interpreters. The volunteers criticise the public administration for foreigners because they send asylum seekers who are entitled to emergency health services to them, since they are less bureaucratic than the responsible administration.

Promotion of Children in Schools and Courses for Adults

Alicante Acoge supports schools in their efforts to integrate immigrant children. In Alicante, they have developed together with some schools programmes which:

1. offer complementary courses for children with difficulties,
2. encourage parents to take part in school activities,
3. co-ordinate different schools and administrations,
4. try to prevent absenteeism from school.
5. have created school clubs for children and for parents, and
6. offer workshops of Arab for children from Northern Africa.

Also, **SOS Racism** works with schools, which want to sensitise their pupils on immigration, minorities and racism. The **Group of Research on Cultural Minorities (GRAMC)** together with the municipality of Santa Coloma de Farners (Girona) created the first school for adult immigrants from Africa in Spain "**Samba Kubally**" which, among others, offers language courses. Also **CARITAS** offers language courses for immigrants.

In Italy, **FILEF** help foreigners to look for work, helping him/her to write a curriculum vitae, informing him/her of opportunities for training and referring them to structures for seeking employment; in addition, if necessary, the operator helps the immigrant contact these structures or private individuals by phone. Free Italian courses held by qualified teachers are also organised at **FILEF**.

In Germany, the Socio-cultural Centre for International Co-operation and Language Learning attempts to self-organisation of migrants. They offer German language courses and organise exchange of information and advice.

Lobbying, Sensitising, Combating Racism and Self-organisation

Most of the Spanish NGOs working with immigrants try to sensitise public opinion on the question of immigrants, to condemn their social exclusion and racist acts against them. However, two of the interviewed NGOs are especially active in this way. On the one hand, there is **SOS Racism**, which has an office for information and denounces. They also undertake pedagogic activities, they publish an annual report on the state of racism in Spain and they organise every year a great "diversity party" in Barcelona. Also, **F.C.I.C.**, **Alicante Acoge**, **Almeria Acoge** and

other NGOs carry out sensitisation work. The **Federation of Collectives of Immigrants in Catalonia (F.C.I.C.)** comprises ca. 25 collectives of immigrants. Priority is given to activities in defence of the rights of immigrants and the participation in different political forums on immigration. In addition, they conduct sensitisation, information and training campaigns, as for instance courses in the police school of Catalonia. The **Platform "Papers for all"** was created in 1996 in Barcelona as a response to the deportation of 108 immigrants under very inhuman conditions. This association comprises forty associations (e.g. F.C.I.C., CARITAS) and its main activities are to denounce the situation of undocumented immigrants, in particular they condemn the harassment suffered by the police, they ask for the closure of the deportation centres and they oppose the stigmatisation of immigrants as criminals.

Many of the interviewed Belgian NGOs work in this area. For instance, the above-mentioned **CIRE** is trying to open a debate on a new immigration policy. It also organised a very successful interactive exhibition on refugees, which was shown in several countries. Similar work is done by its Flemish equivalent "**Centre for Reflection on the Integration of Refugees**" (OCIV). The **League for Human Rights (LDH)** is a vast organisation, which goes to meet cabinet members, ministers, and parliament members to attract their attention to the compatibility of projects with human rights. It also participated in many consultations on the law for regularisation, but then refused to participate in the regularisation commission because they think that the regularisation criteria are not clear enough and because the commission depends on the minister. The **Centre for the Equality of Chance and Struggle against Racism (CECLR)** is a public institution, attached to the Prime Minister, which mainly supports victims of racial discrimination and work with the mass media. In Belgium, the "**National Movement for the Regularisation of Undocumented Immigrants and Refugees**" (MMRSPR) was the origin of the political mobilisation. The **Co-ordination and Initiatives for Foreign Refugees (CIRE)** was one of the pioneers in the creation of MMRSPR, it accompanied the church sit-ins, demonstrations and petitions and currently

it is keeping an eye on the follow-up of the regularisation campaign. One of CIRE's objectives is to structure the groups created by the undocumented immigrants themselves, so that in two or three years, the groups could have their place inside the co-ordination. The **Movement Against Racism, Anti-Semitism and Xenophobia (MRAX)** counsels foreigners on questions of residence, naturalisation, regularisation, etc. It has also a complaint office for victims of racist treatment, a documentation centre and it works in schools in order to sensitise about racism, immigration and foreigners. MRAX has two members in the regularisation commission. The **Christian Worker's Movement (MOC)** is a pressure movement which touches all domains of social, economic and political life. They organise social assistants who help undocumented immigrants with health problems and lawyers who helped to complete the files for the regularisation.

In Italy, the **Italian Federation of Emigrated Workers and Their Families (FILEF)** offers counselling in cases of aggression and threats linked to any form of racism. FILEF carries out activities of solidarity through public stances (media, press releases, appeals, demonstrations, distribution of leaflets etc.), parties, debates, collaborating with initiatives of awareness-raising and actions in schools and institutes. The **Association of Senegalese of Milan and Province** aims to encourage solidarity amongst Senegalese, maintaining their bonds, co-ordinating all cultural and educational activities and lastly, the identification of the most appropriate solutions for the creation of real cultural integration. The Association organises parties, various events, meetings with other associations. In addition it offers counselling, it provides a canteen, and other services.

In Cologne, the **Cafe for Refugees (Flüchtling-scafé)** is a meeting place with some counselling activities and the offer of German language courses. It opens once a week, and the most discussed topic are the possibilities to obtain legal status or to migrate to another European country where this is easier. The association would like to open other Cafes but they are afraid of police raids. The **Association of Rom Gypsies (Rom e.V.)** in Cologne struggled at the beginning of the 1990s for the right to stay for Rom and it co-

operates currently with Kmii. In general they represent the Rom as ethnic minority and do not focus on questions of legal status. The network "**No human is illegal**" (**Kmii**) is a federal movement which struggles for the rights of sans-papiers and supports their self-organisation. The members are people who work since many years with and for refugees. They try to influence the public discourse and in Cologne they initiated the "**Moving Church Asylum**" (**Wanderkirchenasyl, WKA**). Currently they lead a campaign to convince the airline company *Lufthansa* to refuse the deportation of sans papiers. The WKA protects since 1998 ca. 450 illegalised Kurdish refugees against deportation. Over 50 churches have offered protection in rotation. The aim were to reach a stop of deportations to Turkey, then after negotiations the demand was limited to a residence permit for the participants of the WKA and finally the refugees accepted a case by case decision by the administration. Up to now 80 refugees have received a residence permit, 150 are waiting for the decision and have meanwhile a temporary stay permit, while 220 refugees continue to be as undocumented as before. In Berlin/Potsdam, **Victim Perspective (Opferperspektive)** assesses and supports victims of racial attacks in Brandenburg, in East Germany. They help victims in the search of medical and psychological help, they search a lawyer to defend them in the legal process, they accompany them physically during the process sessions and they organise support in the civil society of the place where the attack happened. An additional area of work is to bring the events into publicity in order to counteract a frequently supportive ethnocentric climate. The province of Brandenburg welcomes the charity and social assistance work of the NGO, but it rejects its critical view on the situation of refugees.

Multidimensional Activities: Social Assistance and Counselling

Most of the interviewed Spanish NGOs work in more than one area. Mostly, this means assistance in the fields of legal counselling, of work, housing, education and health. This is particularly true for **CARITAS**, **SSIM**, **Alicante Acoge**, **Almeria Acoge**. However, some of these show particularities. For instance, **SSIM** is an NGO, which works exclusively for undocumented immigrants, which

is active in the country of origin and in Spain at the same time and which works with doctors who volunteer in providing health services to undocumented immigrants.

Also in Belgium, there are many multifunctional NGOs, such as **CIRE**, which amongst other activities (cf. above) has a training centre (French, computer and cultural awareness courses) and it manages an assistance program for job hunting. **The association Assistance to Displaced Persons (APD)** focuses its work mainly on supporting asylum seekers and accompanying them through the complicated legal and psychological process. They also visit the deportation centres regularly. The NGO **Stand Up (?) People Without Papers (SMZP)** wants to promote human rights for all undocumented immigrants, by helping them to find work on the informal market and accompanying them in the process of regularisation. In addition, they have published a guide about the rights of undocumented immigrants, set up a housing project and sensitise the medical world not to refuse help. **Point d'Appui** is their French equivalent, they offer a telephone hotline and give advice in all areas of interest for undocumented immigrants and asylum seeker. **Caritas Secours International (CSI)** offers social services, housing services and structural services. They have supported people who asked for regularisation and they have two members in the regularisation commission. The **Association for Foreigners' Rights (ADDE)** was founded by lawyers and the objective is to make foreigners' rights known. ADDE offers seminars to field workers, lawyers, social workers, communal agents and ministers, it publishes a legal review and it gives legal advice through help centres for foreign persons.

In Italy, the **Secretariat for foreign affairs of the Diocese of Milan** offers legal advice, scholastic guidance, vocational guidance and health care. It also has six hostels for immigrants. Recently, the Secretariat has begun to work on two new issues: foreign minors (in particular of the second generation) in relation to their insertion in schools; trafficking of women and foreign minors for prostitution. **Caritas Ambrosiana** is active in providing social protection, with alongside a legal counselling service on some projects (getting out of

prostitution); overnight accommodation (at various levels); and educational guidance. The **FILEF** supports undocumented immigrants in the complex procedures of asking for residence permits and family reunification. In addition, they have a Women's Department run by welfare and health workers to offer advice and counselling on the problems experienced by foreign women at work and in the family, and they provide vocational guidance and training. The main aim of the **Centre of International Labour Solidarity (CESIL)** is to help foreign immigrants become independent in their contacts with Italian bureaucracy. In particular, CESIL operates in the area of counselling and guidance for relations with the Police, the local health authorities, the Provincial Employment Office and public offices in general. Through its International Women's Group it runs two apartments with four sleeping possibilities each of them, offering temporary accommodation to women with special problems (illness, pregnancy, getting out of prostitution). The most important activity, however, is counselling.

In Berlin, **Caritas Berlin** and Sister Bührle (Commissioner for Migration Questions of the Catholic Church) support all immigrants which need existential help. In addition, Sister Bührle tries to sensitise the public administration and offer them the possibility to make their experiences public (cf. recent publication "Illegal in Berlin").

Intercultural Education and Mediation

In 1999 a group of recently trained intercultural mediators created the **Association of Intercultural Mediators of Catalonia (Alcantara)**. Currently they work in combating prejudices of North-African non-accompanied minors towards the public institutions which take care of them, and vice versa, and they try to change the mentality of the first, so that they take responsibilities and agree to participate in training activities.

In Italy, the **Co-operative Proficua** was created within the League of human rights and deals with cultural mediation between Italian society and people from different cultures. For this purpose, the co-operative offers, on the one hand, a coun-

selling service, which is open to all those (institutions, services and individuals) who are or intend coming into contact with different cultures, providing a wide range of products from the organisation of multicultural events to the organisation on "education on world cultures"; on the other hand, the co-operative offers foreign citizens support and help in becoming integrated into Italian society.

Women and Children

Musu Kafo (Barcelona) is an association of women from Gambia, Senegal, Nigeria and Ghana. They denounce the legal dependence of women, who came to Spain through the mechanism of family reunification, on their husbands and condemn the prohibition to work for these women. In order to overcome the latter, they try to organise co-operatives of African women.

The **Italian League for struggle against AIDS (LILA)** created in 1997 a project targeted to prostitutes. The "Priscilla Project – Mobile unit for prostitution" operates with the aim of preventing HIV through prevention on the road, AIDS switchboard, legal counselling and training courses. The project offers a free telephone service and the mobile unit goes out three times a week during the night. The women who asked for support are mainly from Albania, Nigeria, Eastern Europe, and South America.

International Catholic Association of Services for Female Youth (ACISJF-In Via) works with non-accompanied children aged 3 to 17 and it offers a centre for urgent sojourn and since last April it also offers some stable places for minors.

In Berlin the Clearing Office for unaccompanied minor refugees (umF) support children and youth aged 6 to 18, if they are potential asylum seeker or if they have an official toleration, by offering living in a hall of residence and by supporting their legalisation or return. Undocumented children are only supported exceptionally.

In Germany the **Working Group Against International Sexual and Racist Exploitation (AGISRA)** works for the protection of three groups of women: First, refugee women whose

women-specific reasons for political asylum are denied (violation, sexual violence, etc.). Second, Women who are victims of human traffic, forced prostitution and exploitation in women-specific jobs. Third, women who are to be deported despite the fact of being victims of violence and forced prostitution. The street-work project and the hall of residence for women in Cologne had to be closed due to a lack of financial means. In Berlin, the **Intercultural Women Centre** (Interkulturelles Frauenzentrum) offer counselling services and cultural and educational activities. They also support immigrant women in a prison in Berlin. The aim of the Centre is to give "help to self-help", for instance in form of rooms for meetings of women groups. Thanks to a political campaign supported by **AGISRA** and **Interkulturelles Frauenzentrum** immigrant women receive an individual residence permit after two years of marriage (instead of four as before). **ZAPO-Working Group on Women (ZAPOLA)** is the group for women of ZAPO. They support women from Eastern European in a similar way as AGISRA.

NGOs and Researchers: What European Societies Should Do

Which is the role that states assign to NGOs and how do they see their role? European states proceed in two ways with respect to NGOs. On one hand, some NGOs are criminalised as subversive organisations in the same way that some immigrants are criminalised as illegal. On the other hand, some NGOs are tolerated or even supported because they fulfil genuine public tasks, as for instance offering health service to immigrants or administering deportation centres. The NGOs have various visions about their tasks. Some act as the prolonged arm of the state (those managing deportation centres), others follow a paternalistic and charity approach (e.g. religious NGOs) and a minority supports the self-help of individual immigrants or the self-organisation of immigrants as collectives. Most of them agree in demanding the extension of human rights to undocumented immigrants.

Immigration Policy

A proactive policy of immigration is needed in Europe, since immigration has never stopped and will continue. Incoherence and the lack of a prospective vision have marked the immigration and asylum policies carried out in most of the European countries for the last fifteen years. Possibilities of legal migration into the European Union have to be set up. The European Union has to recognise that it is de facto an area of immigration.

Discourses on migratory policies have to be strictly separated from discourses about criminality.

Integration Policies

Residence

Discretionary powers of the administrations should be restricted to a minimum and constitutional rights should be applied to immigrants.

Illegal entrance to the European Union might be a criminal offence, but illegal sojourn should not be considered a criminal offence but only an offence to administrative rules, like it is the case in Italy and Spain. This measure would ease the application of human rights to all immigrants irrespective of their residence situation. As long as this is not reality, it is important to separate human rights from residence permits in order to be able to supply basic rights to persons without the need to show their identity card.

Many of the interviewed NGOs agreed that countries of immigration should institutionalise a permanent possibility for undocumented immigrants to regularise their situation. One proposition is that residence permits should be given to immigrants who show that they live since some years in the country, who have work and who have made an effort for integration. In this way the creation of a segregated, marginalised and exploited underclass will be prevented.

Undocumented immigrants should have a "right to right", i.e. deportation of immigrants should be prohibited, if those are involved in a legal contend (as prosecuting party or testimony) or who make a claim against employers or (social) insurance institutions. This has been partly implemented in Italy with the new law for foreigners in 1998.

Women who follow their husbands into the UE should be entitled to an individual residence and work permit in order to prevent situations of marital mistreatment and of support of illegal employment. Support to women forced to prostitution is very scarce. They should have the right to legalisation, if they collaborate in prosecuting the offenders, as it is already legal practice in Italy.

Unaccompanied children and youth up to age 18 should all be entitled to a residence permit and to integration measures. If they want to return home, they should be supported to do so. The minimum age for access to the process of demanding political asylum should be age 18 in all European Union countries (German law stipulates age 16 as limit).

Administration

The administration of residence and work permits should be transferred from the police headquarters to the municipal administration, so that the police can concentrate on street work and on controls of work places with illegal workers.

Work

The real possibilities for employment of immigrants should be registered regularly and then give rise to immigration quota. In Lombardy and Catalonia (?), for instance, there is a demand for workers that exceeds the current quota for work permits.

Asylum seekers should have the right to **work** while waiting for the decision of their case.

The UNO convention for the protection of the rights of migrant workers and their families (1991) should be ratified by the European Union member states in order to defend their rights to be paid for their work.

Health

Undocumented immigrants should have the same rights as the nationals with respect to access to public health care (this is a right guaranteed by the Belgian, Italian and Spanish constitution) and this right has to be put into practice. As long as states do not guarantee this right, they should finance the NGOs, which assume this function.

Education

The access of all children to schools should be guaranteed without the danger of their or their parents' deportation. They should have the right to obtain academic certificates and measures for their integration should be taken, in particular in schools with a high presence of immigrant pupils. Children should have also access to kindergarten.

Political Participation

The right to vote at municipal should be granted to immigrants with residence permit in order to make xenophobic and racist discourses of political representatives more difficult.

Deportation and Prison

Deportation centres cause many problems, because people are imprisoned without having committed an offence, regularly sans papiers commit suicide in these centres, the living conditions frequently are inhuman. In addition, frequently sans papiers cannot be deported anyway, because their nationality cannot be identified. In Germany, since 1993 more than 30 (?) people died in deportation centres. Many NGOs demand the closure of the deportation centres. NGOs should not take the responsibility of managing deportation centres and NGOs, which administrate deportation centres should be asked to stop this practice.

An imprisonment of people due to the suspicion that they might try to evade a deportation should be prohibited.

The practice of double penalty for immigrants (i.e. imprisonment first and deportation afterwards) has to be abolished. The development of reinsertion programmes for immigrants in prisons should be possible.

Support of Civil Society

NGOs

The European Union should not only co-ordinate immigration policies in form of co-ordinating national police measures, but it should promote global common policies which make sure that the human rights of sans papiers are respected. The successful strategies of NGOs in the different ar-

measures of integration (housing, schools, work, health services, etc.) should be supported by public authorities and be disseminated all over the European Union.

The legal criminalisation of NGOs and private persons who work with and for sans papiers (cf. legal situation in Germany, Spain, and Italy) has to be abolished. The Belgium government has made a step in this direction by excluding from punishment those who help foreigners mainly for humanitarian reasons.

The European Institutions should not only support large NGOs, but also consider small NGOs and in particular self-organisations of sans papiers. It is very important for the NGOs to have access to some recurrent basic subsidies, so that their daily life becomes much easier.

Research on immigrants and projects to support immigrants should not only benefit the research centre and the NGO in order to pay the salaries of their employees. The objectives of projects should not be self-referential, but effectively ameliorate the situation of immigrants.

Annex: Main features of Regularisation Campaigns in Belgium, Italy and Spain

Country	Regularisations	Conditions of last regularisation	Type of permit	Numbers of last regularisation	Problems and advantages	Involvement of NGOs
Spain	1985 1991 From 1993 annual quota 2000	All foreigners who prove to have been living in Spain before June 1999. Inclusion of family members & asylum seekers.	One-year residence permit. Work permit ?	July 2000: 225.000 demands. 50.000 are estimated to be refused.	Many residence permits granted in 1991 were not renovated one year later. Thus, new sans papiers.	In discussion of law and as assistants during the regularisation campaign.
Belgium	1974 1990s (some years for refugees) 1998 1999/2000	Asylum seeker after 3-4 years of attendance. Foreigners who cannot return. Seriously ill. For humanitarian reasons & lasting social ties in Belgium. All should have been in Belgium in October 1999.	?	50.000 people with 32.662 children.	Slow decision-taking. Short time to present demands and lacking documents. Lack of knowledge of reinforcement staff. Demanders are entitled to public health services and to a work authorisation.	In discussion of law, as assistants during the regularisation campaign and in regularisation commissions (only voice no vote).
Italy	1982 1986-88 1990 1995-96 1998 From 1998 annual quota	All who have been in Italy in March 1998 and have a (irregular) job.	?	250.792 demands, of which 36% were still in decision-taking process in July 2000.	Creation of a "flood" of immigrants queuing up for regulation. Reinforcement of construction of migration as problem. Arbitrary line between entitlement to documents or illegality. Suddenly extra burden of work for public services	?

Addresses of Project Participants

Belgian addresses lack the phone and fax numbers.

Italian NGO addresses are missing.

German NGO addresses are missing.

AN APPEAL FROM THE ASYLUM SEEKERS IN RATHENOW, Germany

HONOURABLE STATESMEN:

We the asylum seekers in Rathenow have the honour most respectful to present our claims. We have thought it very wise that the silent scribble of the pen is stronger than the thunderous sound of the gun. We believe strongly in the power of argument and not the argument of power. Our claims have reduced us to the level of second-class citizens and have made some Germans to consider us as valueless to the extent of always beating us mercilessly. From these racist attacks we incur serious body injuries to the extent of death. We consider these attacks racist because of the words that always come out from the mouth of the aggressors. Example: "Foreigner, what do you want here, we hate you because you are a foreigner, we are fighting for our land, you should go back to your land and fight all the foreigners there."

Respectful Ladies and Gentlemen, before we proceed, we wish to use this golden opportunity to make clear a point. Many people have always considered the asylum seekers as outcasts of society, as people who have nothing to contribute to the growth of the society, as people who left their various countries because of poverty, as people without any sense of direction, as criminals and not as human-beings who left their various homes because their lives were at stake.

Honorable Ladies and Gentlemen, we are appealing to you to consider the asylum seekers as human-beings like yourselves without any barrier in any domain -colour-, nationality or continent. It is a disgrace for us to be writing in English after living in Germany for a long time. WHY? Because we do not have the possibility as asylum seekers to study in Germany. In order to enrich the society, knowledge should be distributed. When one has knowledge and distribute it, he or she enriches the society without losing a grain of his or her knowledge. When there is a lighted candle in a room, and people come with candles and light their candles from this one candle, the flame of the single candle does not reduce but on the contrary the room becomes bright. Examples are the present U.S.A. secretary of state who went to America as an asylum seeker and Mr. Schultze who left Germany and went to America as an asylum seeker. He ended up as a senator in America. WHY? They met a selfless society in the distribution of knowledge. This is just to name a few. From these two examples, you will agree with us that some of us are like the biblical stone. We have something in us that others do not have. The slaves from MENDI, Sierra-Leone, could express themselves and demistify the mystery that surrounded the Spanish ship, THE AMISTAD, in 1839, because they were offered the opportunity to learn.

Before we proceed, we will use this opportunity to express our profound gratitude to some officials and organisations in the state of Brandenburg for the role they have played to arrest the racist assaults on us which have not receded but have instead increased:

- The Mayor of Rathenow
- The officials of ausländerbeauftrag Haveland and the state of Brandenburg
- The Police
- The churches
- The Media
- Flüchtlingsrates Brandenburg
- Freies Gymnasium Nauen zu den Luchbergen
- The county commissioner in Haveland
- The Minister of Education, Youth and Sports
- The Minister of Economics
- The Minister President in the state of Brandenburg.

Honourable Ladies and Gentlemen, although some of these officials have set the foundation to solve the problems of racism we are facing, the physical and psychological torture we undergo, they also appealed to us that they have limited powers to handle our social demands as asylum seekers. That is why as asylum seekers, we find it appropriate to personally present our claims to you. These claims have contributed for the racist attacks we undergo.

Some of our colleagues took a trip to some of the asylum camps in the state of Brandenburg to share with the other asylum seekers our miseries. The report is drab, hollow, bleak and degrading. From their report, we discovered that asylum seekers are imprisoned for their "Political and religious ideas" back at their various countries. In fact, an undefined prison sentence.

Honourable Ladies and Gentlemen, if you have two friends, one is always sharing your point of view and the other can at times criticise you. PLEASE. "the praise singer friend" is not a good friend. We are appealing to [use] your High offices to improve the social conditions of the asylum seekers in your country. If it is a law, we hold strongly that this law is outdated to suit the taste of time. We are in a new Millenium. Let us avoid a situation where posterity will judge somebody negatively or point a finger at somebody for his or her inhuman treatment towards his fellow human-being. Who ever knew, the almighty Papon Maurice who had all the powers to arrest and deport about 1500 Jews in camps of Nazis extermination will one day have a rusty, sordid and dradful future. Plato, the philosopher, once said: "The foreigner, isolated from his fellow country men and his family, should be the subject of greater love on the part of men and of gods. So all precautions must be taken in order that no wrong be committed against foreigner".

Honourable Ladies and Gentlemen, in our various countries, we fought against bad governance to the risk of our lives.

Had it been we were in some European countries or America, some of our names will be handed down to posterity as those who practised those sublime of all virtues-disinterested patriotism and unshrinking courage to stand firm against dictatorship. On the contrary, we were hunted away because of our ideas.

Ladies and Gentlemen, we do not know how you are going to receive our appeal but we know we are playing our rational role. William Shakespear once said, "The world is a stage where every body has a role to play".

OUR CLAIMS.

1 - NO FREEDOM OF EDUCATION:

Respectful Ladies and Gentlemen, we strongly believe that there are no barriers to the acquisition of knowledge. We are shocked to see that because somebody is an asylum seeker he cannot go beyond a certain level of elementary education, he cannot further his education, he cannot learn any profession. How can people live in asylum prisons for one to ten years without educational facilities. Such an indiscriminate creation of exclusive privileges tends rather to destroy a particular class of people than to construct. For the fact that we are unable to express our selves to the Germans, some of them consider us as pest to the socciety and their response is to attack us mercilessly. Some Germans think we are fools.

2 - NO FREEDOM OF MOVEMENT:

We are puzzled than angry to the fact that we have defined territorial jurisdiction that we cannot go beyond without permission.

At times a ministerial order can rule this federal law. Example was on the 20.04.2000 that some of our collegues were supposed to go to an International Congress of Refugees in Jena. The almighty Minister of internal affairs in the state of Brandenburg circulated a ministerial order not to give any body permission to go to Jena.

Are we living in a military regime? Are we living in a dictatorial regime as back in our various homes? Are we living in a state of emergency? Is that his definition of democracy? - NO freedom of association, NO freedom of movement? Why should we always live on the margin? Our cry although is like a teaspoon of water thrown into the sea. We know we are not living, we are barely surviving. If you can put the nail on our coffins, we shall no more live to see or to hear dictatorship.

That apart, the question now is, why should we at any moment need permission to travel within Germany? Did we seek asylum in Germany or in Haveland? We are bom free but every second we are in chains.

If the Police arrest anybody out of his territorial jurisdiction, he or she is expected to pay the sum of 125.- DM. How can you tax somebody who is not working to pay 125.-DM? How can you punish somebody who have the right to 80.-DM cash per month to pay the sum of 125.-DM?

3 - NO FREEDOM OF WORK:

Another bomb in the road is we do not have the freedom to work. In our identity card, it is clearly stated "Erwebtätigkeit nicht gestattet".

In this case, you cannot be employed by any body or carry on any personal activity that can raise money. What do you think will become of a human being that cannot go to school, that cannot move freely and that cannot work? Always eating and sleeping in one room. Many of us have developed nerves problems, gastric and psychological problems because of this inhuman treatment. Worst of all we are hated by some Germans who believe their taxes are used on us. That is why they attack us. Why do you blame the man on the street who beats, what about the law and the law makers? We strongly believe that racism stems from the law.

4 - NO FREEDOM OF COMMERCE:

One of the root causes of racism is the manner in which our shopping system is organised. Example is in the state of Brandenburg. The medium of exchange is with vouchers or Smart Cards. We do not have access to money. In a month, we are given the vouchers to the tune of 310.-DM and money is just 80.-DM cash. Or one can do shopping with the Smart Card to the tune of 310.-DM.

With these systems, we have defined shops, defined goods to buy. For instance, there are Asians or Africans. We have special food stuff that are found in special shops in towns and these shops do not accept the vouchers. Secondly, in the shops that we are allowed to buy, it is very easy for somebody to identify us with vouchers. This create a lot of problems. We cannot use these vouchers or Smart Cards out of our territorial jurisdiction. We want our monthly payment in cash. Why? Because at the end of each month, we have to [pay] our lawyers 50.-DM, we have to write our family members back at our countries, some asylum prisons are not in the same town with the social welfare office. To go there, we have to pay transport too and fro, we have to pay penalties from Police control. With 80.-DM, it is impossible to meet up these demands.

We always create long lines with our vouchers in shopping centers. This has always made people to be annoyed with us: As if that is not enough, we are forced to buy to the tune of 90% with our vouchers. It is clearly stated on the vouchers that one cannot receive a balance of more than 10%. Where is the freedom of commerce?

Finally, the vouchers have expiring dates. We are forced to use these vouchers within a specific time of not more than one month. The dates are usually stated on the vouchers.

5 - OUR ASYLUM PRISONS ARE MOSTLY IN FOREST:

As it has been seen, most of our asylum prisons are found in forest. Many people always asked why is it that most of the asylum seekers live mostly at the outskirts of the town? To those who cannot ask, they have built it in their minds that we are good for the forest with the animals. When they see us in town, it is an embarrassment. They point fingers at us, they look at us with racist eyes and they attack us with their normal slogan "foreigner what are you doing here"? In some of our camps, we find it difficult to reach the towns. We are strange to some Germans because they cannot understand us.

In our prisons, we have spaces smaller as six quadrametre. So many people share one room. The German shepherd dogs are respected more than asylum seekers. The dog is entitled to a space above eight quadrametre but asylum seekers about six quadrametre and even that they do not have it. All these aspects have made some Germans to consider us as outcasts of the society. Are we not human-beings?

Respectful Ladies and Gentlemen, our problems are many. We cannot write all down.

If really asylum seekers wants to describe their situation, we always use the picture of two men standing in front of us. One is holding the Holy Bible and a knife at his back. He gives the Bible to the other man, as he takes it, turns to go, the other man stabs him from the back with the knife.

Respectful Ladies and Gentlemen, we are appealing to you to use your high offices and reverse this situation. While thanking you for reading, we hope you will answer to our cry for a better life.

THANKS.

Your sincerely asylum seekers, RATHENOW:

26. April 2000.

COPIES TO:

Friday, 13th October

9.³⁰ **Presentation of Project**
Christian Petry, Teresa Jurado (Freudenberg Foundation)

10.⁰⁰ **Presentation of Participants**

10.³⁰-11.⁰⁰ Coffee break

11.⁰⁰ **Presentation & Discussion of Belgian Country Report**

Bonaventure Kagné (Université de Liège, Centre d'Études de l'Éthnicité et des Migrations)
Benoit Fontaine (Fondation Roi Baudouin) [inv.]
Belgian NGOs [inv.]

13.⁰⁰ Lunch

15.⁰⁰ **Presentation & Discussion of Italian Country Report**

Giuseppe Sciortino (Fondazione di Ricerca Istituto Carlo Cattaneo)
Paolo Ruspini (Fondazione CARIPLO per le Iniziative e lo Studio sulla Multiethnicità)
Gabriella Petti, Salvatore Palidda (Facoltà Scienza della Formazione Università di Genova)
Italian NGOs [inv.]

SITE VISIT in Mannheim

20.⁰⁰ Dinner

Saturday, 14th October

9.⁰⁰ **Presentation & Discussion of German Country Report**

Albrecht Kieser (Kein Mensch ist illegal)
Gabi Jaschke (Opferperspektive)
N.N. (Forschungsstelle für Flucht und Migration)
German NGOs [inv.]

10.⁴⁵-11.⁰⁰ Coffee break

11.⁰⁰ **Presentation & Discussion of Spanish Country Report**

Andreu Domingo, Adriana Kaplan (Centre d'Estudis Demogràfics)
Carlos Gómez (Fundación Alicante Acoge)
Teresa Climent (Fundació Bofill) [inv.]
Spanish NGOs [inv.]

13.⁰⁰ Lunch

15.⁰⁰ **Presentation "Coordination Nationale des Sans Papiers" and "Fondation France Libertés"**

Aminata Diane (Coordination, Paris)
Anne Babut (Fondation, Paris) [inv.]

16.⁰⁰ **Presentation of a Manifesto Draft**
(17.⁰⁰ Steering Committee meeting)

LEISURE TIME

Sunday, 15th October

9.³⁰ **Working Groups for Discussion of the Manifesto Draft**

Constitution of three working groups according to national or interest affinities

11.³⁰ **Presentation of Amendments to the Manifesto Draft and Closure**

13.⁰⁰ Lunch

European Project
“Easy Scapegoats: Sans-Papiers Immigrants in Europe”



Easy Scapegoats: Sans-Papiers Immigrants in Italy

Giuseppe Sciortino

Istituto Carlo Cattaneo, Bologna - Università di Trieste, Italy

Salvatore Palidda, Gabriella Petti, Paolo Ruspini

Fondazione Cariplo-I.S.MU., Milan, Italy

Report prepared for the European Workshop "Easy Scapegoats: Sans-Papiers Immigrants in Europe" to be held in Mannheim, Germany on 13th-15th October 2000

Index

1	Introduction (P. Ruspini)	3
2	State Policies toward Sans-Papiers (G. Sciortino)	5
3	Socio-economic and Legal Exclusion of Undocumented Immigrants (G. Sciortino)	10
4	Services Provided by NGOs (S. Palidda, G. Petti)	14
4.1	Supply and demand of services to immigrants (S. Palidda)	15
4.2	Public opinion, public policies and orientation of NGOs (S. Palidda)	18
4.3	The NGOs that work with immigrants in Milan (G. Petti)	19
5	Case Study on Racist Violence and Intervention Strategies (P. Ruspini) The story of Ion Cazacu: Rumanian "rebel"	50
	Bibliography	59

Easy Scapegoats: Sans-Papiers Immigrants in Europe

1. Introduction

Migrants from underdeveloped countries started to enter Italy by the mid-1970s, but the migratory inflow became important only during the second half of the 1980s, when it was estimated at more than 100,000 people per year. In the 1990s the foreign population grew more slowly, so that on 1st January 2000, migrants living in Italy could be estimated at 1,270,000¹.

Few migrants entered Italy holding a residence and work permit. Its short history as a receiving country is marked by five acts of legalisation: in 1982, 1986, 1990, 1996 and 1998. Every legalisation drive substantially increased the share of residence permits granted to people from East European and underdeveloped countries: from one-third to 40 %. Nowadays, the number of irregular immigrants from developing countries or Eastern Europe is believed to range from less than 200,000 units to a maximum of 300,000.

One of the peculiar features of Italian immigration is the large number of sending countries, many of which are very distant and have never had special economic or cultural relationships with Italy, a country that had a very brief colonial history. Migrants from former colonies now account for only slightly more than 3 % of foreigners from non-EU countries. This fragmentation prevented the formation of a few leading groups and probably contributed to slowing down the formation of settled national or ethnic-based communities. Furthermore, the relative importance of different flows has changed quite quickly over time. In the 1990s the largest groups were Moroccans (never more than 15 %), people from the former Yugoslavia (about 10 %), Tunisians (5 - 6 %), Albanians (5 - 8 %), Filipinos (5 - 6 %) and Senegalese (about 3 %), but important inflows also come from Egypt, Brazil, India, Sri Lanka, Poland, Rumania, Peru, China, Somalia and Ghana (each one of these groups is over 1.5 %).

The ranking of the proportion of illegal residents amongst the migrant groups has changed substantially over time. Referring to those already holding a residence permit, migrants who applied most frequently for legalisation were: in 1986 from Egypt, Sri Lanka, Senegal and Morocco, in 1991 from Tunisia, Senegal, Morocco and China, and in 1996 from Peru, Albania, the Philippines and China. On the contrary, people from ex-Yugoslavia, Poland and Latin America (except for Peru) were among those migrants who applied the least for residence permits.

As far as the localisation on the Italian territory is concerned, irregular immigrants are unevenly distributed all over Italy. There are 16 provinces with a number of irregulars above the national average, including, not without interesting exceptions (namely Pistoia, Rimini, Pavia, Varese and Trapani), all the larger urban areas. Conversely, provinces with the lowest number of irregulars are varied, and range from areas in which immigrants are highly integrated into the industrial and productive fabric (such as Mantua, Bergamo, and Brescia), to other areas in which the same attraction points are lacking (such as Agrigento, Oristano and Cagliari).

Some of these migrants are poor peasants and out-of-work farm labourers, uneducated and from rural societies. However, according to all local surveys, many, perhaps the majority, were living in urban areas before emigrating².

¹ Source: ISTAT (National Institute for Statistics).

² The local surveys quoted here and below are: Irer, *L'immigrazione extracomunitaria in Lombardia: il ruolo delle politiche regionali*, Irer, Milan, 1991 (mimeograph); Irer, *Tra due rive. La nuova immigrazione a Milano*, Franco

This is the case not only among the “pioneers”, but among the “second comers”, too. On the other hand, younger migrants are more often of urban origin than elderly ones.

Most migrants are young adults, either highly educated people or with middle class origins. Even allowing for a certain degree of overestimation, local surveys agree in noting that between 35 and 50 % are graduates or with a high school education, with differences depending on the country and area of origin. The proportion of educated migrants generally becomes lower and lower as inflows continue, but this is not true for North-Africans, whose early migrants mainly came from rural areas. The most educated groups are: Latin-Americans, Filipinos, Egyptians and East Europeans, while the least educated are Moroccans, Tunisians, Senegalese, Cape Verdeans and Chinese. Nevertheless, even among North Africans there are many educated youths of urban origin, whose orientation to migration is very different from that of their uneducated and rural countrymen.

The large majority of migrants have been, until now, single youths, both male and female, although family reunification is increasing at a fast rate. At present, children under 18 account for 15 % of the foreign resident population, but most single immigrants are not on the municipal registers. The increasing proportion of women, who at present account for more than 4 out of 10 people from underdeveloped and East European countries, on the other hand, only partially indicates the establishment of migrants' households.

Concerning the occupational status before emigrating, local surveys have shown that those out of work were relatively few in number, many indeed having permanent jobs, and a sizeable number were still studying. Moreover, the present job is often worse, from a professional or social point of view, than the one in the home country before emigrating. Quite a few migrants were skilled blue collar workers, craftsmen, skilled service operators and even clerks and teachers. To these, we must add less skilled jobs in the construction industry, transport and above all, in the retail trade, while agricultural workers do not exceed 15 % in any survey. Thus most migrants belong to the élite youth of their own countries. In particular at the beginning of a migratory movement, they were the ones who most intensely feel the disparity between expectations and reality, and have the personal and material resources necessary to support the costs and hardships involved in arriving in a country with which they generally have no relationship.

2. State Policies toward Sans-Papiers

The phenomenon of illegal immigration in Italy presents considerable differences with respect to other European countries. From the early 1980s, at the beginning of the migratory flows to Italy, the migratory system was marked by a strong demand for foreign workers (from the informal economy, families and small and medium sized companies) and, at the same time, by the absence of real possibilities of legal entry. Until very recently, and even today to a certain extent, Italian policy has mainly concentrated on managing the *back door* of illegal entry. Unlike other European countries, illegal immigration to Italy does not represent a "problematic" segment of the stock of foreigners added to a majority of foreigners who arrived beforehand through active recruitment abroad: on the contrary, a large majority of foreigners currently present in Italy were in the past illegal for a varying period of time before legalising their situation.

Illegal immigration to Italy has therefore been, on several occasions a mass phenomenon, which has its origins in the very design of Italian migratory policies, characterised by a restrictive orientation towards legal entries, weak or poor control of the labour market and growing emphasis on border controls compared to internal controls in the territory [Sciortino, 1999]. This strategy is widely approved of by Italian policy-makers, who define it as the most "European" strategy they have at their disposal. It is therefore not surprising that, in the presence of large numbers of irregular immigrants, the policy-makers have essentially always reacted in the same way: by trying to counteract the arrival of new foreigners through greater control at the borders and increased efficiency in deportations and, at the same time, by trying to "reabsorb" the illegal immigrants already present in the countries through amnesties.

As far as fighting illegal immigration is concerned, over the past decade Italy has radically transformed its control policies, going from centralised control of the labour market to the centrality of external controls at the borders. Throughout the 1990s, and in particular since the approval of law 40/98, a crucial part of policy efforts has been aimed at introducing a set of mechanisms to make illegal entry more difficult and to make it easier to deport foreigners who were living in illegal situations: increasing the number and resources of border police, stipulation of re-entry agreements, creation of compulsory detention centres for foreigners to be deported, introduction of compulsory visas, increasing the sanctions for the "entrepreneurs" of illegal entry, increase of the political and administrative discretionary powers in managing the flows of refugees. These efforts appear to have achieved a certain degree of success [Department of Public Security of the Ministry of the Interior, 2000; Fondazione Cariplo-Ismu, 2000, pp. 51 - 62] and a further consolidation of this trend can be expected in the medium term.

More efficient external control naturally does not cause the disappearance of illegal migratory flows. Considering the presence of a continuing demand for devalued foreign labour, the control system intervenes selectively on the flows – but does not eliminate the demand or the supply of entries. Considering that when borders are closed, this is always accompanied by a highly restrictive control over legal entries, a certain number of immigrants has always preferred to continue to enter illegally rather than wait for the possibility of entering the country legally. An illegal migratory system has been developed and established over the years [Pastore, Romani, Sciortino, 1999], gradually recreating numerically significant segments of permanently established illegal immigrants in the country. As far as illegal immigrants are concerned, amnesties have been the main instrument to control their presence, with the purpose of granting a residence permit to illegal immigrants, under certain conditions and for a limited period of time. In less than 20 years, Italy has had 5 "extraordinary" legalisation programmes, each promoted with the intention of being the last. In actual fact, each amnesty has represented an attempt to dramatically reduce the number of illegal immigrants present in the country in order to make future repressive actions viable, as well as

In the first place, there is a cyclical process of reproduction of the stock of illegal immigrants, who do not find flexible and constant channels of legalisation in time, but only limited emergency and temporary measures which, due to their mass nature, end up by making the supervision of the process particularly complicated and fraught with social implications.

In much of European public opinion, the frequency of amnesties in Italy is interpreted as a manifestation of an inefficient and/or benign migratory policy vis-à-vis the immigrants. There are however good sociological reasons to question both the beneficial impacts of amnesties on the immigration process. As a matter of fact, while the amnesties have surely improved the lives of thousands of immigrants, they have also heightened the discursive construction of migration as a social problem. Several mechanisms are involved here. First of all, amnesties put the focus on the immigration issue in a highly condensed time frame: immigrants queue outside the public buildings and newspapers suddenly publish scores of articles on the issue. As a consequence, intakes that have piled up in several years - and that would have been hardly noticed if recorded year by year - come to be observed and fittingly described using the semantics of floods, clamours at the gates and invasions. This creates fertile ground for all political actors looking for a contentious issue to exploit in order to position themselves on the political market.

A second mechanism is more internal to the politics of the amnesty itself: in order to get a general amnesty approved by Parliament, politicians and practitioners have to play the numbers' game very hard: such an extraordinary provision is necessary and urgent only if there is a large number of "undocumented" immigrants around. As a result, amnesties may be a political success but are nearly always policy failures: no matter how many hundreds of thousands of immigrants get their residence permits, the evoked "millions" of undocumented immigrants still wait in the dark.

A third, and more serious, mechanism is related to the choice between giving amnesty to foreign "workers" or to foreign "immigrants". If the amnesty is open only to those who can document they have been previously working in the country, there is a high risk either of policy failure - if the immigrants' employers are able to refuse co-operation - or of a political failure - the extension of the informal economy coming suddenly in the open, and tens of thousands of Italian employers facing the risk of fines and prosecutions. On the contrary, if the amnesty is open to anyone that can document they were living in the country on a certain date, a large proportion of the immigrants end up by registering as unemployed, even if it is hardly credible and hardly believed in fact. To deny such invention would imply acknowledging in the political discourse the relevance and diffusion of the underground economy and the wide connivance with it by both public institutions and repressive bodies. Given the political costs associated with this option, it becomes politically easier to act "as if" they were "real" unemployed, needing welfare attention and public-supported training. This stance ends up supporting the vision of migrants as a burden on welfare, and their presence is again explained by the pushing factors, while the pulling factors are kept latent.

Moreover, the joint adoption of amnesties and restrictive immigration control measures also presents an inevitable communication problem - i.e. asserting the right to stay for the already-established immigrant, while associating new migrants with a potential danger. Consequently, during the amnesties, a symbolic transformation takes place, migrants being more and more codified according to the "documented"/"undocumented" code. In short, two subsets - distinguished by a rather arbitrary line as the date of entry - must be codified as "victims" in one case, as "guilty" in the other. As the demarcation line is easy to blur, avoiding backlashes against immigration becomes extremely difficult. This is precisely the Italian situation: after five amnesties, the notion of "undocumented" has in fact become synonymous with "unwanted" or, even, of "not willing" (to integrate).

Far from being contingent upon the migration timing and condition, the condition of the undocumented has progressively come to be seen as a characteristic of individual personalities and groups, functioning as a vicarious object for criticising migration's effects without taking any direct position (Wai, 1991). A last problem with amnesties is the burden of work they impose over the – rather rigid even in normal times – schedule of public offices. As a consequence, the launch of a new amnesty usually implies a dramatic decrease in the “normal” activities of the immigration control bodies – policing, labour inspections, etc. – thus indirectly helping the reproduction of a stock of irregular immigrants.

Apart from mass amnesties, the Italian system of migratory control appears somewhat rigid as far as the individual “surfacing” of illegal foreigners in the country is concerned. In actual fact, in the periods between one amnesty and another, the possibilities for an illegal immigrant in Italy to become legal are extremely limited, namely:

- since 1998, foreigners who are victims of criminal organisations and in situations of exploitation and serious violence and who are willing to co-operate with the authorities, have the possibility of obtaining a residence permit for reasons of protection;
- an illegally employed foreigner has the possibility of returning to his/her home country and returning to Italy at a later date through the channel of the employer requesting him/her by name abroad;
- foreigners have had the possibility, since 1998, of obtaining, at the discretion of the provincial police commissioner, a residence permit for “individual humanitarian reasons” in the case in which the foreigner cannot obtain refugee status but nevertheless cannot be deported (as he/she is covered by the rule of “non refoulement”);

As can be seen, these are very special situations which may affect only very limited numbers of individuals in the illegal foreign population. For example, only 1679 residence permits have been granted to date for individual humanitarian reasons.

From the legal point of view, a crucial point as far as illegal immigration is concerned is represented by the fact that illegal entry or stay are not, under Italian law, criminal offences but a breach of administrative rules³. Although the technical possibilities of deporting illegal foreigners have increased enormously over the past few years, this juridical configuration makes a repressive mass response to the continuation of illegal immigration hardly practicable, as well as little desired. After law 40/98, the legal possibilities of deporting an illegal immigrant from Italy are not very different from those included in the migratory control systems of other European countries. Deportation is, moreover, a measure that is quite commonly practised: the number of foreigners deported during the 1990s went from 2,776 in 1990 to more than 12,000 in 1999. If the legal possibilities are now fairly similar in European countries, however, so are the technical difficulties: difficulty in identification, poor co-operation with the countries of origin, availability of detention structures and high costs – in terms of financial resources and working hours – make deportation a difficult measure which is used more for reasons of public order than as an instrument to repress “ordinary” illegal immigration.

³ This juridical choice has its origin in two very different types of factors. On the one hand, a significant number of centre-left-wing members of parliament – essential at present for the approval of any law on this subject – have raised the refusal of illegal immigration as their banner of identity; on the other hand, the introduction of this offence would appear difficult to manage by the police who would be caught between the “logistic” constraints of the penitential system and the omission of a dutiful act.

Although a possible mass use of deportation is one of the favourite topics in the political fair of vanities, it can be assumed that in the medium term deportation will continue to have a residual and selective nature in Italy.

3. Socio-economic and Legal Exclusion of Undocumented Immigrants

The Italian administrative system controls foreign immigration through two main instruments: the **residence permit**, issued by the provincial police headquarters, and the **work permit**, issued by the territorial departments of the Ministry of Labour.

The residence permit is fundamental in order to rent housing, find employment and use many social services. The residence permit which must be applied for within 8 days of entry into Italy, must be carried at all times and shown to the police in the event of any identity checks.

The work permit, which cannot be obtained without a residence permit, indicates the sector and qualifications of the foreigner, establishes the type of labour contract that can be stipulated with him/her, records every change of employer and any periods of unemployment. In the absence of a work permit, the foreigner's employer risks serious administrative, and in special cases, criminal, penalties. On paper, these two instruments provide the control system with a complete and transparent vision of established foreign communities. In reality, however, a great many foreign immigrants can live for years without having these permits and without leaving (as is the case for many Italians) any trace of their social itinerary in the records. Even when these itineraries are actually recorded, there is a high probability that they cannot be used for control requirements because of bureaucratic rigidity and lack of communication between the computer systems. In many situations, in other words, the control system is not capable of clearly indicating who the legal immigrants "are" and accurately identifying the "illegal immigrants".

According to the regulations, illegal foreigners do not have access to the labour market or the housing market and cannot use many welfare services. In actual fact, the exclusion of illegal immigrants in Italy cannot be described in black and white terms alone. As far as the implementation of regulations is concerned, it can be noted that at local level, individual offices or operators apply the rules incredibly rigidly or, on the contrary, so flexibly as to practically distort them. The implementation, moreover, varies a great deal in territorial terms, with a considerable difference between "rule" and "reality" in some regions of the country compared to others and in the large urban centres compared to the provinces. The result is a very composite picture, where situations of formal exclusion alongside situations of de facto inclusion can be found (as in the case of many illegal workers) or, on the contrary, where formal inclusion is accompanied by a substantial negation of rights (as in the case of many under temporary humanitarian protection, *de facto* or *de jure*). On the side of illegal immigration as well, a high variability of situations is to be found which are often difficult to subsume under a single label:

- *real illegal immigrants*, that is, individuals who entered the country eluding border controls and who have not subsequently been able to take advantage of any of the amnesties. This is the segment of greatest exclusion and can practically be excluded from the territory very quickly. However, their situation varies a great deal depending on whether they are "deportable" or are protected by the clause of *non refoulement*. A further element of importance for them is the degree of co-operation with the country of origin. For at least one segment of illegal foreigners, deportation is so difficult in practical terms as to have lost any strength of dissuasion: for example, it is well known that a large number of foreigners detained in centres for deportees are released on expiry of the prescribed times;
- *irregular foreigners*, who stay in the country beyond the period allowed by their visa or who engage in work not authorised by their visa (generally a tourist visa). This is a highly variegated set of situations which presents very different levels of guarantees and which at times has allowed indirect legalisation (for example changing some residence permits for tourism to

residence permits for humanitarian protection). In some cases, above all in the case of seasonal work in some areas of the country, these conditions of irregularity are endemic, cyclic and relatively tolerated;

- irregular foreigners, who stay in the country and continue to work after their residence permit has expired. This situation is particularly significant in Italy. In the first place, many individuals who have obtained a residence permit through an amnesty (where the requisites are often and inevitably less stringent) have difficulty in proving that they have the requisites to renew the permits when these expire. As many subjects are employed in the informal sector of the economy, many of those who have acquired a legal position subsequently lose it or enter a grey area where regularity depends on the goodwill of the operators or the prevalent sub-culture in the local offices. In other words, the conditions of inclusion of legal foreigners into the Italian economy are such as to very often entail swinging between legality and illegality;
- *regular* foreigners risking illegality, whose claim to their rights is very weak and reversible. In the first place, these are foreigners enjoying humanitarian protection, the length of which depends substantially on political discretion;

If we move on to the ground of substantial exclusion, the picture of the daily life of many illegal immigrants may, on the other hand, appear in many cases relatively "indifferent" compared to whether a residence permit is possessed or not. The absence of this permit naturally represents a very great obligation in the processes of settlement and represents a major problem as far as the aspiration of reuniting the family, visits to the home country, the construction of a stable migratory itinerary is concerned. At the same time, however, many foreigners can settle in Italy even for relatively lengthy periods without their irregular situation representing an insurmountable obstacle.

In the first place, it has already been stated on several occasions that the main factors attracting migratory flows to Italy are the informal economy, seasonal work and services for the family, all sectors where the possibilities of public control are limited. Even if the absence of a residence permit completely excludes the foreigner from access to the official labour market, this is almost always the "final" and not immediate objective of the illegal immigrant on arrival. Illegal immigrants are widely employed in domestic services, street trading, seasonal agricultural work, building, small manufacturing firms and devalued services in large cities⁴. The informal economy in Italy is particularly developed, steadily employing some 17 % of the labour force. In addition, it is not necessarily based on open exploitation: even if degrading working conditions are common, there are also many cases where there is a positive trade-off between higher wages and greater employment insecurity, thanks to the possibility of avoiding payment of taxes and social security contributions. From the point of view of recently arrived immigrants, interested in maximising their immediate income and not thinking of staying in the country until they can enjoy a pension, this trade-off is often very attractive. For these reasons, the informal economy also employs a significant number of legally resident foreigners (even if this implies the probable loss of the permit on renewal due to the impossibility of providing documentation on employment). According to Istat (the Italian National Institute for Statistics), irregular foreigners make up 4.3 % of the labour supply, but they guarantee over one-third of the standard work units used by the informal economy (Istat 1995).

⁴ For a review of the relations between foreign immigration and informal economy, cfr. E. Reyneri (1988) and M. Ambrosini (1999)

In the second place, it is common knowledge that a significant part of the housing market, especially in the large cities, eludes all public control, as it is made up of property rented "illegally" and consequently not registered. A considerable number of foreigners (but also some categories of Italians such as students away from home) are also housed in sub-let apartments or rooms, which elude all public control. Lastly, migratory flows from abroad appear to have revitalised the segment of precarious accommodation (abandoned buildings, boarding houses and room letting, low budget service flats, emergency accommodation) which had already been used by part of the internal migratory flows. In all these situations, the fact of having a residence permit or not is not particularly significant, except in many cases where a surcharge is added to make up for the greater risk of housing a foreigner without one.

The mass nature of illegal immigration to Italy has also encouraged and accelerated the creation of alternative circuits capable of providing services for illegal immigrants, by-passing the constraints deriving from their illegal condition. Many studies and countless reports in the press show that in many cities there are now consolidated alternative circuits that provide services, and sometimes in a very sophisticated fashion, to at least some categories of immigrants, such as credit (from saving to administering money to be sent home), entertainment and the intermediation of goods and services. The organisation of the alternative circuits varies greatly, at times operating within a single national community and at other times on a regional or generalised level; sometimes operated by informal entrepreneurs and at other times alongside the activities of welfare or charity organisations; sometimes with a very limited number of users and at other times open to all potentially interested foreigners. These alternative circuits are full of risks for the illegal immigrants who use them as they naturally have little protection against risks of fraud or embezzlement. There is much evidence however, that these circuits are capable of allowing illegal immigrants to get round the constraints of not having a residence permit.

One area where the distinction between formal and substantial is less accentuated is that of access to welfare services. As these are provided mainly by public bodies, they tend to exclude all those who are in an illegal situation. The only formally recognised exceptions to this generalised exclusion are:

- emergency treatment and preventive treatment to avoid the risk of spreading disease;
- enrolment in schools of children of illegal immigrants who cannot be deported or in the respite of deportation;
- mother and infant care;

Illegal immigrants can also potentially be included in the system of services in these three areas. However, the actual situation is often far more confusing. On the one hand, access to these services by illegal immigrants (as by legal foreigners and the weak segments of the Italian population) is often affected by a great lack of information and processes of micro-exclusion by professionals and local departments of the national health system. On the other hand, at least in the main cities, social co-operatives and non-governmental organisations exist that provide health and training services without stringent controls on the legality of the foreigner's residence.

In short, as P. Barbesino notes, based on some ethnographic research on immigrants in Milan, many illegal immigrants describe their experience in Italy as substantially positive, as it is relatively easy to find illegal work, obtain the services of welfare organisations and the police are not particularly interested in making life difficult for them if they do not behave criminally and they do not create any problems of public order (Barbesino, 1996).

This relatively optimistic picture must not however let us forget that this situation is based on the positive interaction of a relatively "young" immigration and frequent amnesties. So far, these have allowed illegal immigrants to "transit" to legality before the evolution of their migratory project brought them into conflict with the constraints they would face in the absence of a residence permit. In view of growing European pressure and above all the gradual contraction of political consent, it is probable that new amnesties will be increasingly unlikely. And this could rapidly spark off far more radical processes of exclusion.

4. Services Provided by NGOs

In agreement with much of the literature on immigration to Italy⁵, we can say that in this country the great majority of actions in the field of assistance and aid given to immigrants was given in the first place by associations in the so-called "private social" sector, both before any laws had been passed on immigration and after the three laws passed respectively in 1986, 1990 and 1998. In order to gain a better understanding of this, it should be remembered that traditionally in Italy the state has always shown little commitment to the various social policies and actions which, on the other hand, have been carried out above all by the private social sector linked to the Catholic Church and, less frequently, to other churches (the Waldensian church) or non-religious associations. The redefinition of social policies and the so-called welfare reform adopted by governments since the end of the 1980s have also benefited from the enormous development of voluntary work that has taken place in Italy coinciding with the profound crisis of traditional activity linked to political parties and trade unions or even to the post-1968 social movements. Lastly, the laws on immigration and above all the last one, give local authorities and, through these or directly to voluntary associations or associations of the so-called private social sector a central role in the field of assistance for immigrants.

The vast majority of NGOs which offer services or various types of assistance to immigrants belong to the area of associations linked to the Catholic Church, but as we shall see below, the distinction between the "religious" and "non-religious" area appears of little significance. The differences between the various types of NGOs appear more meaningful if put into relation with the solidity and duration of the association, the type of services they carry out and the people who use them. It is also to be noted that in the "Catholic" area there are considerable differences that at times correspond to different approaches of the religious orders they follow; this phenomenon is already known in the history of the churches' commitment in domestic and international migration⁶. However, the commitment by Catholic NGOs and many associations linked to individual parishes can be explained not only by the attention which the Church in general has given to helping the poor and immigrants, but also by the specific involvement of the Catholic church in a number of migratory currents towards Italy since the early 1970s, in particular women from the Philippines, Peru and Latin America in general and now some immigrants from Eastern Europe.

⁵ For a review of this literature, see Zanfrini, 1998, *Leggere le migrazioni*, Milan, ISMU-Angeli. Publications analysing the questions relative to the inclusion and exclusion of immigrants include A. Dal Lago, 1998, edited by, *Lo straniero e il nemico*, Genoa, Costa & Nolan; M. Ambrosini, 1999, *Utili invasori*, ISMU-Angeli; A. Dal Lago, 1999, *Nonpersone*, Milan, Feltrinelli; S. Palidda, edited by, 2000, *Socialità e inserimento degli immigrati in Italia*, Milan, Angeli. For all the statistical data, see also the annual reports published by Fondazione Cariplo-Ismu since 1994.

⁶ Consider the difference between the Order of San Raffaele active amongst immigrants to the United States from the end of the 19th century, the Opera Bonomelli active from the end of the 19th century especially in Europe and the Order of the Scalabriniani, active in Europe and in the Americas and which today still runs important documentation and research centres (CMS in N.J., CSER in Rome and CIEMI in Paris) and magazines on migration (*Migrations International Review* by the CMS; *Studi Emigrazione* by the CSER; *Migrations & Société* by the CIEMI). On the history of the commitment of the church in migratory movements, see S. Tomasi and G.F. Rosoli, edited by, 1997, *Scalabrini e le migrazioni moderne*, Turin, SEI; A. Perotti, editor, 1997, *L'Eglise et les migrations*, Paris, CIEMI-L'Harmattan; L. Bordin, L. Zancan, 1997, *Il Vescovo Ferdinando Rodolfi e l'Opera Bonomelli*, Vicenza, Archivio vescovile. For a non-religious point of view on the subject, see *Il Ponte*, *Cento anni, 26 milioni*, special issue, 1974; S. Palidda, 1987, "Socialité et associationisme des Italiens en France", in M. Catani, S. Palidda, edited by, *Le mouvement associatif des immigrés en France*, Paris, FAS-Min. des Affaires Sociales

Italian missionaries in various countries of emigration helped the aspiring emigrants to choose their destination, putting them into contact with the parishes or the NGOs which in Italy helped them on arrival to find accommodation, work and places where they could socialise⁷. However, while it is true that the NGOs linked to the Catholic and other churches as well as non-religious associations have played and continued to play a leading role in the various types of help and assistance to immigrants in Italy, according to other observations, the great majority of immigrants have not benefited from any assistance or help, often relying upon their own resources and small networks and groups formed through the migratory chains or local situations, individual relations established with the natives, the "less fortunate" immigrants with fewer resources have ended up by slipping into the ranks of social exclusion.

4.1. Supply and demand of services for immigrants

The potential demand for services by immigrants in Italy is particularly high precisely because in this country the concrete possibilities of legal entry and insertion have always been extremely limited. If the Italian governments have adopted four amnesties (in 1986, 1989 - 90, 1995 - 96 and 1998 - 99), it is not because of any particular humanitarian spirit or extraordinary generosity on their part or because of the pressure of a presumed pro-immigrant lobby but, above all, because the production and reproduction of illegal immigration are structural.⁸ In fact, these are due not only to new illegal arrivals, but also to the multiple causes that drive some legal immigrants into an illegal situation (precariousness of accommodation and employment, strong pressure towards undeclared work and accommodation or destitution and therefore the impossibility of renewing the residence permit)⁹. In reality, a good part of immigration in Italy is due to the demand for illegal work which is under-estimated in the so-called submerged economy, estimated at 27 % of the GNP.

Furthermore, contrary to the clichés on the "welcoming", tolerant and non-racist character of Italy, it has been revealed as a country which, perhaps more than other European countries, relegates the majority of immigrants to inferior living and working conditions, through xenophobic if not racist discrimination and offers them fewer possibilities of emancipation towards legality¹⁰. It must also be noted that the mechanisms whereby individuals are made inferior and excluded socially affects a part of Italian citizens as well because the traditional area of submerged economy is confused today with liberalism. However, in Italy the contrast of the various forms of discrimination, reducing to an inferior position or abuse is rather rare or almost non-existent for women, young people and the most disadvantaged Italians. As they cannot meet an adequate "supply", the potential demand for assistance and help both by immigrants and Italians is expressed in very reduced dimensions. However, the offer of services by the various NGOs, including non-religious ones, has always been of a predominantly welfare or humanitarian nature or giving to the poor rather than of actions aimed at encouraging the emancipation and fight against discrimination. The offer of services conceived as an action to stimulate the valorisation of resources of the individual or the network of immigrants is poor and still rare¹¹.

⁷ See in particular the monographies by C.Lainati on Filipinos and by G. Luna on Peruvians in S. Palidda, edited by, 2000, op. cit.

⁸ Cfr. Palidda S., 1999, *Les migrations clandestines en Italie*, Seminar on "Preventing and combating the employment of foreigners in an irregular situation", organised by OECD, Dutch Authorities and the United States, The Hague, 22nd-23rd April

⁹ Cfr. Palidda, "Effetti perversi di una politica ostile alle migrazioni", *Immigrazione, Diritto e Cittadinanza*, 1999, 1, pp. 11-27; Id., "La criminalisation des migrations", *Actes de la Recherche en Sciences Sociales*, 129/1999

¹⁰ See Dal Lago, *Nonpersone*, 1999 amongst others.

¹¹ On this aspect, see S. Palidda, 2000b

And it is also to this almost solely welfare-humanitarian characteristic that we owe the tendency to classify immigrants as the "new poor", at times fuelling in a part of them a mechanism of self-classification to produce a real social construction of an immigrant minority in the ranks of the so-called "new poor"¹². It is indeed true that amongst the immigrants in Italy, and in particular amongst those from the nearby peripheral European countries, there is a component of "poor" people from the start, but it also appears obvious that this component has been enlarged due to the consequences of their failure to be inserted and therefore the social exclusion which has affected a part of the immigrants. However, we can say that the vast majority of immigrants who benefit from the services offered by NGOs and more rarely by the public sector (a minority compared to the total number of immigrants) is not made up of the poorest who find means for survival "in the street", in particular by begging in front of churches (when they have not been chased away from there too) or looking for something to eat in rubbish. In some ways, the beneficiaries of services by NGOs and more so by the public sector can be considered the luckiest of the unlucky, that is, individuals who have nevertheless achieved a minimum degree of insertion or interaction with the host society, who have begun to learn how it works, at least partially. And those who benefit several times from these services and increasingly higher level services, are obviously more "integrated" (consider the small minority who even succeed in obtaining a council home, various subsidies etc.).

As observed in a large part of literature on immigration, immigrants encounter four main problems in Italy:

- a) access to, and maintenance of, the legality of their presence in the country and therefore the need for legal aid and help in getting through the very difficult red tape and coping with the enormous obstacles in the procedures (at times these obstacles even appear insurmountable to Italians). This type of request does not only concern the procedures to obtain and renew the residence permit directly connected with the legality of employment but also family reunification and, in general, access to all public and private services (for example, relations with the health service, with public housing, banks and telephone and electricity companies etc.). It is therefore with respect to this "demand" that many associations or structures have been created within the NGOs, to provide a number of other services, both as specific associations (amongst the first created in Milan was CESIL, linked to the CISL trade union, but also the various departments for assistance linked to the Secretariat for Foreign Affairs of the Curia, Caritas Ambrosiana, FILEF, the trade union headquarters and the associations of lawyers – cf. infra). These are also the NGOs that have always given assistance during the four amnesties in Italy.

On the other hand, as far as legal assistance specifically for immigrants who are the object of police and/or judicial provisions is concerned, in and outside prison, the NGOs that have worked on access to legality have seldom ensured their services and even less so since, in the late 1990s, public opinion and the various authorities have tended to be intolerant with illegal immigrants and those responsible for illegal behaviour (even if often only presumed). Legal aid is in general ensured for the rare cases of immigrant women forced into prostitution and who want to get out of this situation and foreign minors for rehabilitation or re-insertion.

- b) The housing problem has always been and continues to be perhaps the greatest problem for all immigrants, whether legal or illegal, who have been in Italy for some time or have arrived only recently¹³.

¹² On "the new poor" see, amongst others, the work of the Enquiry Committee on poverty and exclusion (reports by A. Tosi) and by E. Mingione.

¹³ On this aspect, see in particular the various publications by A. Tosi, including Tosi, 2000, in Palidda, (ed.).

The response to this demand by NGOs however has always been almost completely insufficient. Apart from the Catholic NGOs which have a number of beds in special hostels but which are nevertheless limited, no actions have been implemented that can help immigrants look for accommodation and overcome the discrimination which is only too well-known, even against legal immigrants who are well integrated and even sponsored by Italian friends or NGOs¹⁴. The case of young people from neighbouring peripheral European countries has been known for some time as the most problematic, following an itinerary studded with perverse mechanisms, starting from the epilogue of occupying derelict buildings or houses and then the degradation of reception centres ending up without any fixed abode. More recently, the events in Legnano (the death of immigrants in a fire in a derelict factory where various families lived) revealed once again the tragic reality of the problem of accommodation for immigrants in Italy. The same applies to Rom gypsies (including both the sedentary ones and those who fled from Kosovo), continually pursued by violent police operations or attacks by gangs of racists in various cities.

- c) Health care has also always been a prime problem although it is, in theory, guaranteed for all by law. In actual fact, the sans-papiers are not only effectively excluded or are afraid to go to the public services, but very often this access appears impossible both because communication with and confidence in these services are difficult and because it implies high costs for the Italians themselves. In this sector more than in the others there has been a particularly important voluntary surge by hundreds of doctors and welfare workers, creating special surgeries with a number of patients certainly greater than those of public structures in past years. As observed in the literature on this field, very often the immigrants arrive healthy and fall ill in Italy, precisely because of the conditions in which they are forced to live and work¹⁵. We can therefore say that this is the "demand" of services for immigrants which is best satisfied, even if obviously it succeeds in satisfying only a part of the potential demand. It is also to be said that thanks to the fact that a good part of the medical and nursing staff in public structures have now become aware of this situation, minimum services tend to be guaranteed there as well today.
- d) Looking for employment has also always been a prime problem, above all regarding access to non-devalued and/or legal work. Officially no NGO deals with this problem, also because current laws and regulations do not allow it. In actual fact, all the NGOs try to take best advantage of the networks of relations and acquaintances to help immigrants who are looking for a "decent" job. However, the NGOs most active in this sector are in general the Catholic ones, also because they take on a role of selection and guarantee for the employers. As far as the protection of the foreign worker is concerned (as for Italian workers), compared to discrimination, devaluation and forms of neo-slavery, the action of NGOs and in particular the trade unions remains fairly poor.

The proliferation of NGOs producing services for immigrants has been considerable throughout Italy and especially in the regions of the North. For some time now, Milan has been considered the real "capital" of voluntary work, thanks to its high numbers of volunteers and NGOs. If it is true that this proliferation is in part due to a sort of conversion of traditional political or trade union activism (in a period of profound crisis for political parties, trade unions and mass movements), it is however true that it also corresponds to the so-called partial dismantling of the welfare service, and to encouragement by the public authorities.

¹⁴ Emblematic in this respect is the account by an executive of the Milanese Caritas who, although offering to stand guarantee for rented accommodation to a family of legal immigrants with a good income, was refused because they were foreigners!

¹⁵ See, amongst others, the chapters by Pasini in the annual reports by ISMU.

Indeed, if it is certainly true that in this work the vast majority of volunteers make considerable sacrifices and invest by no means negligible psychological and material costs "in exchange" for gratification which is not at all guaranteed but often with unpleasant disappointments, it must be said that many NGOs find the resources to survive, at times to grow and to pay for their structures and part of their permanent employees. Except in rare cases which are more or less scandalous, it is however a difficult "economy of survival" which reveals the despicable falsity of the accusation of racists, according to whom there is a business of pro-immigrant volunteers. However, it is in part the scarcity of resources for these services which explains so much jealousy, the competition, unfair competition or, in the best of cases, the absence of communication and understanding, not to mention the lack of co-operation or mere collaboration between NGOs or even individual volunteers. It is certain that amongst the NGOs there are great differences in their approach to problems and at times ideological and political divergences. On the other hand, it is also true that in a context of de-structuring the traditional socio-political organisation, the dispersion, waste, overlapping or duplication of initiatives are probable, whilst it is hard to understand how there could be re-composition and the possibility of common action. This concerns not only the services to immigrants but almost all the activities of voluntary service including "paradoxically" that in a highly defined context such as the prison of San Vittore in Milan, with about one thousand volunteers who operate there, dozens of NGOs and scores of projects but in a great and perpetual absence of communication and at times "cacophony" between all these players.

4.2. Public opinion, public policies and orientation of NGOs

The variety of orientation of NGOs in relation to the trend of public policies and measures and the trend of public opinion deserves one last general consideration.

It was particularly in the late 1990s that Italy became more rigid regarding the migratory phenomenon. According to the results of the nth survey by CENSIS on the fears of Italians (published on 21.7.2000), hostility towards immigrants is on the increase and is closely associated with the idea that they cause an increase in crime. More specifically, the slogan that triumphs is that illegal immigrants (or gypsies) = criminals. Obviously, the statistics relative to the production of the police and administration of justice only confirm this "truth". Criminalisation, self-criminalisation and the effective diffusion of deviance cannot fail to result in increasing numbers of arrests of gypsies or immigrants and increasing numbers of convicts and prisoners amongst them, although they are excluded from any alternative punishment or judicial benefit reserved for similar cases concerning Italians.

Using an analysis of statistics which is instrumental if not at times invalidated by racist prejudice, public opinion, as it appears through the media, therefore seems dominated by the rise in social alarm, fears and belief in "zero tolerance" and in responses based on security. Indeed, as some authors, including Bauman and Dal Lago, suggest, this appears a phenomenon typical of the current economic, social and political situation, which recalls, not by chance, similar situations of the past. We are effectively experiencing an epochal change, that is, the transition to the post-modern social order. And as was the case with the advent of modernity and industrial development, the crisis of the traditional social organisation and the new organisation of the economic and political order produce uncertainty, fears and panic which are unlikely to be opposed by rational answers but more likely find simplifying responses. But these perverse dynamics, which authors like J. Delumeau have shown to have been reproduced for centuries whenever there is a "restless society", are favoured all the more when the apparently miraculous "solution" actually corresponds to the opinion of a part of society (even if often it is only a "loud minority"), to choices made out of interest or merely opportunistic by the public authorities and the interests of those who are certain to gain large profits (the security business).

From the point of view of the citizens calling for "zero tolerance", there is an obvious antagonism between their rights, expectations, privileges and the universal rights of all human beings; there is an obvious refusal to recognise that it is precisely the social production of this status that also produces poverty, destitution, deviance, criminality, social discomfort and tragedies of all kinds in the very citadel of affluence and notoriously all the more elsewhere where the most despicable activities which this affluence feeds on (the "dark side" of post-modernity) are exteriorised. And it is then obvious that this sense of citizenship refuses every sort of social policy and defines as the enemy of their civilisation anyone who does not correspond to the profile of the citizens included, whilst at the same time they claim the freedom (or "liberalism") to break the law with impunity (tax fraud, illegal exploitation of illegal immigrants and also of Italians and minors, contravening rules on environmental protection, extortion in rents etc.). But the majority of the population who are effectively marked by the uncertainties, fears and insecurity do not belong to those citizens (on the contrary, at times they are the victims of the illegality of this area), they are not active in the "noisy minorities" which protest in the town squares and extol reactionary and racist, when not Nazi, myths. The causes of their discomfort and problems lie in the economic and social consequences of the advent of the so-called post-industrial global society: the precariousness of their economic resources, the precariousness of housing, exasperated productivity, the arrogance and ruthlessness of the boss, of the landlord and at times even of the neighbours and colleagues, the increasing gap between the rich and themselves, the disappointment of the flaunted expectations of affluence in a world where you hear that in a few seconds you can make billions on the Stock Exchange, where luxury and waste are magnified and where superfluous consumption is encouraged. Inciting this part of the population that lives in the fear of the threat of social exclusion to attribute the cause of all its ills to criminality and even more so to immigrants is undoubtedly the political operation which is the most convenient for the citizens, the political authorities and the security business. And it is clear that this operation has succeeded because there have not effectively been any credible alternatives to the proposals of the security business entrepreneurs. In Italy as in all developed countries, the democrats have oscillated between a defensive attitude, crisis and the incapacity to analyse and formulate alternatives and, in the end, sliding into the security logic as well as economic liberalism which rewards resources for repression to the detriment of those for the social treatment of the discomforts and problems of a "restless society". In the past few years, very few, underground or isolated voices have been raised to say that it was urgent to increase resources for more and better qualified social operators, to remedy situations of destitution, to provide a remedy for the problems of health care and housing, to increase aid and effective programmes in social reinsertion, to re-launch socialisation and conviviality in the respect of universal rights, to fight the obstacles to the legal insertion of immigrants and all forms of discrimination and racism. And the voices that proposed an effective democratic and transparent rationalisation of the resources for the repressive and penal system, stating that in this field Italy is, in proportion, the country that spends the most and has the highest rate of police officers, were also completely ignored.

Lastly, the media campaigns and speeches by political authorities and by the opposition seem to be competing in designating gypsies and immigrants as those responsible for every ill to the point of considering that those who offer assistance and aid to sans-papiers are almost jointly responsible for criminality and insecurity, that is, they are enemies of society! We can therefore understand why many NGOs have ended up by taking up a position of downright excluding illegal immigrants from access to their services, except for particular cases which could be legalised. Indeed, at times even involuntarily, some NGOs have accepted the role of structures of selection for "deserving" immigrants and as a guarantee for them to have access to legality. It is for example well known that those at the head of some NGOs succeed in obtaining from the police or other institutions concessions at times that are not covered by entry and residence regulations and laws because they have become accredited as social institutions which unquestionably contribute to the "cleaning up" of immigration.

And as always it is above all the immigrants (young and male) of the most negatively stigmatised nationalities (Moroccan, Tunisian, Algerian, Slav, Albanian and from the Balkans in general) who are the most subject to discrimination by these NGOs as well.

4.3. The NGOs that work with immigrants in Milan

Numerous sources have been used to build up a panorama of the services on offer to foreigners in Milan, which are also the object of several publications produced by local authorities or organisations in the private social sector. However, special characteristics of this universe are the continuous changes including a high mortality rate and therefore the considerable turnover which makes it necessary to frequently update any census and study of the NGOs.

The first phase of our study was to check by telephone that all the public and private operators active in our territory according to the various sources actually existed. This revealed the trend of a strong turnover in services offered to foreign immigrants; whilst many organisations have in fact ceased activity, others have recently started, thus substantially producing a renewal of services.

As well as giving us a first quantitative evaluation of the object of our study, we were also able to ascertain the main operative requirements of the organisations with which we came into contact. In particular, the need for reciprocal knowledge amongst the various operators and the integration of services offered emerged (cfr. Palidda).

In general terms, from a first glance at the data collected, it can be deduced that the province of Milan is certainly the one where the vast majority of services offered to foreigners in Lombardy is concentrated (and, in proportion, with respect to the rest of the country as well); **74 centres out of 125 operate in the city of Milan** and the province. Of these, over 70 % were started out of private initiative, base their activity on the commitment of volunteers and offer their services free of charge, confirming that non-profit organisations are a significant reality in our region (this phenomenon is recognised and appreciated by a great many observers including the President of the Republic. The majority of the organisations we surveyed are also relatively “young”; over 50 % of them were set up in the first half of the 1990s and more than 30% date back to the 1980s.

A consistent part of the services is not aimed exclusively at a foreign public, whilst over 30 % of the organisations were set up with the objective of responding solely to the needs of foreign immigrants “in difficulty”. It is however to be specified that no NGO was created exclusively with assistance to *sans-papiers* or illegal immigrants as its mission with the exception of NGOs for health care. However, until a few years ago, the majority of the NGOs tended not to exclude illegal immigrants from its public or simply did not ask those wanting access to their services for the possession of any Italian identity papers. On the other hand, in recent years, the majority of NGOs with few exceptions and in particular with the exception of those who work in the area of health care, exclude *sanspapiers* for reasons that they attribute to pressure from public authorities, that is, the choices of a “prohibitionist” migratory policy, supported moreover by the so-called dominant public opinion (cfr. Palidda).

A good part of the non-Italian public who go to the Lombardy NGOs and often establish a continuous and long lasting relationship with the operators, come mainly from the Philippines, Latin American countries (especially Peru and Chile), Eastern Europe and north and central Africa.

They tend to go to the service spontaneously, on the advice of friends and acquaintances or after having read informative material distributed by the service itself¹⁶. Their requests for help result mainly from discrimination which pushes them to a condition of destitution in work and housing, health care problems, family difficulties or psychological problems.

But naturally all this is considerably diversified when we look in detail at the different typologies into which we have grouped the organisations surveyed: reception, health care, counselling and primary assistance. This last typology of service, which includes all the organisations responding to the individual's primary needs, is certainly under-represented due to the choice of not reporting the countless situations created in parishes which, by activating services of "clothing" and "food" distribution, give out food and clothes to all destitute people who ask for them, generally basing their service on the generosity of the parishioners. A large part of the religious organisations carry out this activity as a secondary service and for this reason this typology will not be dealt with on its own.

Reception

In Lombardy there are 38 reception centres, 20 as their main activity, 18 as their secondary activity. Of the former, 70 % (14 cases out of 20) are in the province of Milan. These structures have a particularly short history as 60 % of them were set up in the 1990s, but what emerges in particular from the data collected is the nature of these centres: 95 % of them are private. There has been in Milan, as in the whole of Italy, accommodation for immigrants (the famous "Centri di Prima Accoglienza" – CPA – Reception Centres for arriving immigrants) – which were rarely followed by that for the "second" level of reception for better inserted immigrants). But these structures were dismantled due to their degradation and because the public policy of the sector has ceased to deal with this aspect (cfr. Tosi, 2000). It is for example exemplary that in the spring of 2000, the new President of the Province of Milan decided to close the only CPA (at the Idroscalo), assigned by the previous council to Don Mazzi's co-operative, Exodus, whilst there is a call for the construction of new centres for deportees, far more expensive, scarcely effective and of dubious constitutionality.

It should be noted that officially no public institution or NGO has offered accommodation to *sans-papiers* because this is effectively an offence.

Catholic voluntary services alone answer for 80 % of the requests for hospitality received in Lombardy, they are self-financing or receive private donations, offer free of charge services and base their commitment on the collaboration of non-specialised volunteers and on the work of employees for the administrative management of the structures.

Five of the twenty hostels in the survey have been created exclusively for foreign women in difficulty, whilst the majority of them have wider aims and offer hospitality to men and women, not necessarily foreigners. Individuals rarely have spontaneous access to these structures; in the majority of cases, individuals are referred to them by counselling centres that assess the nature of the need and put the individual into contact with the service. In some rare cases, the police or public authorities request hospitality for individuals in their custody or care in need of protection or who must temporarily be moved away from a difficult or violent situation. It is no coincidence, perhaps, that the highest percentage of Nigerians and Albanians who use these structures (but who overall are a small minority) is concentrated in this typology of services; today victims of sexual exploitation are principally from these countries.

¹⁶ Barbesino P. and Quassoli F., 1997, La comunicazione degli immigrati a Milano: reti sociali, rappresentazioni e modalità di accesso ai servizi nell'area metropolitana milanese, "Quaderni ISMU", n°3/97

The guests in these hostels in Lombardy are mainly from the Philippines, Latin America and more rarely North Africa and other countries. A relationship of trust and affection is generally established between the guests and the operators in these hostels, with the volunteers often becoming points of reference for the foreigners who contact them fairly frequently especially in the period immediately following that spent in the hostel.

Housing is the most difficult problem. While there are various structures for new arrivals or that offer a precarious or temporary place to stay, there are very few second level structures for medium or long periods and with arrangements not exclusively for staying the night. Renting is almost inaccessible (both due to the unwillingness to rent to foreigners and the high costs of rents) and it is almost impossible to be given council housing. In relation to these last aspects a number of organisations have been created in the area with the aim of trying to provide an answer to this problem. There are associations or co-operatives that have been set up to act as intermediaries between landlords and foreigners, providing guarantees and in some cases these organisations buy and renovate houses to rent permanently to foreigners. These include the co-operative *Dar Casa* and the *Associazione Una Casa per l'Amico* which own houses for rent and act as intermediaries, and the *Fondazione S. Carlo* which offers (against payment) second level hospitality for relatively long periods (two years at the most), and owns a number of apartments in the city of Milan which it rents on a permanent basis to foreigners at prices which are well below market prices. Much of the above information comes from interviews with operators who work in the accommodation structures mentioned; however, considering the specificity of the subject of research, we have not deemed it opportune to give any further information as they have the common characteristic, with the exception of the specific reception centres, of dealing exclusively with legal immigrants (for the above reasons).

Health care

There are 17 centres offering a health care service to foreign immigrants in Lombardy, fifteen in the province of Milan and two in the provinces of Bergamo and Brescia. Twenty-three other organisations are spread throughout the region, but the main activity of thirteen of these is reception, two of them deal with primary care and eight with counselling.

Over sixty percent of these services are of a public nature and this attributes a specific character to the typology of "health care" compared to the other categories in which the services surveyed have been classified. It is also to be underlined that all public clinics are obliged to offer care to all those request it and some of them have "cultural mediators", therefore oriented to encouraging the relationship of foreign patients with the regional health system, but in consideration of the object of research, only those structures which do not belong to the national health service have been mentioned.

Because of their nature, these services base their activity on employed medical and nursing staff and only in a few cases on the collaboration of volunteers in general. Foreign patients using these services come from different backgrounds and seek psychological advice and health care. Generally the relationship between the patients and the operators is continuous and they meet several times during the year. We have selected two of the various services present in the territory, following the criterion of the number of patients and above all their consolidated experience in the field. In particular, these services are *Naga*, a voluntary non-religious association and the Opera San Francesco which has a religious orientation. The work of these associations goes beyond simple care in some cases, contributing on many occasions to the fight for immigrants' rights: for example, *NAGA* has actively collaborated on drawing up the law on immigration, in particular arts. 32, 33 (l. 40/98).

NAGA Voluntary Association for Welfare and Health Care and for the rights of foreigners and nomads – Non-profit making organisation

AREA OF ACTION

NAGA is an association that was founded in 1987 and since its creation its aim has been to promote solidarity and welfare for foreigners and nomads without any racial, religious or political discrimination. NAGA recognises that health is an inalienable right of the individual. The work style of NAGA is characterised by concrete responses to those going to it and for the direct contact with immigrants and nomads which alone, according to the operators, allows interpreting the demand, to be translated into proposals, requests and claims, to be put to the health structures and political authorities responsible for these. It is to be noted that NAGA is also one of the most important associations which, together with *Opera Nomadi* plays an important daily role in health care for gypsies with highly qualified personnel and a special mobile unit.

The main activity of Naga is **welfare and health care**, in the first place in a clinic offering basic care alongside special care (gynaecology, orthopaedics, urology, dermatology, cardiology, surgery, ophthalmology, otolaryngology, psychology-psychiatry and infectious diseases). Minor surgical operations and specialist tests are carried out in the clinic. There is also a network of voluntary specialists for difficult cases or requiring special needs which cannot be supplied in the clinic. Health care also covers treatment with free distribution of medicine for the various problems encountered and undertakes to provide physiotherapy and prostheses. NAGA also tries to satisfy accommodation, working and social needs when they form an integral part of the treatment. For this purpose, it has contacts with the territorial services and reports situations of risk or need to their operators, making it easier for the gypsy or foreigner to make use of the available services. The association's other activities can be divided into a number of sectors including:

- Work group on victims of political torture: since 1996 NAGA has systematically worked on problems of health care and medical and legal assistance for torture victims;
- Activity in prisons: activity in the prison of San Vittore concerns social work, health education and legal information for foreign and gypsy prisoners;
- Research: this arises from the necessity for a continuous analysis of the needs of immigrants which vary and change in time and the need to define and check up on actions taken;
- Training: NAGA organises training courses and meetings for those operating in structures working with immigrants and health aspects. A training course for prisoners on health is also planned, together with a number of activities on information and political pressure.

CHARACTERISTICS OF USERS

There are no conditions for access to the service. The only exception is for minors: until law 40 came into effect, there was a paediatric department. Now, however, as the law lays down that health care for pregnant women (as part of protection for mothers) and minors is by the State, NAGA no longer follows these patients. As far as the clinic's activity is concerned, for the period between 1st January and 31st March 1999, 5055 visits were carried out, of which 1605 were first-time visits. When the latter are analysed, it emerges that individuals coming to NAGA are of different nationalities and mainly from Latin America, Eastern Europe and North Africa. The majority are aged between 15 and 44 (90.2 %) and two-thirds are male, have an average level of education and have children. As far as "on the road" medicine is concerned, the patients are mainly males aged between 15 and 44 and the majority are from Eastern Europe.

Expectations of users: The majority of users go to NAGA for general examinations and free medicine, and sometimes they request accompaniment for more complicated examinations in hospitals or test laboratories. For refugees, the (medical-legal) report is required for the application for political asylum and in these cases psychological support is often necessary. Economic and psychological support is mainly given to prisoners. The needs that remain unfulfilled are social ones, especially those relative to economic resources and this applies to all the typologies of action by NAGA; another difficult problem is that of being unable to solve satisfactorily the accommodation problems of the individuals who come to the organisation.

CHARACTERISTICS OF THE SERVICE

Operators: there are 232 volunteers divided into a number of groups: 15 for work in prisons, 103 volunteers take turns for reception (at least three per shift), there are 4 volunteer doctors in the gypsy camp and there are 93 volunteers in the clinic, including 8 nurses and 85 doctors, 70 of whom are general practitioners and 15 are specialists. For the legal department there are 4 lawyers and 3 operators assisting them and 10 operators in the documentation centre.

Source of funding: self-financing through the annual fund-raising campaign, donations (especially from the Waldensian Church which allocates part of the 0.8 % contribution it receives from taxpayers and from the Fondazione Cariplo) and contributions (Regional Law 38/88 art. 8 and Municipal Law 241/90 art. 12) as established by the law on voluntary associations. By choice the organisation does not have any agreements with public bodies. Lastly, a part of the funds comes from applications for funding on specific projects, especially for European funds.

CONTACTS WITH OTHER ORGANISATIONS/INDIVIDUAL PROFESSIONALS

According to requirements, the NAGA association has contacts with various associations in the territory in order to co-ordinate and exchange information. It also carries out co-ordination with Catholic organisations which deal with health aspects. There are many external experts, including lawyers and sociologists who mainly carry out training for the operators.

ROLE OF PUBLICITY

The operators state that NAGA from this point of view has particular shortcomings, the main instrument being stalls. Publicity is nevertheless considered of special importance and to be developed in the future, especially in order to get some messages through (for example the application of the new articles on health in immigration laws).

RELATIONS AND IMAGE WITH LOCAL AUTHORITIES AND THE MEDIA

NAGA has contacts with specialised structures in the local health authorities, hospitals and clinics for health issues. Relations with the prison and the local health authorities are, thanks to the project which NAGA belongs to (EKOTONOS, made up of various organisations in the private social sector), continuous and positive, with frequent requests for advice on specific questions. The contacts with police headquarters are the most frequent; especially for residence permits and the amnesty, as one of the recognised documents of proof is the medical record that the NAGA keeps on each of its patients. According to the operators, relations with the Town Council are formally positive, their requests are always accepted but concrete results are missing. The interviewee also stated that the authorities have a positive image of NAGA, especially because it is the largest organisation that deals with foreigners from the health point of view, thus relieving the authorities of lots of "headaches".

FINANCIAL PROBLEMS AND PROBLEMS OF PROFESSIONALISM

For financial problems, NAGA relies in particular on the subscription campaign carried out through a mailing list of donors and habitual supporters who are sent a letter requesting a contribution: in addition, NAGA is working on planning actions for which funding is required. As far as finding voluntary doctors is concerned, usually word of mouth is enough. All the association's volunteers, as well as their own personal professionalism, must follow a training course held by the NAGA operators or if necessary by experts requested ad hoc. The training periods are repeated several times a year.

WHAT IS REQUESTED FROM PUBLIC POLICIES AND PROSPECTS

In relation to health, NAGA would ask the public policies to follow the application of the law to the letter: this means that irregular and illegal immigrants would have the same rights as Italian citizens, with the guarantee of confidentiality. As far as prison is concerned, the possibility of developing re-insertion programmes for foreign prisoners is requested (even if this could appear contradictory because in general either their residence permit expires or they do not have one and consequently their final destination is always deportation). A further problem is the lack of instruments for foreigners to benefit from alternative measures. For asylum seekers, the right to work until they receive an answer is requested. The NGO's prospects are to widen the existing work groups and close down as a health service (because immigrants' health, with the application of law 40, should be guaranteed by the State and not by the private social sector) and continue its lobbying activity on rights.

OPERA S. FRANCESCO - CLINIC

AREA OF ACTION

The Opera S. Francesco was created with the intention of ensuring free care and help for people in need of food, clothes and medical care and it set up services of: a canteen, showers/clothing, training/work guidance, social office and it has recently opened a clinic. The O.S.F. began to offer its services to immigrants in the early 1990s and now they represent a large part of its public. All requests for assistance go to the Social Secretariat, which issues a card for the holder to use the canteen, which is open all year round, and access to the Showers/Clothing department is regulated. Although the canteen is the part with the greatest number of users, since 1996 (the year the clinic was opened) the activity that has become the most important is that of providing adequate **health care** for the destitute. The organisation guarantees, as well as the necessary health care, a civil and decorous environment, where the people coming to the structure can find an answer to their different requirements. Thanks to 72 voluntary doctors, the clinic can offer specialist examinations in cardiology, allergology, dermatology, hepatology, gynaecology, neurology, ophthalmology, orthopaedics, paediatrics, otolaryngology, echography, vascular surgery and dentistry. More than 30 dentists also work in two surgeries. Health care takes the form of general and specialist examinations; different medical treatments with the direct distribution of medicine for the different requirements. In the event that treatment requires specific tests, the clinic is authorised to use external structures.

CHARACTERISTICS OF USERS

Access to the canteen is by registration with the Social Secretariat where a valid document has to be presented with an identity photograph. For examination at the clinic, only a valid document is necessary. Except for the state of destitution, there are no rules for access to the service.

The clinic does not discriminate in any way in offering treatment and also provides assistance to irregular and illegal immigrants. In 1999 13,400 patients were examined in the surgery while the Showers/Clothing department registered 7,006 requests, whilst for the canteen, 203,079 meals were served the same year: however, no statistics are available for these totals or figures of how many non-Italians benefited. However, it is to be underlined that, according to the operators, the number of foreigners has grown in recent years, making up some 80 % of the users of the canteen and showers and an even higher percentage of the patients in the clinic. In the majority of cases, they come from Eastern Europe (Rumania, Albania and the Ukraine), followed by requests for assistance by immigrants from Central and South America.

Expectations of users: The needs expressed by the users are linked to their poor economic resources, considering the characteristics of the service, and consequently the scarcity of means of sustenance and the contingent need for health care (the greatest needs, apart from general requirements, are in the areas of dermatology, gynaecology, dentistry and paediatrics). An incentive is that the service is free of charge and is offered in a comfortable and adequate environment, comparable with any public structure (and competitive with private ones). The organisation however is unable to meet demands linked to social insertion: the need for work or a roof.

CHARACTERISTICS OF THE SERVICE

Operators: The decision-making body is the executive council made up of monks. There is a coordinator of services and a person in charge of each area of operation. There are at present about 300 operators, of whom only 23 are employees. Three professional cooks (employees) work in the canteen with 195 volunteers without a specific qualification who offer their services both in the canteen and in the showers. The clinic also has a director, three employees (a secretary, a dental assistant and a nurse) who work full-time. The voluntary personnel can be divided into eighty-two doctors who work part-time (in particular, general practitioners, thirty dentists, twenty-two specialists), eight part-time nurses, two ward sisters (nuns) and one general manager. The rest of the volunteers work in the social department and the remaining employees mainly cover administrative posts.

Source of funding: The organisation is funded by donations from private individuals, a minimum part comes from legacies in wills and occasionally there are public contributions, usually associated with specific projects.

CONTACTS WITH OTHER ORGANISATIONS/INDIVIDUAL PROFESSIONALS

The organisation has contacts with the Health Service and with other structures carrying out similar activities (in particular, Centro San Martino and NAGA), for various laboratory services or other special requirements it cannot cover. In addition, for social work, there are very frequent contacts with the Caritas Ambrosiana. Contacts are therefore frequent and with positive results. Contacts with individual professionals take place mainly for questions related to marketing and issues associated with the administration and management of the organisation.

ROLE OF PUBLICITY

For the O.S.F., publicising its activities has always been of the greatest importance, to the extent that this sector is run by a specific organisation: the Fondazione O.P.S.. A few years ago, the organisation divided its work into the association, for all the activities and services linked to assistance and the foundation which publicises, raises funds and finances the association's activities.

The organisation has worked a lot on its image, trying to give a more modern profile and with stronger advertising forms to reach a young population; it uses billboards, radio advertisements (Radio Popolare) and a television advertisement. A specialised agency handles marketing.

RELATIONS AND IMAGE WITH LOCAL AUTHORITIES AND THE MEDIA

The main relations are with the Milan city council, in particular with the social services department. The organisation sits on a panel with the institutions as a member of the Caritas board on "greatly excluded population". It also collaborates on a number of projects. Relations with the Regional and Provincial Councils are very sporadic, the organisation is a member of the regional consultative body on immigration which meets very infrequently (in recent years only once a year). With the local health department, contacts are mainly bureaucratic and in connection with the clinic. With the police, contact is due to questions linked to legalisation of immigrants as the medical records are used as proof in the application for legalisation.

Relations with the authorities are in general very positive and the image in the media has had positive returns, especially in terms of interest in the work of O.S.F., donations and offers of voluntary service. The organisation has never undergone attacks and threats of a xenophobic nature; the operators maintain that this is due above all to the fact that the existence of structures such as O.S.F. is convenient as they act above all to deflate "problems of public order".

FINANCIAL PROBLEMS AND PROBLEMS OF PROFESSIONALISM

The organisation tends to administer its activities relying very little on public funding, with projects starting irrespective of financing. An example is the renovation of 7 bed-sitters to be used for the most serious cases, where costs were covered completely by O.S.F. As far as finding collaborators and professional volunteers is concerned, the organisation usually contacts professional bodies asking for addresses where informative material can be sent. Lastly, regarding training linked to non-professional volunteers, O.S.F. has very lengthy training, from basic training in the classroom to training directly in the department where the volunteer is to work. Training also continues with internal basic training and subsequent refresher courses on specific subjects, including of a theoretical nature, given by professionals and university lecturers.

WHAT IS REQUESTED FROM PUBLIC POLICIES AND PROSPECTS

A request that the organisation is putting forward together with the commission on "the greatly excluded population" is that the local authorities co-ordinate all structures in the area dealing with this subject and local authorities take on greater responsibility for issues of great exclusion. The lines of development of the organisation's work, in addition to the renovation and optimisation of resources to guarantee a wider response with improved quality, are the opening of the seven bed-sitters as a reception centre, further improving the volunteers' training and stabilising the work begun.

In parallel with stabilising their work, which is the aspect in which O.S.F. intends investing their greatest resources at the moment, improving relations and co-ordination with other structures in the territory is also on their agenda, as they consider that any work of consolidation and improvement of their actions without profitable networking with other local organisations will reduce the incisiveness of their work.

Counselling

This typology is the most representative as it includes 80 services out of a total of 125 but it is also the most diversified, including organisations that offer legal counselling, guidance on looking for employment or for the solution of work-related problems, specialised structures offering support in looking for accommodation, services organising vocational courses, centres helping immigrants to make contact with bureaucratic structures, organisations that can respond to family difficulties and advice centres that indicate the most suitable services for the solution of problems.

Once again, the province of Milan stands out by the high density of services: over 50 % of the offer is concentrated in Milan and the surrounding area, while the remaining 47 % is distributed throughout the region with the exception of the province of Lodi where no organisation has been included in the survey. The peculiarity of this typology of service is their nature: 63 % are private and non-religious; 22 % are public and only 15 % are private and religious. The majority of the centres considered in the survey base their work on the collaboration of non-specialised volunteers or employees but there is a great deal of counselling activity which requires experts on legal matters.

The majority of structures self-finance their activities through membership fees whilst a small percentage receive contributions from public authorities and the larger organisations they are linked to. The service offered is generally free of charge, except in those case where a symbolic reimbursement of costs or the annual payment of a membership fee is requested (there is no shortage of complaints by users who report that paying membership is a condition for access to services by certain associations or the trade unions).

As it is impossible to review all the organisations existing, we shall mention some of the most important.

Multi-functional organisations – social work by religious bodies

From the 1980s with the first arrivals of immigrants, the Diocese, although it already had the Caritas Ambrosiana which in general dealt with situations of emergency, felt it had the duty, especially on the direct initiative of Cardinal Martini, to establish a body that dealt specifically with immigration (the Secretariat for Foreign Affairs), in particular from the pastoral point of view. Subsequently, around the mid 1980s and the early 1990s, the years of the immigration "emergency", a new director was appointed to the Secretariat for Foreign Affairs (Father Ferdinando Colombo) who gave it the connotation of dealing with a social emergency. Above all, the aim is to provide a response to the arrival of new immigrants and opened clothing distribution services in parish centres, canteens, job centres etc. In this way, the Secretariat takes on the a social emergency physiognomy, inevitably reducing its pastoral characteristic: receiving people and helping them to fit into Italian society. From the 1996 Synod, there arose the need to restore the initial function of insertion, sharing and accepting, marked more by the cultural and multi-cultural point of view and abandoning the welfare characteristics. "The Church discovered that it is not its responsibility to solve these questions, but it is above all the State that must deal with them".

The Secretariat for Foreign Affairs is now completely separate from Caritas, and it is the latter that deals with the emergency aspects connected with immigration. The Secretariat continues to have a "pastoral" duty dealing, that is, with all the issues linked with the human being and his/her harmonious insertion into Italian society, including social and political lobbying. However, the Secretariat has still not completely moved to the pastoral side; it still has a "borderline" action in the form of various activities as described below. Alongside the activity of Caritas and the Secretariat for Foreign Affairs, there are several other organisations which deal with services for reception of new immigrants, including the Opera San Francesco, already described in the health sector. Of note is the role played by Caritas Ambrosiana and in part by the Secretariat for Foreign Affairs in the fight against trafficking and exploitation of women and foreign minors which has found a concrete outcome, as well as in the actions described below, in the promotion and drafting of art. 16 of Law no. 40/98: namely, the rules and regulations concerning residence permits for motives of social protection.

SECRETARIAT FOR FOREIGN AFFAIRS OF THE DIOCESE OF MILAN

AREA OF ACTION

The Secretariat for Foreign Affairs is an organisation of the Diocese of Milan which was set up in the 1980s to give a more incisive response to the phenomenon of immigration. Its task is to promote through a constant activity of awareness-raising: the study of the phenomenon of immigration and its monitoring; concrete reception for new immigrants; the conversion of immigrants; training operators in ecclesiastical structures concerned by the migratory phenomenon; the links between the various ecclesiastical initiatives and their co-ordination and the implementation of the most suitable measures by the civil authorities. Recently, the Secretariat has begun to work on two new issues: foreign minors (in particular of the second generation) in relation to their insertion in schools; trafficking of women and foreign minors for prostitution. The Secretariat still principally carries out activities with a social and welfare characteristic, consisting of:

- **Counselling:** it offers a variety of services which can satisfy the needs of the immigrant, such as the Advisory Centre, pastoral care, selection for reception hostels run directly by the Secretariat, legal advice, scholastic guidance, vocational guidance and health care. According to a number of privileged sources, the Secretariat is perhaps the organisation which, in Milan, plays the most important role in satisfying the supply and demand of employment for immigrants, especially in the field of domestic help, caring for the elderly and disabled, babysitting, cleaning as well as in other sectors.
- **Reception:** the hostels run directly by the Secretariat offer accommodation to men looking for employment or already employed, students, single women, pregnant women, women with babies (0 – 6 months), women with small children (0 – 6 years old) and women involved in sexual exploitation. The Secretariat has six hostels: 3 homes for men, 2 for women and 1 house for post-operation convalescence; other structures are less directly associated with the Secretariat which actually indirectly controls 5,000 beds (but perhaps double that figure if other assessments are made).
- **Vocational and professional guidance:** the Secretariat has contacts with Vocational Training Centres which organise courses on health care for the elderly and catering; it also organises Italian courses and training courses for operators.

CHARACTERISTICS OF USERS

The Secretariat for Foreign Affairs does not discriminate in any way in its services and provides counselling for irregular and illegal immigrants. However, the majority of users are female. In 1999, 8,459 individuals went to the Secretariat, 3,795 of whom for the first time. According to some privileged sources, the immigrants using the Secretariat's services are almost solely Catholics, linked to migratory chains which are, to a greater or lesser extent, connected to missionaries and parishes. In actual fact, non-Catholics think that they cannot go to church organisations and probably at times there is a certain ignorance or mutual distrust.

Expectations of users: The expectations which, despite the commitment, fail to be satisfied are above all those related to housing and employment; in general all the requests of an "emergency" nature create a sense of frustration in the operators because these are the ones that remain unsolved for the most part. Awareness-raising and above all training are easier and here the Secretariat succeeds in achieving more incisive work.

CHARACTERISTICS OF THE SERVICE

Operators: There are two figures with executive duties holding distinct responsibilities: one for the Secretariat (don Fredinando) and the other for the Chaplaincy (Father GianCarlo). The staff of operators is made up of 2 conscientious objectors, 10 volunteers, 7 employees for the Advisory centre and training who partially work at the head office and 2 - 3 are in the hostels. The other figures are all nuns "on loan" from their respective religious congregations and are not paid. The directors of the 6 hostels and two conscientious objectors for each of the hostels also come under the Secretariat.

Source of funding: A part of the funds comes from the Diocese (from the 0.8 % contribution by taxpayers), the rest from funding from local authorities, the State or the European Economic Community for specific objectives, projects or agreements.

CONTACTS WITH OTHER ORGANISATIONS/LOCAL AUTHORITIES

The administration and running of activities in the Catholic area always come under Foundations, including in particular the *Sarepta Foundation*, which mainly co-ordinates the social-emergency action of the Secretariat for Foreign Affairs and *Farsi prossimo* which is a co-operative running the emergency work of Caritas. All the associations, foundations or charities with which the Secretariat has contacts or exchanges information according to requirements are partners (Fondazione Cariplo-ISMU, COE, Fondazione Verga, NAGA ...). Many professional figures work with the Secretariat and there are about 10 lawyers or students who meet to study the migratory phenomenon and a large number of doctors (and several dentists).

ROLE OF PUBLICITY

At present the aspects linked to the image, advertising and publicising the activities carried out are almost non-existent and represent a thorn in the flesh. The intention of the Secretariat is to start to use the media strategically, especially to diffuse its messages; to date, the channels used are Catholic newspapers and weekly magazines. This action would, according to the interviewee, be of particular importance especially to balance the instrumental use by the media of the migratory phenomenon, distortions in information, the confusion and superficiality in handling a number of crucial issues.

RELATIONS AND IMAGE WITH LOCAL AUTHORITIES AND MEDIA

Relations with the local authorities the Secretariat deals with in the broad spectrum (from the police, to local authorities and local health authorities), from a formal-political point of view, are generally good but at times giving scarce results, especially with the Municipality, the Province and the Region. Going on to specific contents, co-ordination of projects and requests for funding, the panorama improves. From the statements of the interviewee, the relations with the "bureaucratic apparatus" would appear better than those with "political figures". In the media, the image of the Secretariat would emerge as slightly distorted as only its activity in social emergencies is underlined and little room is given to its activity of a pastoral nature.

FINANCIAL PROBLEMS AND PROBLEMS OF PROFESSIONALISM

Finding funds is not a problem as the money comes, for a large part, from the Diocese and other funds from relations with organisations that have become consolidated over the years. From the training point of view, the Secretariat continually organises refresher courses and check-ups on the training of all its operators.

WHAT IS REQUESTED FROM PUBLIC POLICIES AND PROSPECTS

The first request is that of putting the laws into practice – in particular law 40 – and eliminating all the areas where discretionary powers remain. At present, the Secretariat is in the throes of complete renovation, from the points of view both of its organisation and its objectives. The intention is that of overcoming a sort of internal "competition" which has come about with the work of the Caritas Ambrosiana in emergency-type action. In the near future, the Secretariat will undertake to gain space on the pastoral front by trying to have increasing co-ordination with the activities of the Caritas on the social and welfare front. The interviewee states that the need to work on integration and migratory policy comes precisely from the "new migration".

CARITAS AMBROSIANA

AREA OF ACTION

Caritas has never dealt directly with immigrants because, as already mentioned, this was the task of the Secretariat for Foreign Affairs. However, for the past ten years it has been dealing with immigrants on various accounts and, for the past seven years this has been done through the co-operative *Farsi prossimo* which implements the actions of Caritas (running some reception centres of the council of Milan and the refugee service). The main areas of actions are: social protection, with alongside a legal counselling service on some projects (individuals coming under the programme of social protection is applied, for example, getting out of prostitution); overnight accommodation (at various levels); educational guidance linked to the *Centro COME* which deals with minors and training operators in the field of education and, lastly, the refugee service. Of particular note is the activity of social protection of women who are victims of trafficking, through the Women's Secretariat which, as well as a general activity of information and training on aspects related to the phenomenon of trafficking, acts as an advisory and selection centre towards the protected hostels linked to Caritas. At the moment, there are three hostels, with a secret address, which were opened with the specific aim of social protection.

As well as accommodation in the hostels, procedures for legalisation are started and the legal action of reporting the "protectors" is followed; vocational courses, especially in the field of care, are held and guidance for social integration is provided. Alongside the work of the Secretariat, there is also a mobile unit with a team of volunteers co-ordinated by a nun who contacts the women where they work and makes a first attempt at forming a relationship.

CHARACTERISTICS OF THE PUBLIC

There is no choice upstream of the identification of the target group as it is a response to problems which within the work of the diocese appeared of particular urgency. In many cases these services existed previously, for example the Women's Secretariat, set up for women who were victims of abuse; in recent years it has extended its work to include the abuse of foreign women and in particular trafficking. According to the interviewee, there was the need in particular for an intelligent adaptation to the changes taking place. Data relative to the users are not currently available.

Expectations of users: In general the services in the three fields of activity are giving good results. It is difficult to draw a general picture of the success or failure of the individual cases, especially with regard to the women who are victims of trafficking as it is still considered premature to take stock of the situation. The attempt is, nevertheless, to give a valid alternative to prostitution as well as protection.

CHARACTERISTICS OF THE SERVICE

Operators: There is a staff of professionals assisted by volunteers, especially for the direct services of reception. The trafficking department is made up of volunteers and a nun for the mobile unit and the Women's Secretariat is made up of social workers and psychologists as well as the presence of some volunteers and in the hostels there are, in addition to these roles, professional educators.

Source of funding: The departments all have agreements: for refugees with the municipality of Milan, the Centro COME with the Province on the basis of the attribution of powers that these authorities have in the management of aspects linked to immigration and education, and with the Ministry for Equal Opportunities for the department on trafficking based on the rules on the implementation of art. 18 of law 40.

CONTACTS WITH OTHER ORGANISATIONS/INDIVIDUAL PROFESSIONAL FIGURES

A national co-ordination body on refugees is being created and Caritas as well as the UNHCR will be part of it. At a local level, Caritas also has contacts with the parishes, reception centres and the associations in the territory. The level of collaboration varies according to the projects: with some there is simply an exchange of information, with others a greater level of collaboration: for example with NAGA and the Opera San Francesco, although these are not structured partnerships. Alongside there are the individual professional figures of lawyers, psychologists, educationalists etc.

ROLE OF PUBLICITY

The initiatives are highly publicised within Caritas, at parish and deaconary levels. Of the various departments, the Centro COME has the greatest interest in publicising its activities and this is done mainly through informative leaflets and advertising. The trafficking department does not particularly want publicity, except in diffusing culture on this issue, for example through participation in television programmes.

RELATIONS AND IMAGE WITH THE LOCAL AUTHORITIES AND MEDIA

Relations are associated with the agreements, but also with political planning, especially at municipal level (there are many contacts with the Region). At Provincial level, the head office is the territorial agency for immigration (the Consultative Body), chaired by the Prefect and made up of the President of the Province, the capital of the province and other towns if concerned by the phenomenon, the trade unions, the associations, voluntary services and representatives of the immigrant communities. Caritas is attempting to make this become the centre of relations with the public authorities on immigration issues. Caritas represents a privileged partner for these authorities and, at times represents too much, says the interviewee, in the solution of social and welfare problems.

The image is more difficult regarding public opinion: Don Colmegna (director of Caritas Ambrosiana) was under escort for a certain period of time due to death threats following a speech made by Cardinal Martini on accepting Albanians.

FINANCIAL PROBLEMS AND PROBLEMS OF PROFESSIONALISM

Caritas does not have problems of an economic nature and to fund its projects can draw on the funds of the Diocese. The intervention of the public authorities has more a function of taking on responsibility. More than funding, Caritas is interested in planning social and welfare action with the public authorities. Acquisition of skills is, at a more general level, through seminars with university lecturers and training and supervision is carried out in each of the individual departments. The work of acquiring internal skills is finalised not only for knowledge but also to elaborate policies at both local and national level. What the chairman of Caritas Ambrosiana proposes in the various meetings with the institutions is not only to report experience, but increasingly the result of group work from which political and action proposals emerge.

WHAT IS REQUESTED FROM PUBLIC POLICIES AND PROSPECTS

The greatest problem that Caritas puts forward is that of attempting to build itineraries of legal migration that are as attractive and feasible as possible. The attempt is to give the world an image of a country that welcomes immigrants, can increase the entry limits and offer services. The only serious way not to encourage the market of illegal immigrants, according to the interviewee, is to make the dream of migrating come true. The requests are: to co-ordinate or pilot the migratory phenomenon, creating possibilities that discourage illegality. Another request is to separate the discourses on migratory policies from that on criminal policy. This aspect is fundamental, especially if we consider that in Milan a Temporary Detention Centre is to be re-opened (for deportees). Caritas has been asked by the government to run these centres which have been the object of vast mobilisation for their closure. It has absolutely no intention of taking on these centres, which are moreover questionable from the point of view of respecting the Constitution and fundamental human rights and will therefore have to find a way of measuring up with humanitarian actions and personal protection for immigrants without yielding to "reasons" of a policy of repression.

Trade unions

CESIL - CENTRO SOLIDARIETÀ INTERNAZIONALE LAVORATORI

AREA OF ACTION

CESIL was set up in 1982 and was promoted by the CISL trade union of Milan and by ACRA (an NGO operating in Third World countries). The main aim of CeESIL is to help foreign immigrants become independent in their contacts with Italian bureaucracy: the service does not replace the foreigner but teaches him/her to enter into relations with the organisations and institutions they need. In particular, CESIL operates in the area of counselling and guidance for relations with the Police, the local health authorities, the Provincial Employment Office and public offices in general. Through its International Women's Group it runs two apartments sleeping four, offering temporary accommodation to women with special problems (illness, pregnancy, getting out of prostitution). The most important activity, however, is **counselling**. For the renewal of residence permits, CESIL studies the legal situation of each applicant, then verifies the right of each applicant to renew his/her residence permit. The applicants then have to obtain the documents necessary for the renewal. In family reunification, CESIL offers the applicant technical and practical help in filling in the application which is to be made to the Police, ascertains that the applicants have the necessary requisites and documents for the competent authorities. CESIL helps non-European immigrants solve questions related to work and refers them to specialised offices and authorities (employment office, labour dispute office, aid society, tax aid centre). In parallel, CESIL offers aid to non-European minors, on the one hand working for legalised residence permits with the help of the *Istituto Coesione Familiare*, and on the other integrating the minors into Italian state schools, as well as reporting any situations of difficulty in the city to the Juvenile Court. Over the years, CESIL has also undertaken to collect the documentation necessary for foreign citizens to return to their home countries in special cases such as illness or when non-European children are abandoned by their fathers.

CHARACTERISTICS OF USERS

CESIL does not discriminate in any way in its services and provides counselling even to irregular and illegal immigrants. In 1999 the number of people contacting CESIL almost doubled, increasing from 2300 annual requests for advice to over 4165. The female component has grown constantly until it equalled the male component in 1997. Until 1995 the majority of users came from Africa, while in recent years immigrants from central and south America have become the most frequent, followed by Africans, Asians and East Europeans (also because one of the "historical" operators of CESIL is from Latin America).

Expectations of users: The main problems that users present to the CESIL operators are the procedures to renew residence permits, for family reunification and work, as well as for care of minors, return to the home country and legalisation in general: thanks to experience consolidated over the years, the organisation can respond with particular efficiency. However, the organisation considers that it best satisfies the need for advice. The problem of housing is the most difficult to solve. A problem which is emerging at the moment is that of minors of the second generation: they have no meeting place and the women who come to CESIL appear very worried for their children (scholastic failure, cases of anomy or even deviance etc.).

CHARACTERISTICS OF THE SERVICE

Operators: Two full-time employees and one who works 36 hours, an operator from Salvador, two conscientious objectors and a volunteer in the capacity as head of CESIL make up the structure.

SOURCE OF FUNDING: The association is promoted and maintained by the CISL trade union of Milan.

CONTACT WITH OTHER ORGANISATIONS/LOCAL AUTHORITIES

For almost all its activities its privileged partners are the various internal departments of the CISL. It has informal contacts of mutual information and collaboration on individual cases with the local Catholic and non-religious associations. Three lawyers collaborate with the organisation. It also collaborates with the Fondazione S. Carlo for the rent of the two houses run by the International Women's Group.

ROLE OF PUBLICITY

CESIL does not carry out any activity of publicising its work as more people come to CESIL than the operators can actually deal with and simple word of mouth is a very powerful means of publicising its existence and activity.

RELATIONS AND IMAGE WITH THE LOCAL AUTHORITIES AND MEDIA

For all the issues related to legalisation, CESIL is linked in Italy with the Police Headquarters of Milan, the town councils, the employment offices, the local health authorities, the Chamber of Commerce, the embassies and consulates and some reception centres and abroad with Italian embassies. With the Police Headquarters there is a relationship which on the one hand is conflictual with continuous pressure on requests for legalisation and on the other of respect and at times collaboration. CESIL belongs to the Commission set up by law 40 and it is through this that all relations with local authorities take or should take place. With the local health authorities the relations are at times difficult because it often occurs that they have delayed information on the circulars implementing law 40 and therefore there is friction regarding the application of rights sanctioned by law. Despite the frequency of friction with the majority of local authorities, in the interviewee's opinion CESIL is considered "serious" elements of disturbance. They have very few relations with the media, especially in consideration of the instrumental use of the image of immigrants and excess sensationalism in publishing news.

FINANCIAL PROBLEMS AND PROBLEMS OF PROFESSIONALISM

CESIL does not have particular problems of a financial nature or of acquiring or increasing professional skills as it enjoys strong support from the CISL trade union. Training and updating on issues related to immigration and relative legislation is continuous.

WHAT IS REQUESTED FROM PUBLIC POLICIES AND PROSPECTS

The first request is to build policies with a greater attention to the recommendations that come from those who work with foreigners: avoid the policy of announcing amnesties, and above all of using exclusively the Police Headquarters for the first residence permit, referring to the municipality all the other steps, such as renewal or for family reunifications.

For the future, the organisation wants to start working with minors of the second generation, to work with concrete proposals on migratory flows and on the proportions of these compared to the real possibilities of employment – which for example in Lombardy are far superior to the estimated quotas – linked to this aspect is the commitment to bring to the surface illegal work (especially home helps) and lastly, a prospect for the future will be that of trying to be more incisive on problems related to housing.

CGIL - CELSTRA (CENTRO LAVORATORI STRANIERI)

AREA OF ACTION

The service of aid for the legalisation of immigrants has existed since 1986 and in recent years, in particular over the last year, it has been enlarged to include internal organisation and representation with the Consulates, local administration or police headquarters. The main aim of CELSTRA is to inform and assist immigrants in the area of employment and trade unions through a continuous activity of study and training on work and all related aspects. CELSTRA organises and takes part in seminars, conferences and various meetings on the issues of immigration and on new rules on the subject. The counselling activity of Celstra concerns: carrying out bureaucratic and administrative formalities, legal counselling; labour disputes with internal co-ordination of immigrants belonging to the CGIL trade union; more general work-related issues (CELSTRA refers its users to the specialised offices and departments, such as the employment office, aid societies and tax advice centres) and lastly, representation on behalf of CGIL on issues of immigration with the authorities dealing with this.

CHARACTERISTICS OF USERS

CELSTRA does not discriminate in any way in its activities and offers counselling to irregular and illegal immigrants. It is mainly for working immigrants because as a trade union its main objective is that of protecting immigrants in the world of work. About 5,500 people come to the immigrants' centre each year and then many immigrants go to the CGIL; some 2000 people go for vocational guidance and about 1,000 to the labour disputes' department whilst about 2000 are members of the CGIL; lastly, the number of union representatives inside firms is growing, now standing at about 20 and although this number is not high, it is nevertheless of considerable importance. Immigrants going to CELSTRA can be divided according to their geographical origin, type of work and type of advice requested: there is a wide presence of Filipinos in domestic work, also because they are the most numerous in Milan; in the building trade the majority are Egyptian; requests for aid for legalisation come, according to the interviewee, from those categories which have the greatest difficulties on the employment market, because they are the least in demand, such as Albanians and Tunisians who, however, are less numerous in the city of Milan whilst they represent the majority in prison.

Expectations of users: As far as the service of mediation with the police headquarters is concerned, the trade union succeeds in solving all the problems linked to bureaucracy and those of legal immigrants; it does not succeed in solving the problems of those who entered Italy illegally, also because the trade union deems it fair to try and build up a system for those arriving legally in Italy and not that there is legalisation when arriving in Italy.

CHARACTERISTICS OF THE SERVICE

Operators: the office has a person in charge, e referent in the secretariat of the Milan trade union headquarters, an operator who deals with public relations with the police headquarters and other associations, a conscientious objector and, as from September, there will be trainees.

Source of funding: Financing from the trade union.

CONTACTS WITH OTHER ASSOCIATIONS/LOCAL AUTHORITIES

CELSTRA has contacts with *Acli*, *Arci*, *Caritas*, *Filef*, the groups of foreigners present locally, the movement *Cittadini del Mondo*, *CISL* and *UIL*. These contacts are established, in the majority of cases, by telephone in order to co-ordinate the different and numerous proposals that often also involve the public authorities and the decentralised ministerial departments. As far as professional figures are concerned, the immigrants' department refers to a legal firm which has an agreement with CGIL not only in the field of immigration and with other individual lawyers. An attempt at co-ordination is being prepared with a project of the Milan ARCI, Baia del Re, but which is not yet active, to open various information centres throughout the area.

ROLE OF PUBLICITY

Publicity is taking on a particularly important role in the work of immigration information and assistance: a project should start from September on communication for immigrants and those who deal with these issues, divided into three fields of action. In the first place, the publicity will be through periodic meetings and informative material distributed in the workplace and at associations, in the second place the distribution of a newsletter to all CGIL members (the editorial board consists mainly of immigrant trade union representatives who are CGIL members) with news on laws on immigration and a CGIL Internet site will be opened in September which, as well as information on its services, will have a part linked to the sector of immigration with on-line assistance.

RELATIONS AND IMAGE WITH THE LOCAL AUTHORITIES AND MEDIA

Relations are mainly with the police headquarters to deal with formalities and with whom the office has excellent relations. It is often precisely through the mediation of the immigrants' department of the police headquarters that they succeed in smoothing out friction with the local police offices where the greatest number of problems at local level exist. There are formal relations with the foreigners' department in the town council, especially in relation with schools for foreigners and relations with the Province are mainly linked to the reception centres for new immigrants and in this case relations are more conflictual as the number of these centres in Milan has dropped in recent years from 11 to two. Lastly, relations with the local authorities are formal and related to law 40 within the territorial council on immigration, of which CGIL is a member but which has only every met once (called by the Prefecture). As far as the local authorities are concerned, it is often accused of being conservative (especially on some questions such as the "Pact for Milan") but these opinions are expressed, according to the interviewee, to gain consensus and are not true as CGIL has often been seen to be open to dialogue.

FINANCIAL PROBLEMS AND PROBLEMS OF PROFESSIONALISM

Professional standards are constantly being raised and updated through internal and external initiatives of the trade union: periodically CGIL organises training courses for union representatives and the operators take part in training courses, seminars and conferences on law 40.

WHAT IS REQUESTED FROM PUBLIC POLICIES AND PROSPECTS

The most recent proposal has been to move a part of the residence permit procedure from the police headquarters; in particular renewals for residence permits should be shifted from the police headquarters to the local authorities for two reasons: in the first place as immigration is a phenomenon on the increase, the police headquarters would have an overload of work to the extent of making the work of the police on the road less effective and in the second place it would shorten the waiting time. The prospects are those of a constant increase, especially in the insertion of foreign citizens on to the labour market, without limiting protection only to the period subsequent to their entry on to the market, which is important especially in the prospect of controlling the supply as well as the demand of work.

Legal Counselling

FILEF LOMBARDIA: FEDERAZIONE ITALIANA LAVORATORI EMIGRATI E FAMIGLIE

AREA OF ACTION

FILEF has existed since the end of the Second World War, dealing with Italian emigrants abroad, that is, with the aim of promoting activities in defence of the rights of Italian workers in Europe and the world, to conquer a decorous life for them and their families, to help them maintain and develop their cultural identity. In addition to the initial aims, FILEF has widened its activities since 1988 with a new objective which has slowly, at least at Milanese level, become its main aim, namely that of demanding the same rights it claims for Italian workers abroad for foreign workers who have immigrated to Italy.

Associations usually distinguish their work into three levels: political, service and experimentation on inter-culture. These levels are closely inter-connected. The first is that described as "service". The second level is the political level on which the association has organised or taken part in the mobilisation to close down the Temporary Detention Centres (for deportees), for residence permits or for the amnesty. The third level is that of the first experiments on inter-culture, which is transversal to the other two, trying to involve the people who have come to the association for an exchange of knowledge and experience. The service action takes place through various departments and has the aim of making its users independent and through this action it also carries out political activity:

- **Counselling:** FILEF has the following services for counselling:
 - **Information and Guidance Department** for the administrative and bureaucratic formalities relative to residence permits, work, housing, health and education.
 - **Women's Department** run by welfare and health workers to offer advice and counselling on the problems experienced by foreign women at work and in the family.
 - **Legal Department** with counselling free of charge by lawyers competent in the various branches of law for out-of-court legal aid, collecting statements and evidence relative to episodes of aggression and threats linked to any form of racism.
When necessary, the immigrant is accompanied by a person in the department mainly acting as an interpreter.

- **Vocational guidance and training:** The operators help the foreigner to look for work, helping him/her to write a curriculum vitae, informing him/her of opportunities for training and referring them to structures for seeking employment; in addition, if necessary, the operator helps the immigrant contact these structures or private individuals by phone. Free Italian courses held by qualified teachers are also organised at FILEF.
- **Health care:** FILEF provides an information service on basic hygiene and health. The operators also act as intermediaries in contacts with structures operating in the sector, in relation to the needs brought to their attention.
- **Raising awareness in public opinion:** FILEF carries out activities of solidarity through public stances (media, press releases, appeals, demonstrations, distribution of leaflets etc.), parties, debates, collaborating with initiatives of awareness-raising and actions in schools and institutes.

CHARACTERISTICS OF USERS

There is no obligation for admission or restriction for access to the service. FILEF does not discriminate in any way in offering its services and also provides counselling to irregular and illegal immigrants. At present no data are available on its public.

Expectations of users: The main requests are those linked to learning Italian and looking for employment. Above all, FILEF offers guidance and help in writing a curriculum but only rarely does the association succeed in finding employment for immigrants. Lastly, there is the problem of papers. From this point of view, the association has worked with great success both for using its records as proof for the amnesty (the association keeps records on all the people who contact it and thus these records have offered proof of the individual's presence in Italy before the date of the amnesty) and in advising the documents and type of residence permit to apply for. Finding work for irregular immigrants is the area with the greatest failure rate as the associations it refers to deal only with "legal" immigrants. Consequently, unless the employer and the potential employee are very well known, FILEF is very cautious in putting employers in touch with irregular immigrants, especially in order to avoid the exploitation of the latter. The legal aid department also satisfies users' requests in the majority of cases.

CHARACTERISTICS OF THE SERVICE

Operators: 30 volunteers work here, with 4 in the Women's Department (1 welfare worker and 2 volunteers), 6 in the Legal Department (final year law students), 5 in the Work Department, 4 in the Bureaucratic Guidance Department, 1 in the Tax Department, 2 in the Secretariat (conscientious objectors) and 8 teachers for the Italian courses.

Source of funding: Self-funding and regional contributions given to associations, funding linked to specific projects.

CONTACTS WITH OTHER ORGANISATIONS/INDIVIDUAL PROFESSIONALS

FILEF belongs to a network of organisations and associations with the aim of exchanging information and solving problems by mutually referring people. ARCI, Naga, Macondo, CGIL and various associations in the social private sector and residential religious institutes belong to this network. For mobilisation, FILEF refers to *Coordinamento antirazzista milanese* which the majority of the associations it works with also belong to. FILEF can also benefit from the collaboration of a number of professional figures, in particular lawyers and tax specialists, sociologists, and cultural mediators to whom it refers not only for individual cases but also for training.

ROLE OF PUBLICITY

Although the association has never thought of strategically looking after its image through a systematic advertising campaign, a form of informative diffusion is nevertheless considered of particular importance to make the activities they offer known, reach new users and above all, for counter-information on the issues of public debate at local level. The diffusion of information is completely "self-managed" by the association and the most frequently used channels are the distribution of leaflets, advertisements in some newspapers, radio stations to publicise specific initiatives, stalls at various local events, social centres (and the information network these use) and lastly, an Internet site is under construction.

RELATIONS AND IMAGE WITH THE LOCAL AUTHORITIES AND MEDIA

No consolidated relationship exists with the authorities and with the institutions; relations are only in political terms in that the latter are the interlocutors of a debate and opposing political requests both at local and national level. The association does not aim to cover institutional shortcomings, to lighten, even involuntarily, their work or responsibility or to offer "charity aid". Relations with the municipal and regional councils are simple requests, explaining the purposes and motivations, of funds for their activity; the association does not see in this a reason for interference as the request for regional funding is seen as simply using funds of the citizens which must have the possibility of being used for purposes including those of FILEF. On the other hand, according to the interviewee, the authorities sometimes seem to use the association's activities as a resource in the territory instrumentally: one example is the publication by the municipal authorities of FILEF's activities on information leaflets printed on town council paper. With the police headquarters, relations are of mutual acknowledgement, even if there is great discretion in co-operation. In some cases, as during the last amnesty, (via Cagni), relations were more strained and the presence of the associations allowed monitoring the conditions in which the dossiers were examined and in some cases reports denouncing certain situations were made.

FINANCIAL PROBLEMS AND PROBLEMS OF PROFESSIONALISM

As far as problems of an economic nature are concerned, the association periodically sends a newsletter to its members and supporters, including the number of its postal current account, membership and the sale of informative material which are forms of self-funding but are not very productive. Regarding professionalism, this can be understood in two directions: internally, it is built up through continuous seminars, especially on law 40 and the exchange of information with other associations in Italy, or through postgraduate degrees on immigration (two members of the association are doing a master's degree in Venice); the second direction is identifying professionalism outside the association which can be of use in its work (lessons at seminars, lawyers for legal cases, etc.); there is a great variety of figures as already mentioned and the association is able to live "on its reputation" in a certain sense thanks to the network of relations it has built up with its work on immigration that has become consolidated in time.

WHAT IS REQUESTED FROM PUBLIC POLICIES AND PROSPECTS

In general the association's position on the platform for local immigration policies is that of transferring the responsibility of the police headquarters to the public administration. Specific requests are also made on employment and taking responsibility on the issue of gypsy encampments. However, specific political positions have not yet been taken up on these issues, but there is still total opposition to current positions (from zero tolerance to unrestricted circulation of people).

The future objective or dream is to disappear and that a foreigner can have access to bureaucratic and health structures in exactly the same way and as easily as Italians. In reality, the first objective is to make the service more efficient, cover the greatest possible number of requests for help with their departments and it will also be very important to carry out research in order to gain greater knowledge on changes in the phenomenon and to gain a better understanding of needs. One last objective is to start reflecting on which new and more incisive ways can and must be implemented for action.

Self-organisation

COOPERATIVA PROFICUA A.R.L.

AREA OF ACTION

The Cooperativa Proficua was created within the Lega dei diritti dei popoli (League of human rights) and deals with cultural mediation between Italian society and people from different cultures. For this purpose, the Co-operative offers on the one hand a counselling service open to all those (institutions, services and individuals) who are or intend coming into contact with different cultures, providing a wide range of products from the organisation of multicultural events to the organisation on "education on world cultures"; on the other, the Co-operative offers foreign citizens support and help in becoming integrated into Italian society. The service promotes finding employment that is in keeping as far as possible with the professional characteristics of each individual. In particular, for women the co-operative aims to put them in the position of being on the same level as Italian women on the job market. The first step is the recognition of the academic qualification they obtained in their home country. If it is not possible, as occurs in the majority of cases, to find a job that is appropriate to the woman's qualifications, the co-operative takes action to put her into contact with "intellectuals" and figures of note of her culture so that she can have relations beyond the work she has had to adapt to (in the majority of cases as home helps or caring for the elderly and ill). Counselling is also available for women in filling in the tax return form, formalities for naturalisation, English and Italian courses, vocational and study guidance. Considering the characteristics of the activities of the Co-operative, vocational and study guidance and counselling for foreign citizens are free of charge whilst the catering services, course on "education on world cultures", Italian courses and all the other products for the market are paying.

CHARACTERISTICS OF USERS

The service is mainly used by foreign women, although Italian women may have access. The service is open to women without residence permits. The number of women using the service is not available; as far as nationalities are concerned, the women are from: Tunisia, Morocco, Egypt, Algeria, South America, Cameroon, Eritrea, Rwanda, Lebanon, Europe and Serbia. It is important to underline that in the majority of cases the women become members of the Co-operative by carrying out activities in it.

Expectations of users: Looking for a job, as far as possible in keeping with their training and an intellectually satisfying environment (especially for those women in less qualified jobs) are the main reasons women go to Proficua. The Co-operative succeeds mainly in the cultural integration and exchange of knowledge and helping women exercise their profession through support in obtaining the recognition of the academic qualifications they gained in their home country.

It is more difficult for the Co-operative to find jobs, also because this is not its specific aim, and in particular work other than as a home help or cook. For the most urgent cases, the Co-operative refers women to the main offices that find employment.

CHARACTERISTICS OF THE SERVICE

Operators: A board of directors with three members (a Chilean teacher, a Chilean psychologist and an Algerian cultural mediator) and a board of auditors (an Eritrean woman, an African-American singer, a town councillor and an Italian literature teacher).

There is also 1 accountant, 1 administrative assistant, 10 teachers for the courses (including 3 who also have co-ordinating functions), 15 for catering, 2 who receive the public (1 psycho-linguist and 1 teacher from the school for social workers), 3 teachers for the Italian courses (1 psycho-linguist, 1 literature graduate and one linguistic trainer), 3 organisers for events. Each of the operators has more than one activity in the Co-operative.

Source of funding: The co-operative is funded through its membership fees, funding from the Regional Council on some projects (in collaboration with ATLAS, a translating company, and SEGA communication, a video and cartoons explaining law 40 are currently in progress), income from the sale of some services.

CONTACTS WITH OTHER ORGANISATIONS/LOCAL AUTHORITIES

The Co-operative works with other associations on a number of projects in order to exchange information. This network of communication includes: the League for Human Rights, the Network of Foreign Women in Italy, the Forum of Migrant Native Women and the Cooperativa Manutara in Cile, Extra Center, Atlas Traduzioni. The Co-operative also belongs to the movement Cittadini del Mondo, sits on the panel of foreign women in Italy in the Commission for Equal Opportunities of the Ministry for the Family and Social Affairs and is a member of the federation of associations of foreign women in Italy.

ROLE OF PUBLICITY

The Co-operative places great importance on publicity and it has recently set up a committee on this specific aspect. The Co-operative publishes an informative newsletter edited by a person who also contributes to other magazines and papers (l'Unità, Tam Tam, Aspe) and promotes its services through distributing leaflets. Many articles have been written about its activities in various newspapers, although there has never been a real advertising or publicity campaign and an ad hoc committee has been set up for this purpose.

RELATIONS AND IMAGE WITH THE LOCAL AUTHORITIES AND MEDIA

Relations with the local authorities are in connection with projects; the co-operative has also been invited to take part in the meetings of the committee for integration, set up by law 40 and this will be, according to the interviewee, where any collaboration or confrontation takes place with the authorities. Relations with the authorities are very different if considered on the political level or project management. The position of the association regarding local policies on immigration is one of criticism and based on confrontations that are not always friendly; from the point of view of projects financed by local authorities and the relative relations with bureaucracy, they are positive and of mutual esteem.

FINANCIAL PROBLEMS AND PROBLEMS OF PROFESSIONALISM

A solution to financial problems is to present many projects but it is easier to find funds through the catering activity as the co-operative receives many requests for their services.

From the point of view of professionalism, the members keep updated with internal seminars and training courses whereas a "managerial" style which would improve the results of their work and optimise the work as well as being a source of work for the women.

WHAT IS REQUESTED FROM PUBLIC POLICIES AND PROSPECTS

The first request is for a uniform application of law 40; in many cases the rules on residence permits and the right to health care or anti-discrimination practices exist only on paper. This is stated by the interviewee after a series of attempts made by the members of the co-operative to see if the law was applied, from the time when the law was to effectively come into force. Not to be underestimated is also the high level of discretionary power in the application of some circulars and in the allocation of funding. The line of development will be to offer the services to women on a more stable basis, especially the guidance and self-help departments, with funding as voluntary work raises minimum forces.

ASMP - ASSOCIAZIONE DEI SENEGALESI DI MILANO E PROVINCIA

AREA OF ACTION

The association, created in 1996, is a non-profit making social, cultural and sports organisation with the main aims of encouraging solidarity amongst Senegalese, maintaining their bonds, co-ordinating all cultural and educational activities and lastly, the correct identification of issues of a social nature and possible and more appropriate solutions for the creation of real cultural integration. The Association organises parties, various events, meetings with other associations. A journal is being planned. The main activities are those of:

- **Counselling** The association aims to help every Senegalese, through consulting and carrying out the necessary steps and procedures, in defining projects, initiatives and studies. Counselling concerns in particular: looking for accommodation; looking for employment; legal counselling; carrying out a variety of formalities
- **Welfare:** The association provides a canteen and distributes clothes (the latter especially when any of its members are in prison). It also covers funeral expenses and the costs of repatriating the body of deceased members; bearing legal costs for members in difficulty; helping any member of the association who has suffered harm and is without economic resources; support and help disadvantaged families.
- **Reception** The association also gives temporary accommodation to those who request it. Accommodation is generally for one week, and it is the guests' duty to ensure domestic life runs smoothly.

CHARACTERISTICS OF USERS

All Senegalese resident in Milan or in the province of Milan or in Italy, may join the association, with the commitment of unconditionally accepting the by-laws and rules of the Association. The ASMP also deal with all Senegalese citizens who contact it, even although they may not be

members or supporters of the association. There are no restrictive criteria for access to the services offered. Over the last year, even if it is difficult to provide certain data, about 150 people contacted the Association each month.

Expectations of users: The association is unable to satisfy, as it would like to, requests for employment. When possible, the association finances the creation of small commercial activities: for example, a sum of 500,000 Lire is given for the purchase of articles (usually in shops run by Chinese) to be sold on the street; street trading is the first resource of illegal immigrants and, according to the interviewee, for the Senegalese this trading is completely self-organised. For those with residence permits, employment, not always qualified, is easier to find. The possibility of temporary accommodation (about three months) is the easiest request to fill by drawing on available places with the members of the association.

CHARACTERISTICS OF THE SERVICE

Operators: The association is made up of an assembly and an executive committee divided into other committees for each area of action. The association only has volunteers. There are about three hundred members, while about 500 people, without the right of vote in the assembly, gravitate around the association.

Source of funding: The association maintains itself through self-funding by the members in the form of annual membership fees; they are also engaged in cultural events for entertainment or for catering services. The association has never succeeded in obtaining any funding from local authorities.

CONTACTS WITH OTHER ORGANISATIONS /INDIVIDUAL PROFESSIONALS

The Committee for Social Affairs deals with contacts between Senegalese citizens and their families, providing the opportunity for those with no fixed abode to communicate.

The association has relations with the institutions in Senegal. In Italy, while it tends to deal with all cases independently, the association has contacts with FILEF, Mani Tese, the Milan town council and the Senegalese Consulate.

ROLE OF PUBLICITY

The existence of the association, one of the best known and largest by number of members in the Senegalese community, is made known through advertising in some newspapers (*Terre di mezzo*), radio advertising (*Radio Popolare*), distributing informative leaflets and various cultural events.

RELATIONS AND IMAGE WITH THE LOCAL AUTHORITIES AND MEDIA

Relations with the authorities are not very easy with, starting from the lowest level, difficulties of comprehension and, at times, lack of helpfulness on the part of those coming into contact with the members of the association when the latter present applications or follow other cases and a mediator often has to be called in. On the other hand, relations with the foreigners' department of the town council are good. The association has the greatest problems with the police headquarters. In particular, in applying for residence permits, there is great difficulty in having the documents provided and the proof of presence in Italy accepted and the long waiting times and extenuating queues and continual postponements cause great difficulty for those who work as employers do not always give permission for more than one absence and thus the permits expire and are not always renewed. Other problems are with the police and the continuous seizure by the town police of goods traded in the street which the association succeeds in recovering only 10 % of cases (this is one of the main sources of sustenance for irregular Senegalese and which, as described above, is normally

purchased in legal shops). The media do not pay any particular attention to the association, occasionally reporting events in which the association takes part and in these cases the image has been positive.

FINANCIAL PROBLEMS AND PROBLEMS OF PROFESSIONALISM

The association has very serious financial problems and it is difficult to continue without any type of funding. For the time being much of the money collected comes from participation in cultural events with performances, dances and catering.

WHAT IS REQUESTED FROM PUBLIC POLICIES AND PROSPECTS

The main request is to allocate a quota of council homes to immigrants and to overcome continuous instrumental use for political questions that have little to do with immigrants. When the interviewee talks of instrumental use, he is not referring only to scaremongering campaigns on crime and security, but also to the instrumental use for the "struggle between the right-wing and the left-wing"; the interviewee also states that there is also some instrumental use of the research that is continuously financed to study immigrants where the only ones to benefit are the research centres; this also occurs for those associations which apply for funding for projects to support or help immigrants and where often the objective is more self-referential than anything else (to support the organisation or pay the salaries of the operators who do not do their work with particular judiciousness). The first step proposed by the association for it to grow is to create a co-operative of services, a second step will be to set up an information and counselling centre for the return plans of the numerous Senegalese who want to return home.

WOMEN (services for prostitution)

All those services that have recently been set up in Lombardy in response to "prostitution by foreign women and their trafficking" can be considered in a separate category. From the survey, there are thirty-two services (some of which have already been mentioned), in particular, fourteen hostels, eleven counselling centres and seven mobile units.

Of these, the greatest number is concentrated in the Province of Milan, where twenty-two services are in operation (ten hostels, eight counselling centres and four mobile units).

Eighty-eight percent of services were set up in the private welfare sector and base their activity on the commitment of volunteers. In particular, 71 % of hostels are run by private religious bodies and associations and the remaining 29 % by private non-religious associations. As far as public action is concerned, this takes place through the funding of mobile unit projects and two counselling centres active in and around Milan. If overall more than 60 % of the services do not have specific programmes to take on the problem of sexual exploitation, of all reception centres and hostels, there is the greatest number of specialised structures for personalised projects aimed to regain the woman's independence. Some of these structures are characterised by the special protection they offer the guests by keeping the address of the hostel secret.

The women, who are mostly from eastern Europe or central Africa, generally do not go spontaneously to the services; they are sent to the hostels by the police, public and private social services and especially by the mobile units and the counselling centres, which often have a function of filter and assessment of the requests.

The women contact the last two services voluntarily, in the majority of cases driven by the desire to get out of a situation of violence and exploitation or with the desire to improve their living conditions. These organisations meet the needs of the women through counselling, psychological support and referral to the most appropriate structures or services to solve the problems raised. The relationship that is established with the operators often lasts for a long time and represents a solid point of reference for the women to turn to in times of difficulty and need.

The panorama of services, based on the survey, is not particularly wide and above all there are very few, as already noted, services which implement specific programmes, both from the point of view of protection (this is of greater importance considering what is sanctioned by art. 16 of law 40/98) and overcoming the trauma these women have undergone: on many occasions, these profiles of action do not appear to differ from those in general for women with problems of ill-treatment. As for any type of problem, in addition to goodwill, specific training and the development of a sensitivity are required to enter into harmony with the woman, so that she feels that she is really being given shelter and, above all, is not judged. This is because the girls may be victims of the "pimp" but not necessarily of "prostitution" and therefore they may not necessarily have the intention of changing profession but only the conditions in which they are forced to work.

The contribution of these associations is in any case of fundamental importance and must be supported; their work is long and difficult, marked by frequent difficulties, including the lack, at times, of coherent support from the institutions. On some occasions, the latter also reveal a somewhat contradictory attitude, on the one hand seeing the commitment in fighting the phenomenon of trafficking in women and sexual exploitation and on the other the "persecution" of the women in the streets: this not only forces them to become less visible and therefore more vulnerable but also makes them more difficult to "contact".

Of the services described, we will describe that of the mobile units: this typology has been borrowed from the experience of drug addiction, operating in the majority of cases with a view to reduce damage. Recently, this typology has been used by some associations as an innovative instrument for prevention (especially in the area of health) and to encourage easier contact with the services in the territory by the girls who are prostitutes. The mobile units present in the province of Milan are those of ALA, LILA and LULE (Caritas). Only the experience of LILA of Milan will be reported below as it is particularly interesting, both for the type of methodology followed and because it was the first mobile unit to deal with prostitution. In addition to LULE, both associations also have mobile unit services for drug addicts, many of whom are foreigners.

LEGA ITALIANA PER LA LOTTA CONTRO L'AIDS - LILA

AREA OF ACTION

The Association was founded for actions of prevention and solidarity on the "HIV positivity and AIDS" issue and is for the population in general. The association's activity may be summarised in the following three lines of action: prevention of the spread of the HIV virus and sexually transmitted diseases, referrals to the various welfare and health services in the area and moral and practical support for persons who are HIV positive.

In addition to these activities, since 1997, the project called "Priscilla Project – Mobile unit for prostitution" has taken on particular importance. This project operates with a view to reducing damage and with the aim of preventing HIV and solidarity and direct contact with prostitutes has been developed. In addition, other projects are to be carried out, namely:

other forms of prevention on the road, AIDS switchboard, legal counselling and training courses. The project offers a free telephone service, providing information to anyone who asks. The mobile unit goes out three times a week during the night. To contact the people directly in the territory, the mobile unit operators go into the neighbourhoods and on the road to inform, raise awareness, prevent and offer guidance. The mobile unit consists of a fitted-out camper which guarantees maximum confidentiality to all those who ask for advice and suggestions. The operators' approach follows a specific protocol built up after years of experience. The informative material is distributed together with preventive material (syringes and condoms in particular). The instruments used by the operators are: a relationship of aid and counselling. At present, after a brief period of inactivity, the project is starting up again and the characteristics listed below refer to the previous project.

CHARACTERISTICS OF USERS

Prostitutes can use the services offered by the mobile unit. In the last year of activity, a total of 974 people used the project, referring to the number of people with whom a significant relationship was established; with these people, the total was of 2400 contacts. The women who contact Lila at present can be divided according to nationality: Albanian, Nigerian, women from eastern Europe (Rumania, Czechoslovakia, Russia), South American (Peru and Uruguay) and a small group of Italian women; the majority of the transsexuals are Italian and South American.

Expectations of users: The unit fully satisfies all the requests linked to information and guidance for services, trying to guarantee that people are sent, through careful selection or by being directly accompanied by the operators, to services capable of responding to their needs both in terms of competence and sensitivity. The "Prostitution" mobile unit is a project to reduce harm already done; it therefore deals with preventing the spread of HIV and sexually transmitted diseases without intervening in sexual exploitation, except in the case of explicit request by the woman. There are however very few requests in this area and, in the cases dealt with, it has been difficult to follow the girl's case once she is in the protection circuit of the police and the appropriate services. A need that has strongly emerged with the opening of the Temporary Detention Centres is that of welfare and legal counselling, as well as the comprehensible problems linked to "detention" in the centres and their very existence. It has been very difficult for the Project to satisfy these needs and almost exclusively with basic information on the law. The experience of the past year has led LILA to envisage specific action of information and legal aid in the future project.

CHARACTERISTICS OF THE SERVICE

Operators: 3 operators in the mobile unit, 1 linguistic-cultural mediator, 1 group co-ordinator, 1 clinical and methodological supervisor.

Source of funding: In relation to the association: fees and contributions from members, free contributions and donations from private individuals, state contributions from public authorities and bodies, international organisations, agreements and commercial activities including marginal ones. Relative to the Priscilla project: for the first 18 months funding from the Lombardy Regional Council obtained through the former local health authorities nos. 38 and 41 of Milan and subsequently private funding.

CONTACTS WITH OTHER ORGANISATIONS/ INDIVIDUAL PROFESSIONALS

The most frequent contacts are with FILEF, Naga, Caritas and Opera S. Francesco, which the Project contacts for the solution of individual aspects linked to users' needs. The association has also formed a qualified network of external collaborators, including lawyers, trade unionists, experts in the field of the protection of patients' rights. With the aim of offering a service of legal aid and counselling on all issues relative to HIV positivity and AIDS, a legal

department is also being set up on questions connected to irregular immigrants. In addition to the specific and growing demand for legal aid, there are reports of cases of discrimination and infringement of current laws.

ROLE OF PUBLICITY

For LILA in general, publicity has a strategic role of particular importance, not only in giving information on its activities but above all in distributing information on sexually transmitted diseases and AIDS: the main forms of publicity are conferences and public events, concerts, exhibitions, performances and publicity campaigns associating the logo and articles frequently published in the local and national press. Regarding the project on prostitution, this does not receive particular publicity except through the capillary activity of the operators with the mobile unit and the distribution of informative leaflets. However, the media and research centres have shown great interest in its work on several occasions.

RELATIONS AND IMAGE WITH THE LOCAL AUTHORITIES AND MEDIA

In order to give a more appropriate response to the problems that emerge daily, LILA collaborates with the local health authorities in the city of Milan, the STD centre, the advisory centres, the Lombardy Regional Council and the Mangiagalli hospital. Relations with the local authorities are formally good, even if not always easy, from the point of view of concrete operations on cases, while from the point of view of policies implemented they are particularly critical: the campaigns on fining prostitutes and their clients implemented by the city of Milan are well known and the attempts to involve the work of the mobile units in projects with the aim of checking up and establishing records on prostitutes are highly criticised. The greatest difficulties however are those of the mobile units with the police as often the latter force them to leave the area where they are working (there have even been cases of the camper being searched); in addition, the continuous roundups of prostitutes makes it almost impossible to contact them. The operators refer that in the past year repression has completely upset the "street organisation", that is the "rules of disorder", making the majority of the prostitutes impossible to find. The image of the project with the authorities is varied, ranging from the interest and recognition of the experience consolidated (at least from the formal point of view) to the accusation (especially by the police) of fuelling the phenomenon of prostitution. Their image in the media is also varied and changes according to the periods and media "cases"; however, the media has a great interest in the association's work and frequently requests particularly "impressive" cases during the periodic anti-prostitution or anti-trafficking campaigns.

FINANCIAL PROBLEMS AND PROBLEMS OF PROFESSIONALISM

There are considerable financial problems and above all, it is difficult to obtain permanent funding. The projects, once started, are not always renewed; for example, the last year of operation was funded by a private company. The new project that will start from September 2000 will last three years (the project is funded at national level) and it is the first time that in Milan funding has been obtained for more than one year. As far as professionalism is concerned, ever since its foundation LILA has paid particular attention to training its volunteers and operators. There are numerous and complex social, cultural and emotional implications connected to the problem of HIV positivity and AIDS. For this reason training includes, as well as specialisation on specific contents, psychological supports, with check-ups and inter-personal confrontation for small groups in specific sectors.

WHAT IS REQUESTED FROM PUBLIC POLICIES AND PROSPECTS

In September 1994, the Milan branch of LILA requested from the Town Council the allocation of a public structure for the first reception centre in the city. The space, to be used for accommodation in cases of detention, could also represent a valid alternative to prison.

A large part of the welfare and health policy pursued by the association consists of putting pressure on the Town Council to increase the diffusion of distributors for the exchange of syringes, which guarantee an effective reduction in the damage, in particular among drug addicts, but not only that. As far as prostitution is concerned, the new three-year project is about to start which, in addition to the work of reducing harm in the streets, will also carry out informative activity in restaurants and discotheques and try to reach prostitutes who work in their homes. The project also includes setting up an ad hoc legal department (enormous problems were caused by the opening of the Temporary Detention Centres) and an experiment in mediation with the residents in areas where prostitutes work.

5. Case Study on Racist Violence and Intervention Strategies

The story of Ion Cazacu: Rumanian "rebel" ¹⁷

"I am invisible, understand, simply because people refuse to see me".
Invisible Man, Ralph Ellison, 1965, orig. 1952, p. 7.

Who was Ion Cazacu? Perhaps an answer to this question can be found in the newspaper articles that tell his story: "Ion Cazacu was a man capable of forgiving". Towards the end of March, when he was still lying in a sterile room in the Sanpierrez Hospital in Genoa fighting for his life against his burns, Ion Cazacu whispered words of peace to Father Lucian, a Rumanian Orthodox priest, through the interphone. The victim of the blind violence of an Italian building contractor, he murmured with a weak voice: "Father, I want to forgive for what has happened. Father, I forgive. There was no argument with the Italian. There was no evil between us". Then what had led one man to kill another?

The facts

The scene is in Gallarate, in the province of Varese and in the heart of one of the richest areas in Italy. The date on the calendar is 14th March 2000. It was just after ten p.m. when a building contractor with his own firm, 36 year-old Cosimo Iannece, together with his younger brother, arrived in an anonymous apartment crowded with beds and the bags of Rumanian building site labourers.

On the Sunday before, the employees had complained about their working conditions: up to 12 hours a day paid by the job, fixed at 10,000 lire for every metre of wall or floor laid. On average the Rumanians earn quite a lot: 110,000 lire a day, but in exhausting working conditions to say the least. A part of their earnings returns to the pocket of the firm's owner from the rent for the place where the Rumanians live on top of each other: 200,000 lire a head per month for six of them in a one-roomed apartment. At times, they even go and spend the night in the garage.

On the Tuesday afternoon, Cosimo Iannece kept trying to reach one of his men, Ion Cazacu, 41 years old, on his portable phone. Ion had been a specialised technician in a Rumanian hydraulics industry. When the factory closed down, he had left his wife and two children at home to seek employment and his fortune in Italy. The builder had recently started the legalisation procedure for Ion, presumably to appear presentable with some large firms he wanted to offer his services to. He feared however that, with legalisation, his subordinate would "become free" and look for work elsewhere. That afternoon, there was no answer to the Rumanian's mobile phone because Ion had left it at home. Iannece's fears became increasingly more tangible.

On the Tuesday evening there was no argument: on the one hand the builder with his brother accused Ion of wanting to "cheat on him" and threatened to burn him, on the other, Cazacu tried to calm them down. The tension rose until Iannece completely lost all control and took out a bottle of petrol from under his coat and he threw the inflammable liquid over the bricklayer three times. Ion could not believe his eyes and tried to stop him. Cosimo Iannece did not stop, took a lighter out of his pocket and set him on fire. None of Ion's friends succeeded in stopping him.

¹⁷ Thanks to: Flavio Nossa, Silvio Pieretti, Carlo Scardeoni, Marco Tenaglia, Paolo Valenzano. Strictly in alphabetical order. This case could be reconstructed also thanks to them.

The neighbours, who had heard the noise and gone down into the courtyard, were brutally sent away by Iannece. The flames were ruthless and enveloped Ion Cazacu in a second: his clothes were soaked with petrol and were an easy bait for fire. His friends came to Cazacu's help. Someone called an ambulance and the police. The conditions of the Rumanian bricklayer immediately appeared serious and the doctors in casualty decided to transfer him to the serious burns department at the hospital of Genoa.

The public attorney of the courts of Busto Arsizio opened an enquiry on the episode which was assigned to Giuseppe Barattino. On 23rd March, the magistrate questioned the builder at Gallarate police station. The initial accusations of attempted murder and grievous bodily harm, became an accusation of murder with the death of Ion Cazacu on 14th April. The public attorney, thanks to the eye witness accounts by Cazacu's colleagues, immediately extended enquiries to the working conditions: illegal recruitment, building sites without safety measures and the role of the contracting companies.

The reactions of the parties involved

A wall of silence seemed to surround the episode. The facts, reported by a Rumanian newspaper, came back to Italy only ten days later. At the beginning there was only a suspicion: "is it possible that Cazacu's body could have been reduced to that by a flame from a boiler?" No eye witness accounts confirmed the hypothesis of aggression and violence. The Gallarate police, when they started the first enquiries, received little help from the people who lived in the house near the railway. Then the truth came to the surface. Three days after the events, Ion's friends, as a single man, decided to tell the story of what had happened. The newspapers talked about promises of money and death threats so that they would keep quiet.

This is the account of Ion Badea, 36 years old, a trained mechanic in Rumania and tiler (he says he is happy) in Italy, originally from Valcea, like Cazacu. The builder, in his opinion, accused of such barbaric behaviour, was in fact a quiet man: "Cosimo – for whom he had worked on various building sites in the Varese area – has always paid me. The boys were pleased".

Then Ion Badea confided in the journalist and told him the words that Ion Cazacu whispered to him from his hospital bed a few days after the incident: "That day Cosimo had called him but Ion didn't answer because he had left the phone at home. So he thought that my friend had gone to work on another building site and he lost his temper¹⁸". He says he heard the rest from Ion Diaconu and Ion Trandafir, the two colleagues who were present at the blood-chilling scene: "he came in and threw the petrol over him. His friends tried to stop him and got slightly burnt. Ion ran into the bathroom trying to put out the flames with a towel."

A version that his wife Nicoleta (who was able to go to her husband in Genoa a few days after the episode thanks to the intercession of the Italian Embassy in Rumania and Rumanian diplomatic representation in Italy) gave further details to the newspaper "Adevarul" (The truth): "The boss was always late paying and my husband had asked him for something because it was soon Easter and he needed money. But he got angry. he went to he house with a plastic tank saying to Ion: "Do you know what I've got here? Petrol. Now I'm going to kill you". He had a lighter in the other hand..." Interviewed in the prison of Busto Arsizio, the builder Cosimo Iannece shouted his despair to the press: "I didn't want to set fire to Ion. I don't exploit people and I'm thinking of my family without any money and work." His lawyer, Enrico Milani, stated to the journalists of the newspaper "La Repubblica": "Iannece did not start the fire. He was smoking and in the small room there was also a water boiler and a burner".

¹⁸ This version of the facts is confirmed in the interview given by Nicoleta Cazacu to Varese news , 13th May 2000.

The police and the magistrate do not seem to believe in this unfortunate set of circumstances or accident: from the very start there are too many aspects of the aggression that do not make sense. Starting with the bottle of petrol. The container with the liquid was already in the apartment in Via Pietro Micca (according to Iannece) or did he bring it (as the two Rumanians, Ion's colleagues and eye witnesses, say)? And did Iannece arrive by himself or with other accomplices? According to the report of the hospital of Gallarate, Cazacu was taken to casualty by Rumanian friends but also by Iannece and other people. Iannece also apparently offered money to Cazacu on the way to the hospital to keep quiet, promising to send him home.

On the news of Ion's death, the defence of the builder commented: "We did not expect the Rumanian to die. My client and I sincerely hoped that he would survive. At this stage, the situation becomes more complicated, even if a subjective element remains: Cosimo Iannece absolutely did not want to harm his employee, let alone cause his death in one way or another". "Unfortunately," continued the lawyer, "there are unexpected events that completely modify people's lives; two people who are now involved in an event, the epilogue of which could not be foreseen unfortunately." Mr. Milani concluded by repeating once again that "his client had no intention of killing; Cosimo is not a violent man, as anyone who knows him well can tell you".

Recapitulating, the accidental character of the episode sustained by the defence clashes with the intention according to the prosecution. Ion Cazacu died after indescribable suffering caused by the third degree burns on 90% of his body, Cosimo Iannece in detention is accused of murder, Nicoleta Cazacu is a widow with two daughters of 15 and 17 to raise alone on her modest salary as a dressmaker in Valcea, Rumania. Let us leave justice to take its course, hoping that it is brief and fair and let us go on to analyse another type of reaction.

The institutional reactions and others...

A few days after the discovery of the episode, the newspapers wrote of the reaction of the trade unions which asked for a task force of the Ministry of Labour to be set up with the police and competent authorities.

The party of Left-wing Democrats asked the Prefect of Police to set up a permanent round table with representatives of workers, firms, technical authorities (labour inspection office, local health authorities, Social Security and the National Institute for Industrial Accidents) and the local institutions, in order to "plan an effective strategy that has a real effect on this shameful scourge that is unworthy of a European province".

The Gallarate episode stirred souls: the trade unions CGIL, CISL and UIL set up a co-ordinating body to monitor building sites. The estimate presented by the members of the three trade unions are dramatic: "For each worker employed legally there is one illegally employed in the building trade", according to Domenico Lumastro of the Fillea-CGIL in the "Prealpina" of 25th March, pointing out all the contradictions in a rich province like Varese. Silvio Baita of the Filca-CISL, who has put himself at the disposal of the Public Prosecutor, adds: "The conspiracy of silence reigns unopposed. If anyone knows something they don't say a thing, because they are frightened of losing their job". The trade unions repeated their appeal to break the wall of silence: "Contact us, tell us about the things that are not right". Regarding illegal immigrant workers, who are the most frequently blackmailed and subject to inhumane working conditions, Flavio Nossa of the CGIL underlines that: "This is a hidden world where the password is exploitation" and consequently "the tragedy of Gallarate," they point out at the Left-wing Democratic party, "compels the institutions to make a radical change in severing the phenomena of the scourge of illegal work". Only with inspections on the building sites, it is reasserted, can there be any hope of reaching some results.

On the same date, the local newspaper reported the following declarations of some union leaders and politicians at national level.

The national secretary of the CISL, Sergio D'Antoni, judged the story of the Rumanian worker "disgraceful". "The episode," he said, "speaks for itself. We are in a situation where the lack of respect for rules and illegal employment lead to these forms of exasperation". This lays down the hope that "all this has to finish. We have to wage a real battle to bring illegal work to the light at all levels".

In the midst of the electoral campaign for the renewal of the President and Regional Council of Lombardy¹⁹ the candidate of the centre-left for the position of President, Mino Martinazzoli, had this to say: "The attack on the Rumanian worker represents a serious exception and does not portray the relations between Lombardy society and its non-UE immigrants" whilst the outgoing president, Roberto Formigoni, of the centre-right, re-elected on 16th April, calls the episode of violence involving the Rumanian worker "a very nasty story" during the regional conference of the Confsal: "Respect for individuals must go before everything else. I think I can say that is a very limited case, even isolated: because Lombardy has always shown that it is capable of accepting and valorising everybody's contribution". Locally, some Gallarate councillors belonging to the centre-right majority reacted with the accusation of the instrumental use of the city as it had been portrayed in the national press and during a council meeting in mid-May they launched into the defence of Gallarate and those governing it. In particular, the councillor of the National Alliance party, Paolo Caravati, strongly attacked the independent councillor of the Left-wing Democrats Giovanni Martinoli for his words in the local press, accusing him of excessively blaming the people of Gallarate and virtually defended his fellow citizens against the accusations of indifference. Let us leave any reflections to the reader and we will close this section with the energetic stance taken by the National Association of Partisans (ANPI) of Varese, Busto and Gallarate: "Our conscience rebels against such acts of cruelty. No sign at all of weakness must be shown towards those who make use of hatred, ethnic discrimination or racism. The association has organised for Sunday 26th March a peaceful protest in front of its office in Gallarate to express its "indignation" at similar acts and "commitment to defend life and tolerance". The press release reads: "Hitler killed the Jews, the anti-Fascists and the gypsies first and then he burnt them in the crematory ovens. In Lombardy they are burnt alive".

A comprehensive view

A comprehensive view of the case of Ion Cazacu, his exploitation and the difficult situation of illegal immigrants in the province of Varese emerges from the interview "Immigrants exploited by illegal recruiters" given by Claudio Croci of the builders' union of the CGIL to "La Repubblica" dated Saturday, 25th March 2000.

Q. How could such a thing happen?

"Thousands of people live in the province of Varese without any services or structures, held hostage by entrepreneurs who sacrifice any respect for their employees for profit. The immigrants, including illegal immigrants, arrived especially with the enlargement of the Malpensa airport. In the future their numbers will grow. There is no shortage of work here and a good part of the jobs are for foreigners because Italians refuse certain jobs. The phenomenon, which extends beyond the building trade, has been underestimated or, perhaps worse, ignored".

Q. What are you referring to?

¹⁹ The region where the events related took place.

"I can give you two examples. On our request, the Province, governed by the League [Lombardy league party], set up a Consultative Body on immigration. None of the four largest towns (Saronno, Busto Arsizio, Gallarate and Varese) joined. In Gallarate the trade union, with a number of associations, set up a project to create a Reception Centre. The local authorities did not attend any meeting; on the contrary they authorised "Forza Nuova", an extreme right-wing group, to set up stalls in the square, with Celtic crosses and runes, against the Centre.

Q. There's a big difference between being indifferent and burning someone alive.

"Of course, but what is most upsetting is the approach to the phenomenon of immigration. The contractor who set fire to the Rumanian does not have a real business but is like an illegal recruiter of cheap labour for building sites run by others. In Rumania the victim has a family, was an engineer and here he is a bricklayer, paid by the job. Is this our civilisation?

Q. Have there have been other episodes of violence against immigrant workers in the past?

"Never as bad. About three weeks ago, the revenue police discovered some small firms in the Varese area linked to organised crime. The situation is serious. The ten workmates of the unlucky Rumanian have fled because they were afraid of retaliation".

Q. How great is the phenomenon of illegal work?

"Officially there are 1500 building contractors and about 6,000 employees regularly registered with the building trade's fund. But there are just as many who work illegally".
Crocì broadened the horizon of the subject in an interview entitled "Fatal industrial accidents... and illegal work" in "redditolavoro" distributed by the Centro Documentazione e Lotta mailing-list. To the question "when someone says he has a business – in the case of Cosimo Iannece – perhaps there is a risk of being misunderstood", the trade unionist of the Fillea-Cgil solves the ambiguity with an example: in Samarate, a small town near Varese, 21 building contractors are registered with only 40 employees and in the whole of the province of Varese in theory there are only 4 employees per contractor. "These are fictitious firms without any structures but which have at their disposal men to be exploited – says Crocì – and this explains why in the province we have 6,000 legal employees in the building trade and the same number again, if not more, who are illegal".²⁰ Men who work ten hours a day for 40,000 lire, often foreigners and including university graduates, without residence permits, who can be blackmailed and are frightened, ready to share a two-roomed apartment with five others, as in the case of the Rumanian bricklayers who worked for Iannece: people who could have been deported from one day to the next. A "normal" situation according to the trade unionists. The stories and data illustrate this. In 1999 – the year when the number of inspections increased – 1159 firms operating illegally were found. Out of a total of 77,409 employees in the inspected firms, 6,231 were found not to have regular contracts. The amount evaded for social security payments in 1999 has been calculated at over 5 billion lire, whilst social security contributions paid late stand in the region of 14.5 billion lire. In the whole of the province, there are estimated to be no fewer than 100,000 cases of employees without regular contracts. "This type of fragmentation," explains Gian Marco Martignoni, of the Provincial Committee of Control and Inspection of the CGIL, "makes it difficult to monitor the territory and despite this, the State is dismantling inspection at the workplace". The figures are national: in 1991 there were 100,000 "inspections" identifying a rate of irregularity of 50 %, whilst in 1998 only 50,000 inspections were made, identifying irregular situations in 75 % of cases.

²⁰ The estimates given are in actual fact slightly greater. We have adapted them to the figures given above and below in the same section.

Strategies of intervention

“Wake up from sluggishness to exercise rights and solidarity” was the name of the demonstration organised on 13th May 2000 in Gallarate by the three national trade unions of Lombardy and Varese Ticino Olona, in memory of Ion Cazacu. The purpose of the title chosen for the initiative was to point out how the issues of reception, illegal work and racial integration are interwoven in the tragic episode of Ion Cazacu, in a territory, like Lombardy – and not just the city of Gallarate – revealing that it has serious and unsolved problems on such important issues. The press release reads “one month after the death of Ion Cazacu, this public meeting, with the presence of many important guests and speakers, including Nicoleta Cazacu, wants to invite all the citizens not to forget and to reflect on these very topical issues without prejudice but with a sense of solidarity”.

More than 2000 people took part in the procession that went through the streets of Gallarate and the commemoration in which Nicoleta Cazacu invited the public “not to forget Ion, so that what happened will never happen again”. For our purposes, it is interesting to observe for example, what Ivana Brunato, general secretary of the CGIL of Varese, had to say, in the second part of the demonstration, dedicated to a reflection on the problems of immigration, reception, labour rights and the role of the institutions in the solution of these problems.

After an analysis of the situation in the province of Varese, Ivana Brunato gave a series of suggestions “to build up and assert a culture of acceptance and respect”.

In summarised form, the trade union of Varese made the following proposals:

- promote a petition in support of the new law on immigration to reinforce the aspects containing the recognition of some rights of citizenship;
- give an active role to local communities in simplifying the bureaucratic procedures for residence permits and family reunification, so that they are no longer exclusively the competence of the public security authorities;
- promote dialogue with the Province, the town councils and schools to implement policies of reception and cultural mediation;
- work so that entrepreneurs assume responsibility for the problems connected to the work of non-EU members in their factories, for example, the fundamental problem of housing;
- reinforce inspections to fight illegal and submerged work, without any guarantees of safety.

“Varese wants to change its tune” was the title of the conference held at the beginning of June 2000 at the Textile Museum of Busto Arsizio on the subject of illegal practices and work without regular contracts. In this context, the words of the member of the council of the trade union headquarters, Marco Molteni, were of particular interest in view of the proposals they contained. Three suggestions were brought up:

- to set up a provincial observatory to monitor the phenomenon of work without regular contracts, in order to establish its characteristics and dimension
- to set up a provincial observatory of contracts, with the participation of the Prefecture, contracting bodies, the Chamber of Commerce, the town council, the builders' fund and all employers' associations;
- the analysis of all the atypical associations in order to find out their quantitative and qualitative dimensions.

"The problem of illegal practices and the absence of respect for rules," Molteni told Varese news, "is mainly a cultural problem. The role of the institutions, and in particular of the Chamber of Commerce, cannot be static; above all, there has to be harmony between the various subjects operating in the area as well as co-ordination for these projects to be realised".

Other interviews

We talked about Ion Cazacu with Marco Tenaglia of the Italian Council for Refugees, who took part in the demonstration in Gallarate "Wake up from sluggishness to exercise rights and solidarity" and also followed the case very carefully. Marco Tenaglia stigmatises the posthumous character of the institutions' interventions and once again the incapacity of the authorities to implement real interventions to prevent similar episodes happening. Regarding Ion's workmates, he tells us that, thanks to the sensitivity on these issues shown by the Prosecutor Giuseppe Battarino, about ten Rumanian workers have been able to obtain a residence permit for reasons of social protection as laid down by art. 18 of the consolidated body of law on immigration and thus stay in Italy where they are now working with a regular contract and can register with the unemployment office.

Marco Tenaglia then asserts the need to make amendments to some of the Turco-Napolitano law in order to simplify the entry procedures of foreign workers. He underlines the connection between the control of migratory flows and the situations of illegality and the difficulty of the rules to cope adequately with the applications for entry due to the excessive bureaucracy and the complexity of checking which often turn out to be useless. He recalls the difficulty and even impossibility of legal entry into Italy and the continuous recourse to legalising positions after entry. In addition, "the entry quotas foreseen," he maintains, "are irrelevant compared to needs: 1000 people against the 100 authorised in 2000". Tenaglia repeats the need to cope with the migratory phenomenon from a European point of view because in Italy, "we are buffering the emergency situation without a solution". Then he extends his opinions to the scourge of illegal immigrants, a far more serious problem than that of entry flows, as the "majority of irregular immigrants work in situations outside the law". A perverse mechanism fuelled by the phenomenon of sub-contracting which is widespread everywhere. Lastly, in order to stem irregular situations, he agrees that the idea of overall control by the consular authorities is a good one but adds that there is "an evident problem of feasibility and functioning because requests for foreign workers have never come through the consulates' lists". He gives the example of the Embassy in Tirana where "you have to pay duty just to get in" and this way "legalisation took place only in Italy".

The words of Flavio Nossa, a CGIL trade unionist join those of Tenaglia and, as well as giving us further details of the reconstruction of the events, like the silent role of Iannece's brother, defined as the "brain" of the affair²¹, he confirms the importance of the application of art. 18 of the consolidated body of law. Nossa defines this a "potentially explosive element, which to date has been applied very rarely and only in cases of accusations of the prostitution racket and never in a dispute relative to questions of labour". The sensation is that the application of the law has contributed to breaking down a wall of silence and enabled the trade union to operate more easily and in more detail on specific cases. Regarding the case of Ion, Flavio Nossa, who has been following affairs of immigration in the province of Varese for a year, maintains that the episode was not fortuitous. "Immigration in the province of Varese," he says, "is functional in maintaining some sectors. It is the system, the offspring of the expansion of the tertiary sector and the drop in labour costs, that needs labour and that looks for it. This system keeps a perverse mechanism alive and irregular immigrants are often its victims". The trade unionist describes the relationship between Iannece and Cazacu as "real ownership and not employment".

²¹ Nossa informed us that "After three days of prison, Cosimo Iannece had become propertyless".

Nossa informs us that whilst to date the sentences of the Court of Cassation have recognised as industrial accidents events that take place outside the workplace, in this case of *motu proprio*, and in a very short time Inail²² will pay the wife and children a life annuity of 1,600,000 lire per month. He then goes on to discuss the issue of illegal immigrants and here Nossa highlights the discriminatory nature of the mechanisms of the application of the Turco-Napolitano law which "empty the law of its contents". This brings us back to the subjects already touched on by Tenaglia, such as the difficulty of legalising illegal immigrants due to the excessive red tape and "duty" requested by Italian embassies abroad, but there also emerge the difficulties with the foreigners' department of the police headquarters, with exasperating waiting times for the issue of residence permits. This "system" encourages the proliferation of agencies that live off these procedures and charge 800,000/1 million lire for family reunification, for example.

To a question on the strategies of intervention to stem the scourge of illegality and illegal work, Nossa states the need to reach transparency in the mechanism of contracts and sub-contracts through a declaration by the employer on his employee's regular position regarding social security and contract of employment. From this point of view, Malpensa 2000 has acted as a model of transparency in Italy after an agreement in 1993 with builders following the death of an immigrant on one of the building sites. "This agreement," maintains Nossa, "has limited the episodes of illegal work to below the threshold of 20 %: this percentage is only in part attributable to real irregular employment, but in the contracts of cleaning companies anything can still happen".

To conclude, we went to see Silvio Pieretti, the dynamic head of the Immigrants' Department of the Town Council of Varese who says he does not want to go into the details of the affair, but hopes that the trial will take place soon "to say how things went". Pieretti says that "if we continue to ignore these situations of illegality, facts like this will be repeated and we will become accomplices with the increase of the xenophobic phenomena in Italy". He then makes a desperate appeal: "We absolutely have to cope with the problem of illegal immigration, redundancy, people who have been made to retire early and work off the books, those who have two jobs, the racket of the labour force and illegal recruiting". For this," he continues, "the competent offices need more resources, starting from the Labour Inspection Department. And all this empty waffle, by many Italian politicians for example, has to stop and we all have to make a commitment to restore the culture of legality, which has disappeared, to this country".

Conclusions

When I decided to illustrate this episode, I knew that it would not be an easy task. I feared not being up to it and I wondered if I would succeed in conveying the facts and the reactions of the different sides without becoming rhetorical and above all maintaining a fair from all sides. It has not been easy in a case of violence such as this one where illegal work, illegal immigration, xenophobia and sub-contracting are interwoven to form a whole. I do not know whether I have succeeded in my intentions and I do not know if I have rendered justice to the victims in this reconstruction. There are certainly many details missing and perhaps others are superfluous. I think that in this sad story they are all victims: Ion, Cosimo, Nicoleta, the perverse system that has given rise to this story and the indifference of all of us, some more than others. I do not think that good is on one side and evil on the other, but that there is only a shapeless grey mass. Perhaps Cosimo did not want to burn Ion and perhaps the situation really got out of hand. Perhaps...

However, the facts in their dramatic reality remain before the eyes of all. But it is not up to me to judge, my task is to do research and I don't know if I am always successful.

²² National Institute for Insurance against Industrial Accidents.

For this European project, I almost felt it was my civic duty to bring the case of Ion to light. I have always lived in this province and I was deeply perturbed by the affair. At times the mere thought of the story I was telling paralysed me and so I had to make a double effort to continue. Now I could hold forth on the link between the neo-liberalist policies and the growth of racist phenomena in Europe, as the expert on politics Chantal Mouffe did in her applauded speech during the inauguration of the European observatory of Vienna on racism, hoping in a political and not moralistic approach to deal with the phenomenon. I do not know whether it is right in this context. I could repeat some of the observations of the people I interviewed on the strategies of intervention to avoid similar episodes recurring in the future, but it would be superfluous. Perhaps too many words have already been spent on this affair and I have done my part too. Perhaps the fairest thing is that some silence envelops this story for a second until there are new and more significant consequences.

Bibliography

“Accendiamo i riflettori sul mondo del lavoro”, *Varesenews*, 2nd June 2000.

Ambrosini M., *Utiles invasori. L'inserimento degli immigrati nel mercato del lavoro italiano*, Milan, ISMU/Angeli, 1999.

Anolf Cisl Ticino Olona, “Morte di immigrati”, *News*, available at http://space.tin.it/associazioni/luimaffe/terzo_mondo_in_lombardia.htm

Ansa, “Imprenditore lombardo dà fuoco a operaio rumeno, fermato”, *I fatti del giorno: prima edizione*, 24th March 2000, available at <http://www.ansa.it/notiziari/mae/200000324060431523486.html>

Barbesino P. e Quassoli F., 1997, *La comunicazione degli immigrati a Milano: reti sociali, rappresentazioni e modalità di accesso ai servizi nell'area metropolitana milanese*, “Quaderni ISMU”.

Blangiardo, G.C., Farina P., *Revision and updating of the reference statistic framework*, in The Cariplo Foundation for Information and Studies on Multiethnicity, *The Fourth Report on Migrations 1998*, Quaderni I.S.MU. 7/1998, Franco Angeli, Milan, 1998.

Bonerandi Enrico, “Vita di Jon, operaio rumeno. ‘Ti ribelli? E io ti do fuoco’”, *La Repubblica*, 25th March 2000, p. 25.

Bonetti P., “Anomalie costituzionali delle deleghe legislative e dei decreti legislativi previsti dalla legge sull'immigrazione straniera”, in *Diritto Immigrazione e Cittadinanza* 1999a, no. 2 and 1999b no. 3.

Brandi Rosi, “L'avvocato: ‘Ma non voleva incendiarlo’”, *La Prealpina*, 25th March 2000, p.17.

“Il centro sinistra di Gallarate per Ion”, *Varesenews*, 20th May 2000.

“La città ha bisogno di un centro d'accoglienza”, *Varesenews*, 15th May 2000.

Cen.Doc. e lotta, “Omicidi bianchi... e lavoro nero”, 30th March 2000, available at <http://www.ecn.org/lists/redditolavoro/200003/msg00140.html>

Cgil Lombardia, “2000 persone a Gallarate alla manifestazione promossa da Cgil Cisl Uil per non dimenticare Ion Cazacu”, *Punto Focale*, available at <http://www.lomb.cgil.it/puntof2000/ion.htm>

Cgil Lombardia, “Diritti e solidarietà nel nome di Ion Cazacu. Corteo e incontro pubblico sabato 13 maggio a Gallarate”, *Punto Focale*, available at <http://www.lomb.cgil.it/puntof2000/cazacu13-5-00.htm>

Colombo A., 1998, *Etnografia di un'economia clandestina. Immigrati algerini a Milano*, Bologna, il Mulino.

- Coordinamento Pace & Solidarietà Pino Borgomaneri, "Difendere il lavoro e lottare per il recupero della dignità", *Varesenews*, 12th May 2000.
- Dal Lago, A., (a cura di), *Lo straniero e il nemico. Materiali per un'etnografia contemporanea*, Costa & Nolan, Genoa, 1998.
- Dal Lago, A., 1999, *Non-persone. L'esclusione dei migranti in una società globale*, Milan, Feltrinelli.
- Dipartimento della Pubblica Sicurezza del Ministero dell'Interno, 2000, *Migrazioni e sicurezza in Italia*, in AAVV, Migrazioni. Scenari per il XXI secolo, Agenzia romana per la preparazione del Giubileo, Rome, pp. 1063-1294.
- "Dopo un mese di agonia. Morto il romeno bruciato a Gallarate dal datore di lavoro", *Il Mattino*, Saturday 15th April 2000.
- "E' morto il muratore rumeno bruciato dal datore di lavoro", *Il Giorno*, 14th April 2000.
- Fedrizzi Pierfrancesco, "Litiga con l'operaio e gli dà fuoco", *La Repubblica*, 24th March 2000, p. 31.
- Fedrizzi Pierfrancesco, Persano Bruno, "Mi ha bruciato, lo perdono" il rumeno s'aggrappa alla vita", *La Repubblica*, 26th March 2000, p. 25.
- Feltri Vittorio, "L'altra faccia del civile Nord", *La Nazione*, 25th March 2000.
- Fondazione Cariplo-Ismu, a cura di, *Rapporto sulle migrazioni*, F. Angeli, Milan, 1995, 1996, 1997, 1998, 1999.
- "Un gesto concreto per Nicoleta e le sue figlie", *Varesenews*, 15th May 2000.
- "Una giornata per Ion Cazacu", *Varesenews*, 9th May 2000.
- Ghirelli Massimo, "Diario del Razzismo Crescente. Mettendo i fatti in fila. Gli immigrati si appellano a Ciampi", *Diario della Settimana*, Il buon senso della settimana, from Wednesday 12th to Tuesday 18th April 2000.
- Giovannelli Marco, "Fischi fuori tempo", *Varesenews*, 14th May 2000.
- Gnocchi Massimo, "Un colpo al cerchio e uno alla botte", *Varesenews*, 12th May 2000.
- "L'imprenditore: 'Solo un incidente', *La Padania*, Brevi, 26th March 2000, available at <http://www.lapadania.com/2000/marzo/26/260399p15a2.htm>
- Mancino Michele, "Non deve accadere ad altri", *Varesenews*, 13th May 2000.
- Mancino Michele, "La concertazione deve mirare al bene comune", *Varesenews*, 3rd June 2000.
- Maneri M., *Lo straniero consensuale: la devianza degli immigrati come circolarità di pratiche e discorsi*, in A. Dal Lago (ed.), 1998.

Maneri, M., *Les médias dans le processus de construction sociale de la criminalité des immigrés. Le cas italien*, in S. Palidda, ed., *Délit d'immigration*, pp. 51-72.

Mari Giovanni, "Ion Cazacu. In ospedale lotta tra la vita e la morte", *Il Manifesto*, 25th March 2000.

Mezzadra S., Petrillo A., eds., 2000, *Globalizzazione e Migrazioni*, Roma, ilmanifestolibri.

Morgantini Luisa, "La morte di Ion Cazacu pesa come un macigno", *Stampa Natura e Solidarietà*, Monday, 17th April 2000, available at <http://www.peacelink.it/webgate/diritti/msg00493.html>

Mouffe Chantal, "What Europe needs to deal with racism and xenophobia is a political not a moralistic approach", speech at the Official Opening of the European Union Monitoring Centre, Vienna, 7th/8th April 2000.

Palidda S., ed., 1996, *Délit d'immigration*, Luxembourg, European Commission, COSTA2-Migration.

Palidda S., 1996, *L'immigration irrégulière en Italie*, rapport pour l'OCDE, (réunion du groupe de travail sur les migrations of 13th-14th June).

Palidda S., 1997, *Immigrazione e sicurezza urbana*, in Ministro per la Solidarietà Sociale, ed., *Immigrati : stranieri o nuovi cittadini ?*, pp. 103-114 (papers from conference in Turin, Lingotto 8th-9th Nov. 1996).

Palidda S., 1998, *La déviance et la criminalité attribuées aux immigrés dans le nouvel ordre social des pays d'immigration*, in ISPAC, ed., *Migration and crime*. Milano, ISPAC, 1998, 219-236.

Palidda S., 1998, "La conversione poliziesca della politica migratoria", in Dal Lago (ed.), *Lo straniero e il nemico*, pp. 209-235.

Palidda S., 1998, *The integration of immigrants in changing urban environments : the example of Italy*, OECD, ed., *Immigrants, Integration and the cities. Exploring the links.*, Paris, OECD, pp. 117-136.

Palidda S., 1998, "Immigrati e città postindustriale-globale: esclusione, criminalizzazione e inserimento", *Urbanistica*, 111, 25-32.

Palidda S., 1999, "Effetti perversi di una politica ostile alle migrazioni", *Immigrazione, Diritto e Cittadinanza*, 1, pp. 11-27.

Palidda S., 1999, *Polizia e immigrati : un'analisi etnografica*, « Rassegna Italiana di Sociologia », XL/1, pp.77-114.

Palidda S., 1999, *La criminalisation des migrants*, "Actes de la Recherche en Sciences Sociales", 129, pp. 39-49.

Palidda S., 1999, *Les migrations clandestines en Italie*, Seminar on "Preventing and combating the employment of foreigners in an irregular situation", organised by OECD, Dutch Authorities and the United States, The Hague, 22nd-23rd April.

- Palidda S., 2000, *L'évolution de la politique d'immigration et la reproduction de l'irrégularité en Italie*, paper at the conference on "La détention administrative des étrangers en situation irrégulière en Europe", organised by the Associated European Laboratories "Délinquances et politiques de sécurité et de prévention: recherches comparatives franco-allemandes" (CESDIP-CNRS-Fr. / M.P.I.-G.) in Paris 10th-12th February.
- Palidda, S., 2000, *Polizia postmoderna. Etnografia del nuovo controllo sociale*, Milan, Feltrinelli.
- Palidda, S., ed., 2000, *Socialità e inserimento degli immigrati a Milano*, Milan, Angeli.
- "Parla la moglie di Ion: 'non dimenticatelo', *Varesenews*, 13th May 2000.
- Pascaralla Silvestro, "Serve una task force guidata dal Ministero", *La Prealpina*, 25th March 2000.
- Pastore, M. (1995) : "Produzione normativa e costruzione sociale della devianza e criminalità tra gli immigrati", *Quaderni ISMU*, 9/95.
- Pastore F., Romani P., Sciortino G., 1999, *L'Italia nel sistema internazionale del traffico di persone*, Presidenza del Consiglio, Commissione per l'integrazione, working paper no. 5.
- Porro Tiziana, "Contributo per la famiglia dell'ingegnere rumeno ucciso a Genova dal suo datore di lavoro", available at <http://www.unibo.it/avl/solidar/rumeno.htm>
- "Primo maggio. Solidarietà e lotta", *Umanità Nova*, no.15, 23rd April 2000, available at <http://www.ecn.org/uenne/archivio2000/un15/art1067.html>
- Quassoli F., "Immigrazione uguale criminalità : rappresentazioni di senso comune e pratiche degli operatori del diritto", *Rassegna Italiana di Sociologia*, 1999, XL/1, pp.43-76.
- Reyneri E., 1998, "The Role of the Underground Economy in Irregular Migration to Italy: Cause or Effect?", *Journal of Ethnic and Migration Studies*, vol. 24:313-331.
- Reyneri, E., *Migrants' Insertion in the Informal Economy, Deviant Behaviour and the Impact on Receiving Societies*, Migrinf, CE/DG XII - Science, Research and Development, TSER Program, January 1999.
- Rotondo Roberto, "La vicenda Cazacu fa litigare i politici", *Varesenews*, 14th May 2000.
- Rotondo Roberto, "I compagni di Ion Cazacu rischiano lo sfratto", *Varesenews*, 2nd June 2000.
- Ruspini P., "Living on the Edge: Irregular Immigrants in Italy", in European Centre for Social Welfare Policy and Research, *Irregular Migration: Dynamics, Impact, Policy Options*, Eurosocal Report, European Centre, Vienna, 2000 (forthcoming).
- Sciortino G., 1999, *Planning in the Dark. The Evolution of Italian Immigration Control*, in G. Brochmann, T. Hammar, 1999, *Mechanisms of Immigration Control*, Berg, Oxford, pp. 233-259.
- Sciuscià, "Puntata del 6 luglio 2000 - Raidue", available at <http://www.raiuno.rai.it/raiuno/schede/2015/201514.htm>
- "Sciuscià – Il falò Raidue 20.50", *Il Manifesto*, 6th July 2000.

“Solidarietà a Ion Cazacu e a tutti gli immigrati. Niente resterà impunito!”, tract distributed in Gallarate on 26/3/2000 by the *Comitato territoriale per la costruzione del sindacato di classe -SICI Cobas- Rivoluzione Comunista*, available at <http://digilander.iol.it/rivoluzionecom/Supplementi/158/Ion%20Cazacu.htm>

“Vedova commemora muratore bruciato”, *La Padania*, Brevi, 14th May 2000, available at <http://www.lapadania.com/2000/maggio/14/14052000p15a5.htm>

Zanfrini L., 1999, *Leggere le migrazioni*, Ismu/Angeli.



European Project
Easy Scapegoats: Sans Papiers in Europe

Country Report:
Germany

by

Albrecht Kieser – “Kein Mensch ist illegal”, Köln

Gabi Jaschke, Norman Geißler, Claudia Luzar – Opferperspektive e.V., Potsdam

Anja Zickuhr – Forschungsgesellschaft Flucht und Migration, Berlin

1	INTRODUCTION.....	3
2	SOCIOECONOMIC AND LEGAL EXCLUSION OF SANS PAPIERS.....	3
2.1	ILLEGALIZED IMMIGRANTS.....	4
2.1.1	<i>Legal status and Orders of Magnitude</i>	4
2.1.2	<i>Housing</i>	5
2.1.3	<i>Financial Situation</i>	6
2.1.4	<i>Social Welfare, Social Environment</i>	6
2.1.5	<i>Work and Employment</i>	7
2.1.6	<i>Health</i>	8
2.1.7	<i>Education</i>	9
2.1.8	<i>Social Survival in the Dominant Society</i>	10
2.1.9	<i>Democratic Rights</i>	10
2.1.10	<i>Governmental Pursuit and Persecution</i>	11
2.2	PERSONS WITH A PRECARIOUS RESIDENCY STATUS (REFUGEES).....	12
2.2.1	<i>Legal foundations</i>	12
2.2.2	<i>Accommodations</i>	13
2.2.3	<i>Provisions/Supplies/Work</i>	13
2.2.4	<i>Health</i>	14
2.2.5	<i>Education</i>	14
2.2.6	<i>Exclusion from Political and Civil Rights</i>	15
2.2.7	<i>Discrimination</i>	15
2.2.8	<i>Family/Marriage</i>	16
2.2.9	<i>Unaccompanied Children and Youths</i>	16
2.3	DIGRESSION: DIFFERENCES IN THE LIVING SITUATION OF REFUGEES WITH OR WITHOUT LEGAL PAPERS BETWEEN EASTERN AND WESTERN GERMANY.....	17
3	LEGALIZATION PROGRAMS AS AN ELEMENT OF GOVERNMENTAL POLICY TOWARD SANS-PAPIERS.....	17
4	RACIST VIOLENCE AND STRATEGIES FOR INTERVENTION.....	18
4.1	CASE STUDY: GUBEN.....	19
4.1.1	<i>Chronicle of the events of the night of 2/13-2/14/99 (Friday/Saturday) leading to the death of Farid Guendoul (approximate times)</i>	19
4.1.2	<i>The Victims</i>	25
4.1.3	<i>The Perpetrators</i>	26
4.1.4	<i>Legal Proceedings</i>	28
4.1.5	<i>Reactions</i>	29
4.1.6	<i>Intervention Strategies</i>	33
4.2	CONCLUSIONS.....	35
1.	NON-PERCEPTION AND CONCEALING OF THE PROBLEM.....	35
2.	RELATIVIZING, MINIMIZATION OR SHIFTING OF THE PROBLEM.....	35
3.	AFFECTEDNESS AND SYMBOLIC GESTURES.....	36
5	SUPPORT AVAILABLE THROUGH NON-GOVERNMENTAL ORGANIZATIONS.....	37
5.1	POLITICAL AND LEGAL CONTEXT OF THE SUPPORT FOR SANS-PAPIERS.....	37
5.2	CLASSIFICATION OF ORGANIZATIONS WORKING WITH SANS-PAPIERS.....	39
6	CONCLUSIONS: NGOS BETWEEN SUBMISSION AND RESISTANCE.....	58

1 Introduction

In our study, we will use the term “Sans-papiers” to describe people living in Germany without secure residency status. This includes illegalized immigrants who lack any kind of papers, but also people who are allowed to live in Germany legally for a limited period of time, but whose legal status may be revoked at any time.

Within the group of illegalized immigrants, we include migrant workers who have illegally entered Germany as well as persons who have applied for political asylum but whose applications have been refused, especially those who have resisted deportation and instead have gone underground (cf. Chapter 2a). We consider in particular “tolerated” refugees and also those seeking political asylum as members of the second group, as they only have limited rights (cf. Chapter 2b).

In the current political discussion, the “Sans Papiers” are used as an argumentative tool by businesses and most parliamentary parties. These political actors wish to underscore their claim to sovereign authority and control over migration and refugee movements. Although migrants and refugees make up more of 7% of the population in Germany, majority opinion both in within politics and in the larger society has refused to concede that Germany is an immigration country. For example, German citizenship laws still treat children born in Germany as non-Germans, as foreigners; programs promoting the integration of migrants or opposing discrimination are still foreign concepts in Germany.

But in the past few months, there has been some movement in these apparently hardened fronts. The demand by businesses for highly qualified experts has resulted in a renewed push for an exception to allow immigration (after a “hiring stop” for foreign workers was decreed in 1973, 27 years ago). The CDU/CSU and some elements of the SPD have used the discussion about this exceptional immigration to make it clear that everyone who enters Germany should be classified according to whether he is useful and needed as a worker. If he is not needed, then his entry into Germany should be refused or he should be deported immediately – even if he has requested political asylum. It has rarely been so evident that the country’s political powers that be view non-Germans exclusively as beasts of burden that are only to be tolerated for a limited time.

It is important to note that the presence of several hundred thousand illegalized immigrants has played no role in the discussion about the limited opening of the national employment market. The presence of these illegalized immigrants is obviously taken as a given, and is considered useful for the illegal employment market and thus not questioned. That these people are excluded from basic human rights (cf. Chapters 2a and 2b) is not considered an issue worth discussing or critiquing. This attitude fits in well with the silence that greets each move to further discriminate against and criminalize this already sharply excluded illegalized group. (Key words in Germany are drugs, organized crime, the slave trade, and forced prostitution.)

2 Socioeconomic and Legal Exclusion of Sans Papiers

Following the definitions we have laid out in the introduction, the socioeconomic and legal aspects of the lives of illegalized immigrants and those threatened with illegalization are discussed here in two discrete parts.

2.1 Illegalized Immigrants

2.1.1 Legal status and Orders of Magnitude

Since the beginning of the 1990s, and even more acutely since the right to political asylum was drastically curtailed in 1993 (amendment of article 16 of the Constitution), the number of people living in Germany without legal status has risen significantly.

In migration research, the arrests of people who wish to illegally cross borders¹, and the rise in prosecution of “suspects without legal residency” for document forgery² are viewed as indicators of trends. The estimated number of “illegals” varies between 500,000³ and one million⁴; the media has mentioned numbers as high as 1.5 million. The “Bericht der Beauftragten der Bundesregierung für Ausländerfragen über die Lage der Ausländer in der Bundesrepublik Deutschland” (“Report of the Commissioner of the Federal Government for Questions Concerning Foreigners about the Situation of Foreigners in the Federal Republic of Germany”), 2000, does not mention any numbers. “It is part of the nature of the situation that there are no reliable declarations as to the numbers.”⁵ The Interior Ministry is also of the opinion that there are no reliable estimates. It is clear, however, that most foreigners without legal residency rights live in larger cities. Charitable organizations estimate that the number of “illegals” in Berlin is at least 100,000; the Cologne police estimate is at least 20,000.

“Illegal residency” is a crime according to the Law on Foreigners in Germany (“Ausländergesetz,” sections 92, 92a, and 92b). Under this law, all those who have entered Germany without a visa or who are staying in Germany without a visa or a valid permit from the Alien Registration Authority (“Ausländerbehörde”) are subject to a fine or imprisonment of up to one year. A diverse group of non-Germans qualifies as “illegal”:

- “illegal” immigrants;
- legal immigrants who have limited residency permits, and who have stayed in Germany beyond that limitation (for example, students, tourists, or seasonal workers)
- migrant workers who have lost their residency permits (for example, by receiving welfare assistance or due to criminal conviction) and have gone underground;
- family members of migrant workers or of recognized applicants for political asylum who do not have family reunification rights or who stay beyond the limit of their tourist visa;
- applicants for political asylum whose application has been denied and who are required to leave the country, but who do not leave the country and evade their deportation; most refugees in church sanctuary belong to this group;
- those released from deportation because they cannot be deported;
- Refugees (including refugees from areas of civil war) who are “tolerated,” but who are potentially “illegal” because this “tolerance” can be revoked at any time⁶;

¹ From 1990 to 1997, an increase of 392%, according to Lederer, “Migration und Illegalität,” Osnabrück 1999, p. 53ff); equally dramatic increase in prosecution for illegal employment (from 1992 to 1996 an increase of 121%, according to Lederer, *ibid*).

² From 1990 to 1996, an increase of 300%. Lederer, *ibid*.

³ Interior Ministry, 1991, Federal Employment Ministry, 1995, Deutsche Caritas, 1993.

⁴ European Council (Europarat), 1996.

⁵ Report, p. 198.

⁶ “Rechtlos in Deutschland.” *migration 3/97*, Berlin. P. 8

- Refugees with a “border-crossing certificate” that requires them to leave Germany in the shortest possible time.⁷

2.1.2 Housing

There is no legal way for “illegal immigrants” to rent housing. When someone rents a house or apartment in Germany, they must get an official document from the landlord or homeowner confirming their lease. They must then register at the local Police Registration Office (“Meldebehörde”) with this document. Thus, legal renting of apartments or houses is only possible through the aid of others who have legal status. They may sign a lease agreement – out of solidarity, for a fee or for other payment in kind – and allow “illegal immigrants” to live in that apartment. A similarly secure living situation can be found through legal subletting, where a renter sublets one or more rooms or an entire apartment to “illegal immigrants.” In both cases, however, the lessors may be subject to the criminal charge of “aiding and abetting illegal residency” under section 92 of the Law on Foreigners in Germany. In spite of this, many “illegal immigrants” live in such legally leased apartments, mostly through the help of friends, colleagues from the same community, or relatives⁸. However, foreigners who are required to leave the country or who are being sought by the police for deportation are in extreme danger in the homes of their relatives, as experience proves that the police will most likely search those homes first.

Over the long term, “illegal immigrants” may also reside in mass dormitories, such as those rented by employers like construction companies for their employees. However, these dormitories are also not safe, as they seem inevitably to attract police raids. Asylum-seekers’ homes (with friends, acquaintances or relatives), squatters’ homes or camps are generally extremely unsafe, and thus “illegal immigrants” as a rule only live there for short periods of time. Similarly, “illegal immigrants” generally stay in their first residence within Germany for only short periods of time. Generally, these are the homes of contacts who only allow them to stay a limited amount of time. Even in the “illegal immigrants” “own” home, they are subject to the whims of their lessors or sublessors, and may be subject to inflated rent payments or forced to perform other duties (anything from unpaid work to sexual favors). Thus far, the only systematic study of the living situation of “illegals” can be found in Jörg Alt’s study, *Illegal in Deutschland: Karlsruhe 1999*⁹. Although his study focuses only on the situation in Leipzig, reports from “illegal” immigrants in other cities confirm the scenario he presents. There are only a very few political, charitable or religious groups who make undercover apartments available to illegal immigrants. “Sanctuary” projects for “illegals,” such as those in Berlin, Cologne, or Freiburg, are known locally only by a small group of insiders. As yet, there is no network amongst these groups, or even open propagation of such assistance. Political and charitable groups cannot fall back on a tradition (which came about under National Socialism) of housing or hiding those without residency permits. Officially recognized projects for the homeless also do not receive any public assistance for housing “illegal” immigrants.

⁷ Ibid.

⁸ Cf. also “Illegal in Berlin. Momentaufnahmen aus der Bundeshauptstadt,” *Betrifft: Migration*, 4/99, p. 31ff.

⁹ *Unterkunft*, *ibid.*, pp. 165ff.

2.1.3 Financial Situation

“Illegal” immigrants in Germany have no right to welfare assistance, although the Social Welfare Office is – in theory – required to provide emergency assistance. “Illegals” are understandably very suspicious of such official assistance. This is particularly true because several cities (Berlin among them) require governmental social workers to notify immigration authorities when an “illegal” immigrant makes an appointment with them, in order to facilitate the “illegal” immigrant’s arrest. (In a 1997 memo to his subordinates, Berlin’s Senator of the Interior reminded them of section 76 of the Law on Foreigners in Germany, which requires such denunciation.)¹⁰

Thus, “illegal” immigrants must support themselves with “illegal” work, their own savings or loans from others. Often, the only opportunity is opportunistic theft or shoplifting. Jörg Alt describes the experiences of “illegal” immigrants: “Those who refuse to commit ‘survival theft’ under these circumstances will either subsist on a very spare and monotonous diet – bread, potatoes, rice or noodles will be the basic foodstuffs. Or he gets his groceries from grocery store and supermarket dumpsters, where scrap vegetables or items past their expiration date are thrown at the end of the day. Fathers with families seem generally to prefer the risk of being caught stealing, discovered as an “illegal” immigrant and face deportation to such a vegetating process.”¹¹

In situations of extreme financial need, both women and men become increasingly willing to prostitute themselves. Some “illegal” immigrants decide to turn to criminality, although not nearly to the extent that politicians and the media claim. Jörg Alt states, “In late 1997, the ratio of criminals to non-criminals within the ‘illegal’ population of Leipzig was given as 95:5 or 90:10 by two well-placed ‘illegal’ informants. That is, for every 95 (90) ‘illegals,’ who either do not ever or only rarely (i.e. when necessary for survival) commit crimes, there are five (ten) people whose primary interest lies in committing crimes. This ratio is considered ‘possible’ by informants on the police force – though they quickly add that this admission is due to lack of other, official evidence. The data that can be gleaned from... official statistics may also be interpreted in this way.”¹² (See also section 11.)

2.1.4 Social Welfare, Social Environment

We have already demonstrated how heterogeneous the makeup of the “illegal” population is, based on legal definitions. However, the social environment and the everyday lives of the “illegal” immigrants differ according to the objectives with which they came to Germany. Temporary migrant workers and work-commuters return (consistently and frequently) to their countries of origin of their own accord and consider it to be the social center of their lives. Permanent immigrants and refugees would like to change their social center and remain in Germany.

In the latter group (“permanent immigrant” group), therefore, everyday life is marked by the fear of discovery. Once they are discovered, they are generally subject to detention and forced deportation. Thus, the primary commandment of everyday life is to be unobtrusive. This includes avoiding confrontations, and even refusing to defend themselves if they are attacked, if their salary is not paid, or if their living situation is untenable or overly expensive.

Commuters and temporary migrant workers are usually from countries not too far from Germany. As a rule, they are better able to cope with deportation, as that often represents merely

¹⁰ migration 3/97, pp. 14-15.

¹¹ Jörg Alt, p. 209.

¹² Ibid, p. 324.

another, although in this case involuntary, interruption of their stay in Germany. Members of this group have a greater willingness to defend themselves.¹³

Social relationships outside of their own community and beyond the necessary, work-related contact with the German population are generally avoided, as these involve unpredictable dangers, such as discovery and/or denunciation. Even the growing number of contractual or protective marriages does not change this fact. These marriages do not serve the purpose of social integration, but rather, in the best-case scenario, serve to ensure a secure permit of residency. Often enough, they are also a medium through which the “legal” spouse may exploit the “illegal” spouse economically and/or sexually.¹⁴

It should be noted, however, that governmental agencies are setting almost insurmountable hurdles in the path of such marriages. Frequently, such marriages are prevented by the deportation of the “illegal” partner. In such cases, the immigration agency states that the wedding could instead be held in a foreign country, and if it is successful, the “legal” partner could apply for family reunification.

2.1.5 Work and Employment

Only foreigners who have legal residency status may legally work in Germany. In order to work, foreigners must obtain an additional work permit, which is not issued automatically, even if the applicant has legal status. For example, those seeking political asylum are not allowed to work (the federal government plans to ease this restriction to some degree in response to prodding from business groups interested in “legal” workers for their workforces). This double hurdle to the legal employment market basically forces “illegal” immigrants into illegal employment. “Illegal” employment, just like “illegal” residency, is considered a criminal offense and is punished through fines.

The market in “illegal” employment is particularly strong in the fields of construction, restaurant work, cleaning and prostitution. It is widely accepted as fact that many businesses in these fields could not survive without the work of “illegals,” whom they can pay lower wages and for whom they do not need to pay social security and welfare taxes. Thus, the increase in “illegal” work is the flip side of the growing competitiveness in the age of globalization and the deregulation of the workplace and of salaries.¹⁵ In all sectors of the economy there are businesses which honor verbal agreements and pay the agreed-upon salaries, even when these salaries are generally lower than the average local wage or the negotiated union wage. However, the majority of businesses most likely consists of those who abuse the situation of the “illegal” workers and use either binding contracts that tend to resemble forced labor (excessive work hours, salaries as low as three to five marks per hour), refusal to pay salaries, physical abuse or police denunciation in order to exploit the “illegal” workers in the extreme.¹⁶ In the field of prostitution such contract situations are generally known as forced prostitution and have already called forth a certain degree of public solidarity with the affected women. Most prominent among the demands is that of *permanently* protecting from

¹³ Cf. Jörg Alt, pp. 184ff.

¹⁴ Cf. Betrifft: Migration, 4/99, pp. 70ff; Helga Korthaase, “Schutz für Frauen,” in epd-Dokumentation 8/98, “kein mensch ist illegal.” Migranten in irregulären Situationen, Frankfurt, 1998, pp. 45ff.

¹⁵ See also Betrifft: Migration, 4/99, pp. 60ff; Antje Hofert, “Wenn keiner mehr Melonen kauft,” in epd-Dokumentation 8/98, “kein mensch ist illegal.” Migranten in irregulären Situationen, Frankfurt, 1998, pp. 20ff.

¹⁶ Cf. Betrifft: Migration, 4/99, pp. 42ff.

deportation those women who are willing to bring charges or testify against perpetrators and profiteers in this field.¹⁷ (This is described in greater detail in section 4.3, the report about AGISRA.)

In principle and in theory, “illegal” workers have the right to go to court to demand payment of their salary¹⁸. However, as there is no protection from deportation during the course of such a trial (see below, section 9), few are willing to take advantage of this principle (see also section 4.3, report about ZAPO). This legal right is in fact often reversed by governmental agencies, when “illegal” workers’ money is confiscated during police raids. (“Those monies which were secured from these workers were confiscated and given to the state treasury” according to Kriminaloberrat Holger Bernsee in Berlin.¹⁹) If the federal government were to ratify and enact the provisions of the UN Charter on the Protection of the Rights of Migrant Workers and their Families (1991)²⁰, the situation could be different. The former government refused to do this, and the current coalition of Social Democrats and Greens is following suit. Their reasons, word for word: “The position of migrant workers in unlawful situations (illegal migrant workers) is protected by this charter in a way that goes far beyond the indisputable necessity of protecting their basic human rights, and may thus possibly increase the incentive to work in foreign countries without a residency permit and without a work permit” (*Answer of the Parliamentary State Secretary Rudolf Kraus of 6/28/96 to a question from the SPD Member of Parliament Karsten Voigt²¹; Federal Ministry for Work and Social Order, 5/19/99 under VIIIb3-12/18 in response to a request of the BT Representative Ulla Lötzer, PDS*) Moreover, no other European government has signed this treaty.

In order to protect their rights to contractually agreed-upon or owed salaries, “illegals” must therefore turn to archaic remedies: threats against dilatory employers – including through the Mafia –, destruction of the product, stealing from the company to settle the outstanding bill, destruction of the company’s possessions.²² Only rarely is there a strike, and strikes are particularly difficult because so far, the German unions have refused to represent “illegals” in any way (see below, section 10).

Theoretically – at least according to Hildebrand²³ – “illegal” employees also have the right to benefits from government-mandated health insurance in the case of illness, and are covered by accident insurance (with benefits, should they be in an accident). However, the case is the same as with their right to salary: Should “illegals” actually request these benefits, their status will be made known and rather than being protected by the state, they will be deported.

2.1.6 Health

Fundamentally, “illegals” are excluded from the health care system. The health care system assumes that participants are insured through their place of employment or through another working family member. Both of these assumptions presume legal residency and/or legal employment (apart from theoretical rights, as mentioned in section 5). Doctors and hospitals can only request payment on insured patients. Payment in cash is possible, but it is expensive and can be required by the doctor immediately upon treatment. There is no free treatment, except by a few doctors who treat

¹⁷ Cf. *Betrifft: Migration*, 4/99, pp. 70ff; Hilde Hellbernd, “Menschenhandel,” in: *epd-Dokumentation 8/98*, pp. 51ff; *Bericht der Ausländerbeauftragten*, pp. 218ff; *AutorInnenkollektiv, Ohne Papiere in Europa*, Berlin, 2000, pp. 113ff.

¹⁸ Andreas Hildebrand, “Sozialer Schutz für Migranten in irregulären Situationen,” in: *epd-Dokumentation 8/98*, pp. 31ff.

¹⁹ In *epd-Dokumentation*, 8/98, p. 21

²⁰ *Ibid*, p. 31ff.

²¹ Cited in Hildebrand, *op cit*, p. 33

²² Cf. Jörg Alt, *op cit*, p. 155ff.

²³ *Op cit*, p. 34

uninsured patients out of solidarity.²⁴ It is also possible to bill treatment to the insurance of “legal” workers – which also requires the solidarity of the doctor in question. Further, in such cases there is room for extortion and other schemes against both patients and doctors.²⁵ Doctors are required by their professional ethics to treat anyone in acute emergencies, and some state medical associations (for example, Berlin and Lower Saxony) have called upon their members not to refuse treatment to illegalized immigrants, both in emergencies and more routine situations. This professional obligation to emergency treatment holds true for hospitals as well, but it is sometimes the case that hospitals inform police of the presence of an “illegal” while they are still treating the patient, and thus deliver the patient to the deportation authorities.

The health care of “illegals” is thus extremely precarious, and therefore their health – physical and mental – is often poor, particularly in the case of older persons or members of the group mentioned in section 3, permanent residents; the situation of younger persons is a lesser concern.²⁶

In response to this situation, groups have been formed in a number of cities that refer “illegals” to sympathetic doctors, who then treat them for free or offer more extensive treatment for a minimal fee. These groups generally come out of already existing anti-racist and refugee-rights groups, but there are many members who participate purely out of humanitarian concern (see section 4.3). Their work – which is also illegal under the Law on Foreigners in Germany (aiding and abetting illegal residency) – is tolerated by the authorities in spite of the public presence of these groups.²⁷ This tolerance is due to fear of negative consequences “for the people’s health,” as workers in various health agencies confirmed.

2.1.7 Education

“Illegals” have no access to educational institutions of any kind, with the exception of school-age children. The UN Convention on the Rights of the Child provides all children up to the age of 16 with the right to attend school; as Germany has signed this treaty, this is also national law. In spite of this, however, many school districts do not grant “illegal” children the right to attend school. Children who do not wish to indicate their home address or who admit their status as “illegals” are refused entry to schools. In some cities, school principals have been asked by the school board not to accept such children and/or to make their presence known to the authorities (following the denunciation section 76 of the Law on Foreigners in Germany, p. 10). In other cities there are no problems with the attendance of “illegal” children in school; some schools and school boards even refuse to inform the alien registration authority or the police about the presence of these children.²⁸ However, few “illegal” parents – and those who do generally have the assistance of “legals” – register their children for school, for fear of being discovered.

²⁴ Cf. for example *Betrifft: Migration*, Issue 4/99, p. 34f.

²⁵ See Jörg Alt, p. 173

²⁶ Jörg Alt, *op cit*, p. 172, 175ff; Report of the Commissioner on Foreigners, p. 181

²⁷ See also Report of the Commissioner on Foreigners, p. 181

²⁸ See also section 4.3; *Betrifft: Migration*, Issue 4/99, p. 77

2.1.8 Social Survival in the Dominant Society.

Racism is a central experience of “illegals” in the dominant society. Most “illegals” encounter racism in the same way that “legal” foreigners do, particularly when they can be identified through their appearance as apparently “non-German.” This racism includes whispered comments or insults in passing on the street or in the subway, or open verbal or physical attacks in public, in stores, or in clubs or bars. In some parts of Germany, this everyday racism, Apartheid-like, excludes “non-Germans” from social life (no admission to bars or clubs; expulsion from public places in so called “foreigner-free zones”). This situation is worsened because “illegals” feel powerless to protect themselves against such discrimination and attacks. This powerlessness stems from their status and the fear of discovery. Often, “illegals” are not a strong enough part of a community network to have the necessary support in the face of such actions. On the contrary, even among “legal” foreigners there are those with an aversion to “illegal” foreigners, because the “legals” fear that public propaganda about “illegals” will have a negative effect on them²⁹ (please see section 5 for more specifics).

2.1.9 Democratic Rights.

“Illegals” do not have the “right to rights” – this statement accurately describes their legal situation. “No right to rights” means that “illegals” in Germany face the “right” of the government to deport “illegals” every time they attempt to access and utilize their inalienable human rights. All individual rights of “illegals” are in reality subordinated to this governmental “right.”

The subordination of individual rights to the right of the government is enforced by refusing “illegals” the right to personal freedom. Those “illegals” who are caught and identified by police are immediately incarcerated and generally remain incarcerated until their deportation. From jail, few “illegals” can defend themselves against either the incarceration itself or against other injuries to their legal rights.

Specifically, mention must be made of the right to payment for completed work; the right to freedom from bodily harm; and the right to protection of marriage and family (including the right to marry and for family reunification). Those who wish to protest against private or governmental intrusion upon these rights can do so – according to dominant legal wisdom – from abroad, after the deportation. The attempts of “illegals” to redress the denial of their rights does not delay their deportation. Even “illegals” who have been victims of crime do not receive any protection from deportation. Thus, the government has in essence declared “illegals” wholly unprotected. (One exception is the temporary protection from deportation accorded by certain states to women who have been victims of forced prostitution and who are witnesses in a trial; however, after the trial they are immediately deported.) Political rights such as the freedom of opinion, of assembly or of demonstration are also refused to “illegals,” although some governmental authorities occasionally find it beneficial not to intervene when “illegals” actually utilize these rights. For example, in the context of the Rotating Church Asylum (Wanderkirchenasyl) in North Rhine-Westphalia, “illegals” could demonstrate in public (mostly after coordination with security authorities), without being arrested by police; and although the Refugee Congress in Jena in April of this year was obstructed by the authorities through a refusal of travel permission to asylum seekers who wished to participate, the police also did not make any arrests.

²⁹ cf. Betrifft: Migration, Issue 4/99, p. 39

2.1.10 Governmental Pursuit and Persecution

The government denies all protection to “illegals.” “Illegals” are, for the government, exclusively objects of pursuit and persecution. Section 76 of the Law on Foreigners in Germany expresses this most clearly: “Public offices must notify the appropriate alien registration authority immediately if they receive information on the presence of a foreigner who has neither the necessary residency permit or a document of toleration...” Even when some public employees occasionally refuse this demand (police release “illegals,” health authorities treat “illegals” for free), the governmental relationship with “illegals” remains one of ruthless pursuit and persecution. This is fostered by the expansive and generally complete German deportation program; “illegals” whose presence is discovered are deported as a matter of principle. Last year, this included around 38,000 people – asylum seekers whose claims were denied and migrant workers without residency rights – and around 10% were accompanied by officers of the Immigration Service (Bundesgrenzschutz), because they tried to refuse deportation. Deportations are done by air, about half in regular Lufthansa flights and half in charter flights of specific airlines, such as the Rumanian company TAROM. About half of the deportees have been incarcerated awaiting their deportation (“Abschiebehaft”); the average time in jail is about six weeks. Those awaiting deportation must be released after a maximum time of one and a half years in jail. 10 to 15% of the prisoners cannot be deported, either because they do not have papers (in which case they are released but do not have a secure status) or because the grounds for their imprisonment have been overturned by the courts.³⁰ There are frequent hunger strikes in deportation jails, and suicide and attempted suicide is common. Since the change in asylum law in 1993, more than 30 people have died in deportation jails.³¹ Three people have been killed during forcible deportations.

Police departments in big cities have organized specific squads to detect “illegals.” These special forces work closely with other authorities: the employment agency (responsible for raids on construction sites and on “suspicious” companies), the immigration authorities (responsible for the clarification and verification of the “illegal” status of the accused), and the welfare agency (responsible for “social streetwork” concepts and possibly a resource for “illegals,” and thus required to denounce these illegals to the immigration authority according to section 76 of the Law on Foreigners in Germany). This coordination, along with special educational courses (where are “illegals” most likely to be found, how can one identify them most easily) tie these authorities together in an overall structure that governs their ideology and conduct. Part of this structure are the now legal “controls without suspicion,” during which the police may stop and inspect people (primarily in train stations and public areas) solely because of their non-German = non-“aryan” appearance. Recently, taxi drivers in so-called near-border areas and near airports (such as Berlin-Schönefeld) have become victims of these controls as well: if the passengers do not have a legal permit to be in Germany, then the taxi driver can be punished. Several taxi drivers along Germany’s eastern border have already been convicted and given monetary fines or jail time.

Backdrop for this local conduct is the resolutions passed by the German Conference of Interior Ministers (federal and state) and international resolutions passed by the European Union. Primary among these is the “Ministerial conference to combat illegal migration” on Oct. 14-15, 1997, in Budapest, and follow-up conferences such as the one in Tampere in October 1999.³² In the

³⁰ See Heinhold, Hubert, *Abschiebehaft in Deutschland*, Karlsruhe 1997, particularly pp. 105ff.

³¹ *Ibid.*, p. 142ff.

³² *Epd-Information* 8/98, pp. 56ff.

55 recommendations, a common baseline is established to punish “illegal” immigration firmly, to discover “illegal” immigrants quickly and deport them as quickly as possible to their country of origin; this includes threats to countries who are not immediately willing to accept these deportees, possibly because they have signed the UN Convention on the Rights of Migrant Workers... (“27. *Recommend to participating countries to discover those countries that cause problems in the return of their own citizens, and consider joint actions against such countries.*”³³)

2.2 Persons with a Precarious Residency Status (Refugees)

2.2.1 Legal foundations

On a federal level, the residency and social rights situation of refugees is regulated by the Law on Foreigners in Germany (tolerated foreigners), and the asylum laws (Asylverfahrensgesetz, regulating the process of asylum, and Asylbewerberleistungsgesetz, regulating the care given asylum-seekers). The enforcement of these laws is up to the individual states.

For the duration of their asylum request process, refugees receive an ‘allowed residency,’ which, however, in contrast to the **residency permit**, does not offer any legal residency under the auspices of the Law on Foreigners in Germany. Refugees whose request for asylum has been turned down or who have not yet applied may receive a **limited tolerance permit** due to current hindrances to deportation or legal-humanitarian reasons. The length of the tolerance permit is arbitrarily established by the authorities and can last anywhere from three days to six months. A tolerance permit does not allow for any further legal residency permits, but is in effect only a limited stay of deportation. The number of persons requesting a tolerance permit without previously going through an asylum request has increased sharply in the last few years.³⁴ This may be due to the fact that, unlike asylum seekers, tolerated persons are allowed to remain in the community where they made their request and are not “redistributed.”

The approval of asylum requests according to section 16 of the constitution was only at 10% in 1999. 4.5% were approved by the Federal Agency for the Recognition of Foreign Refugees, and about the same number was approved by the court system.³⁵ Another 5.9% of applicants in 1999 received the so-called “minor asylum.”³⁶

People who have been granted “minor asylum” are given a **residency warrant** which is as a rule limited to two years. In response to the number of refugees from former Yugoslavia, about 8000 Bosnian war refugees were granted **residency warrants** upon the outbreak of war. In most cases, these warrants have since been rescinded. The residency warrant provides some preferred rights, as its holders can obtain complete welfare and social support and have the possibility of obtaining a work permit. However, welfare assistance may only be received in the state in which the original asylum claim was filed, and aids to integration (such as German courses) are not included.

³³ Op cit p. 61.

³⁴ Eftonayi-Mäder, Denise. Sozialhilfe für Asylsuchende im europäischen Vergleich, published by the Schweizerisches Forum für Migrationsstudien, Neuchâtel 1999

³⁵ Statistics according to Pro Asyl (<http://www.proasyl.de>). Percentages are based on the number of all application minus those applications that are “otherwise completed” (i.e. due to emigration or further travels, retraction of the application etc)

³⁶ “Little asylum” is granted those persons who do not suffer from political persecution as defined in section 16, but who receive asylum in Germany under the Geneva Convention on Refugees because they would face danger to life and limb in their home country (section 51, paragraph 1, Law on Foreigners in Germany)

2.2.2 Accommodations

According to a care catalog, asylum seekers are assigned to **first admission residences** of the states, which are also financially responsible for them. Residence in these institutions should be a **maximum of three months**. In this time, the Federal Agency for the Recognition of Foreign Refugees should come to an initial decision. In first admission residences, which house an average of 400-900 persons, there is full room and board.

For the remainder of their asylum process, refugees are distributed to so-called "**community residences**" (primarily container residences or former military dormitories) within the states. They have a legal right to 6 m² in a shared room with communal kitchens and shared bathrooms. Their residence there depends on the length of their asylum procedure; at the moment this averages between four and nine years. Families or particularly needy single persons can obtain their own apartments after a waiting period. In practice, there are differences between the eastern and western states. While generally only larger families obtain apartments in Brandenburg, one third of refugees in Hesse live in private apartments.

2.2.3 Provisions/Supplies/Work

The "Asylbewerberleistungsgesetz," which came about through the change in asylum law in 1993 and was modified again in June 1997, regulates the governmental benefits for which asylum applicants are eligible. Under this law, in their first three years of benefits applicants for asylum receive 25-30% less than the benefits accorded to recipients under the Federal Social Welfare Law (Bundessozialhilfegesetz). Only after a minimum of three years of reduced benefits are they eligible for regular social welfare benefits. In practice, however, this is rarely the case. Thus, for the first time in the history of the FRG, a group of people is receiving governmental benefits that are lower than the minimum social welfare benefit, which had hitherto been seen as the minimum amount necessary for survival.

The Asylbewerberleistungsgesetz calls for coverage of basic needs – food, shelter, heat, clothing, health and physical welfare – through the provision of supplies, which means there is no legal right to cash benefits. However, after the 1997 modification of the law, states have greater room for interpretation in terms of the types of benefits they supply.

In fact, refugees in the eastern states, provided they do not live in private apartments, receive certificates or even food packages worth 360 DM per month for heads of household and single-person households, as well as 310 DM for other members of the household older than 8 years (younger children receive 220 DM). In addition, they have a right to 80 DM per month (40 DM for children under 15) as an allowance to cover personal needs (transportation, postage, telephone, legal fees, recreation). Refugees in western states generally receive the same amount as monetary benefits. The need for clothing, furniture and household goods normally comes from the inventory of social welfare organizations. However, the various Social Welfare offices may also give out certificates for such items. Other social benefits (child benefit, assistance for raising children) and integration aids (for example, language courses) are not covered. In the case of extra costs, such as in the case of pregnancy or a child beginning school, coverage of these costs must be requested separately.

According to a new modification of the Asylbewerberleistungsgesetz, in 1998, even these minimal benefits may be cut if the responsible Social Welfare office is of the opinion that the refugee only entered the country in order to obtain these benefits, or if his deportation cannot be completed due to his own responsibility (i.e. concealment of identity).

In the entire time of residency there is an unlimited prohibition against working. Although refugees are eligible to apply for work permits after being transferred to "community residences," a directive of the Labor Minister in 1997 indicated that such applications for asylum seekers and tolerated refugees who arrived after 5/15/97 should generally be denied. Even beyond that, work permits are only granted if there is proof of a specific job that cannot be filled by Germans, citizens of the EU, or other foreigners with more permanent residency status. Thus, asylum seekers and tolerated refugees are refused access to the legal labor market, and they must rely either on the minimal benefits accorded them by the Asylbewerberleistungsgesetz, or enter the illegal labor market.

Finally, it should be noted that asylum seekers are often tapped for "community service work." In this area, at least, they are treated in the same way as German welfare recipients. They work up to 20 hours per week, often in the community residences, and receive 2 DM per hour. Depending on the situation of the individual, this work is either refused as "forced labor" – refusal results in a reduction of welfare benefits – or is welcomed as an earning opportunity.

2.2.4 Health

Since the modification of the Asylbewerberleistungsgesetz in 1997, asylum seekers and tolerated refugees only have a right to health care in the case of acute illness or pain, as well as in the case of pregnancy, termination of pregnancy or childbirth. Chronic illnesses are not treated, except when the illness is so serious that the refugee cannot be deported. Dental care is only accorded them when it is "unpostponable on medical grounds." Other benefits, for example birth control or special dietary aids in the case of diabetes, may be requested, but it requires energy to ensure the approval of such requests, and information to place the request in the first place.

Asylum seekers are not a part of the health and disability insurance system. Thus, applications for payment of medical bills must be made each time at the local Social Welfare office.

2.2.5 Education

Foreigners covered by the asylum laws have no right to language lessons. Thus, they are from the start refused an essential component of integration. Although they may participate in German lessons, they must pay for them out of their own pocket, which is financially extremely difficult. Moreover, the community residences are often located at the edge of town, even in the forest in rural areas, which makes regular participation in a course difficult due to transportation problems. Access to vocational education and college study is equally restricted, with the exception of auditing courses³⁷ and generally also attendance at advanced schools.

In some states, school attendance is required only in the case of "residence and usual stay." Some school administrations thus do not see an attendance requirement in the case of asylum seekers, tolerated refugees, or children with border-crossing documents.³⁸ Occasionally, they are granted a theoretical "right to attendance," but their actual attendance is refused due to the schools' limited capacity. At times, in light of the supposedly nonexistent requirement of school attendance,

³⁷ With approval, the student may attend courses, but may not take exams.

³⁸ A document given after the denial of a request for asylum, which requires its holder to cross the border within a set time limit.

material benefits for school attendance (school supplies) are refused. Children in first admission residences are generally excluded from required school attendance.

2.2.6 Exclusion from Political and Civil Rights

The legal and practical treatment of asylum-seekers and tolerated refugees and/or refugees with border-crossing documents contradicts many legal principles that should be protected by the constitution.

Thus, as they make their application for asylum, all asylum-seekers are investigated by the security forces. Their personal information is entered into the SIS (Schengener Information System). While this is, as a rule, permissible for German citizens only when they are suspected of a crime,³⁹ all asylum-seekers are suspect, and it is presumed that they will illegally attempt to apply for asylum in another European country, should their application be denied.

Applicants for asylum whose application has been denied can be arrested and jailed for up to 18 months prior to their deportation, if there is a suspicion that they may try to evade deportation by "going underground." Their fundamental right to personal freedom is thus substantially compromised, although they are guilty of no crime.

The right to protection of the home is also compromised through the rules which apply to all residents of community homes. Employees of the community residences, as well as the police, legally have access to the living space of individual residents at any time, and there is no requirement that the resident be present or even be notified in such a case.

A serious restriction on the right to free movement is the "compulsory residence," which is unique in Europe. This compulsory residence requires that asylum seekers not travel outside of the community to which they were initially distributed. Should they wish to visit friends or relatives, take part in social or cultural activities, or visit their lawyer or a legal aid office, they are required to request a "vacation pass" from the local Alien Registration Authority. If they cannot provide "urgent reasons" for leaving the community, their request can be denied. In individual cases they may even pay between 10 and 30 DM for these passes. Should they leave the community without such a pass, they are subject to high monetary fines. For repeated unauthorized travel, the law provides up to a year's incarceration, which can in turn be treated as a reason for deportation.

2.2.7 Discrimination

Refugees, particularly black Africans, often complain about arbitrary police controls and searches, and even about the "establishment of passport picture files on blacks," which are then shown to eyewitnesses in the search for potential criminals. The police has thus far denied the existence of such files, but they admit that "controls without suspicion" tend to focus on black persons, as they are considered potentially part of the drug scene or expected to be illegal aliens.

Other cases of everyday discrimination, such as denial of entry to discos and restaurants, are known.⁴⁰

³⁹ Although in some cases this is done preventively, based on their political orientation

⁴⁰ See section 2.1.10, governmental pursuit and persecution.

2.2.8 Family/Marriage

Marriages made in foreign countries according to local law are accepted as legal in Germany. Upon approval of the asylum request, the accompanying spouse and underage children are generally also recognized as having asylum (family asylum), or are at least granted residency permits. Bringing further family members from a foreign country is generally only allowed to those granted asylum under section 16 of the asylum law.

Although a marriage between asylum-seekers or tolerated refugees, or between these persons and a German, are legal under German law, numerous official hurdles have been put in the path of such marriages. In addition to the documents that all those who wish to be married must produce (passport or identity card, official residency registration, birth certificate), "foreigners" must also produce a "certificate of singlehood," which must in some cases be notarized by the German embassy in their country of origin. Due to the circumstances of their escape, many refugees do not have the ability to produce all the necessary documents. They may request a release from a circuit court, but as a rule such release requests take a long time. During this time, there is no protection from deportation. Once all the necessary documents have been handed in, however, even those who have been denied asylum are granted protection from deportation.

Marriage to a German partner is often the only possibility for many refugees to obtain a residency permit. After two years of marriage with a German partner, these permits are renewed without further time limits. This regulation leaves the door wide open to abuse of the power of the German partner. The Alien Registration Authority also frequently assumes that marriages between asylum-seekers and Germans are marriages of convenience that exist only to provide the foreign partner with a residency permit. To prove this assumption, the authorities at times resort to very questionable methods.

2.2.9 Unaccompanied Children and Youths

Unaccompanied underage children and youths are caught between laws governing foreigners and asylum law on the one hand, and the Children and Youth Aid Law (Kinder- und Jugendhilfegesetz, KJHG) and the "Hague Convention for the Protection of Youths and Children" (1991) and the UN Convention on the Rights of the Child⁴¹ on the other. While both international law and the KJHG assume that the age of majority is 18, the German Law on Foreigners in Germany assumes an age of majority of 16 in asylum matters, and they are then treated as de facto adult refugees. States are responsible for determining the age of children and youths. Frequently, the children's own declarations of age are not believed, and they are presented to the Youth Authority or other authorities to determine their age. These authorities are not usually qualified to determine age, and do not always make the decision that would benefit the youth.

Youths who are of legal asylum age are redistributed according to the rules of the Asylverfahrensgesetz, must make their application for asylum without any legal representation, and are housed among the hundreds of people in the first admission residences without any pedagogical/educational supervision. If their application is denied, 16- and 17-year-olds, like adult refugees, can be incarcerated and deported into an uncertain future.

⁴¹ However, the FRG only ratified the Convention conditionally

Unaccompanied children and youths under 16 years of age are, as a rule, housed in Youth Assistance homes or, when possible, in "clearingstellen." They receive a legal guardian, who is responsible for filing their petition for asylum and, in the case of denial, can request a stay of deportation and achieve a tolerated status for the child.

Only very few children and youths reach the "clearingstelle," however. The overwhelming majority is already sent back at the border, on the basis of deportation agreements with Poland and the Czech Republic, even though their care and housing in those countries is not guaranteed.

2.3 Digression: Differences in the Living Situation of Refugees With or Without Legal Papers between Eastern and Western Germany

The situation for both refugees and their supporters is far more complicated in the new (eastern) German states than in the old (western) states. The policy of the GDR was to either approve or deny asylum claims in an incontestable administrative decision. Thus, it was in essence only after reunification in 1990 that an infrastructure – both personal and organizational – came into being (counseling centers, aid initiatives) to support the refugees. Furthermore, thus far the eastern states have few non-German communities that can provide solidarity support (i.e. for "illegals"). The proportion of non-Germans in the population of the East German states is lower by a factor of ten. Visibly recognizable ethnic minorities are, as a result, perceived even more clearly by the public. According to sociological studies, racist hostility toward ethnic minorities is more common in the eastern states⁴² and is promoted with certain governmental campaigns, such as the criminalization of taxi drivers as smugglers.

Their distribution to the East of Germany also translates to serious qualitative and quantitative differences in the care of refugees. This begins with shelter, which is often given in profit-oriented community residences rather than in apartments or smaller homes run by charitable organizations, as in the West, up to the distribution of supply coupons and food packages rather than monetary benefits. In the eastern states, potentialities of the law are as a rule interpreted to the detriment of the refugees.

Their legal support is also problematic. Since there are few lawyers in eastern cities who specialize in asylum law, many refugees must rely on lawyers from western Germany. The resulting travel costs must be paid by the refugees themselves. Thus, due to these restrictions and the distance involved, regular contact with the lawyer is made considerably more difficult. As a result of this situation, those few East German anti-racist and refugee aid organizations are much more heavily involved in requests for asylum. They frequently take on duties that should be done by lawyers, and always move along the edge of legality.⁴³

Due to these conditions, it is safe to assume that Sans-Papiers tend to settle in western states or in Berlin, and tend to avoid eastern states and cities. This is true unless there is a particularly good possibility of work or they have relatives in the area.

3 Legalization Programs as an Element of Governmental Policy toward Sans-Papiers

The German government has shown no willingness thus far to institute legalization programs in order to release "illegals" from their forced situation. The German society at large has also not discussed this possibility. Only the campaign "Year of Pardon 2000," instituted by religious groups,

⁴² See section 5.

⁴³ The Legal Advice Law prescribes that legal advice be given only by certified lawyers.

has publicly demanded legalization of “illegals” – even though they had minimal power and little support. Neither solidarity movements nor larger public organizations picked up this demand, and none began their own campaigns for legalization.

The CDU/FDP government (1996) and – almost identically – the SPD/Greens government (1999) have only allowed a small number of asylum-seekers a residency permit (limited to two years, with the possibility for extension) through two so-called “grandfather clause” regulations. In both cases, the stipulations for the asylum-seekers were as follows: Their asylum request had still not been decided and had been in process for over eight years (five years for families); they were (in spite of lacking permission to work!) not dependent on social welfare, and (in spite of the requirement to live in the homes to which they are distributed!) they have their own home and retract their requests for asylum. In 1996, 7,800 people benefited from this “grandfather clause”; presumably, after the negotiations are finished at the end of 2000, the new grandfather clause will not “favor” substantially more people; according to estimates in June 2000, 4,500 people would be affected. Finally, both grandfather clauses explicitly exclude “illegals” – a prerequisite for filing such a request is that they possess legal residency status. Thus, the grandfather clause laws are an indication that “illegals” in Germany are not even taken into account as objects of governmental mercy.

It would be necessary for Germany to discuss critically the pros and cons of legalization programs in other countries. In particular, we should consider that every legalization also means the exclusion of those who are not eligible for legalization. The current conflict about the limited immigration of skilled workers is a possible opening for the discussion of legalization demands with a receptive public. However, it is unlikely that the next few months will provide a successful discussion of the possibilities and dangers of legalization programs within refugee aid organizations that would lead to a “campaign-worthy” end.

4 Racist Violence and Strategies for Intervention

The life of *Sans papiers* and potential *Sans papiers* is determined not only by precarious living conditions and constant fear of deportation, but also by the increasing racist violence that threatens the health and even the life of people with or without residence papers. According to police statistics for the eastern state of Brandenburg, there was, on average, one violent attack on a “foreigner” every four days in 1998. In all of Germany in 1999, two people were killed in racist and right-wing extremist attacks and 615 were injured. Since many victims do not file charges because they fear the police or deportation, or due to problems with communication and a lack of awareness of their rights, the actual number of cases is higher.

It does not matter to the perpetrators whether their victim is an asylum-seeker, a *Sans papier* or a black German. The victim’s physiognomy and relation to certain constructed concepts of ‘the enemy’ determines the selection of their victim.⁴⁴ The attacks are thus not primarily “hostile to foreigners” – the German term used to describe them – but instead are racist or ethnocentric.

The acts of violence take place in a social context shaped by legal exclusion, everyday discrimination and media-effective racist propaganda.

How these conditions look on a local level, and how they determine the lived reality of *Sans papiers* and potential *Sans papiers*, is most clear in the case of the Algerian refugee Farid Guendoul. On February 13th, 1999, in the small East German city of Guben, Farid Guendoul bled to death as a

⁴⁴ If they are recognizable due to language and context, Poles will also be attacked in the border regions

result of injuries sustained in his attempt to flee a mob of German youths shouting racist slogans. The following case study describes the local social context in which the act took place, the perpetrators' motivations and constructions of 'the enemy,' and the different reactions to death of Farid Guendoul.

We cannot at this point examine in greater depth the different sociological investigations into the causes of right-wing extremist views. We also will not undertake to analyze racist discourse in the media.⁴⁵

However, two things must nevertheless be mentioned here:

The death of Farid Guendoul is overshadowed by a CDU petition drive against dual citizenship, which in the media was portrayed as a "petition drive against foreigners." The bill for the modification of citizenship laws and the CDU petition drive against this bill kindled a passionate public discussion on the question of German identity, "what makes a German a German?" Another element: In 1996 the BGS (Federal Border Police), in the context of securing the European Union's external borders, instituted "citizen telephones" in the border region, which allowed residents immediately to inform the authorities of the presence of "suspicious foreigners." Criminal cases were filed against taxi drivers who were suspected of having conveyed persons without residence permits in the area around the Polish border. In 1998, there were over 50 such cases pending against Brandenburg taxi drivers. It is now generally suggested to the taxi drivers that, in the case of "suspicious persons," they should immediately notify the BGS. Thus, police measures classify *Sans papiers* as criminals. The racist atmosphere, heightened through such measures, does not limit itself to the illegalized, but includes all those who look "non-German," legal or illegal residents, with German passports or without.

4.1 Case Study: Guben

4.1.1 Chronicle of the events of the night of 2/13-2/14/99 (Friday/Saturday) leading to the death of Farid Guendoul (approximate times)

Midnight: Four of those who later participated in the crime threaten a black German.

1 a.m.: Argument between a group of Vietnamese and four young right-wing extremists in front of the discotheque "Dance-Club."⁴⁶ During the argument, three black Cubans also get involved. The well-known right-wing extremist hooligan Ronny P. is slightly injured and receives ambulatory treatment. Via cell phone, Ronny P.'s friends spread the rumor that "a Negro" had "slit him open with a machete." Approximately 11-15 young men in at least three cars go in search of the alleged perpetrators, in order to take revenge.

In the Old Town of Guben they break the windows of an "Asia Shop."

4:30 a.m.: They throw beer in the face of a random female passer-by.

4:50 a.m.: They notice the Algerian Farid Guendoul in company of the fellow Algerian Khaled B. and Issaka K. from Sierra Leone. They believe Issaka K. is the black man they are searching for, shout anti-foreigner slogans and block the men's path. The men are separated in their attempts to escape. While Khaled B. tumbles and is beaten and kicked by at least one aggressor until he is

⁴⁵ See Part II.

⁴⁶ The discotheque is located in the newer Guben quarter "Obersprucke" and is known for its multinational clientele

unconscious, Farid Guendoul and Issaka K. try to save themselves by running into a multi-story house. Farid Guendoul kicks in the lower pane of glass on the door in order to creep through. In doing so, he cuts an artery in his knee and bleeds to death within 15 minutes. Issaka K., who does not suspect the extent of the injuries, tries to get assistance. He stops a passing taxi, which conveys him – pursued by the aggressors – to a nearby bistro. The aggressors lay siege to the Bistro, but the resolute owner holds them back. The aggressors assume that they have found the “Negro with the machete” and call the police. The owner of the bistro calls the police as well. Upon their arrival, the police arrest Issaka K. on suspicion of committing bodily injury and take him to the police station. The right-wing extremists pursue the police car and try to break into the police station.

5:30 am: They break the windows of a Vietnamese restaurant.

5.1.2 Situation in the City of Guben

4.1.1.1 Socioeconomic Situation

Guben is a small town of approximately 26,500 inhabitants about 100 km southeast of Berlin on the German-Polish border. Prior to 1989, the city was an important textile producer, but many of the operations were closed or reduced after 1989. The unemployment rate is at 23.5% (the overall district rate for the Spree-Neisse District is 21.4%), well over the Brandenburg average of 18.8%.⁴⁷ Like many other smaller industrial cities in the eastern states, Guben registered a population decline after 1989. One-fifth of the inhabitants of the former “Wilhelm Pieck City” of Guben left the city after reunification. Cinemas, kindergartens, schools, and hospitals had to accept budget cuts or close completely. Over 30% of the welfare recipients are under 18 years of age. Beyond that, a substantial part of the population is occupied in governmental work-reintegration or education measures.

Since 1991 the city has tried to put its location on the German-Polish border to good use. Partnership with the Polish city of Gubin is promoted intensively.⁴⁸ Economic, traffic and tourism planning take place in close communication. A common sewage purification plant, finished in 1998, and a German-Polish “European school” bear witness to the successes of transnational co-operation, for which the mayor of the city received the “Knight’s Cross” from the Polish president in the spring of 1999.

However, the promotion of German-Polish co-operation did not meet with the enthusiasm of the entire Guben population. In the summer of 1999, a recall vote instituted by the “middle-class regulars’ table” failed to unseat the mayor. They accused him of neglecting Guben’s economic and infrastructural development in favor of co-operation with Gubin.

In the local elections in September 1999, the SPD received 30% of the votes, the PDS just as many, and the CDU received 21%.⁴⁹ The PDS’s success here is remarkable and higher than the average for the state. Although the extreme conservative and right-wing extremist organizations cannot mobilize statistically significant numbers of voters, they are still quite influential in the mobilization of anti-Polish sentiment.

⁴⁷ Statistical data for the year 1999 from the Landesamt für Datenverarbeitung und Statistik Brandenburg

⁴⁸ In 1945, the town was divided into the German Guben and the Polish old town of Gubin

⁴⁹ By comparison, in the elections to district parliament in the Spree-Neisse district, the SPD received 34.6%, the CDU 28.3% the PDS 20.3%, the FDP 3.8%, the DSU 3.7% and the Greens 2.4% of the votes.

4.1.1.2 Situation of the Non-German Population

Approximately 600 people without a German passport (2.3% of the population) live in the city of Guben. The largest group among them, the Poles, have a very active organization, "Nadodrze," a German-Polish nursery school, and a German-Polish school. Its activities are varied and are very much welcomed by the city. Another large community, with approximately 100 persons, is that of the Vietnamese. Originally employed by the chemical plant, many now operate retail businesses and restaurants. Contacts with the majority population are rather careful, and the Vietnamese families rarely take part in local activities. Beyond that, some Cubans and Mozambicans, also former chemical plant workers, live in Guben. Many of them are now married to women from Guben.

The 160 asylum-seekers in Guben live in a one-story building that once housed the day-care center of the chemical fiber factory. Until his death, Farid Guendoul lived with six men from Sri Lanka, Togo and Algeria in a 20-square-meter room.⁵⁰ A common kitchen and common bathroom are in the hallway. The hostel, at the edge of the industrial area, is protected by a wire mesh fence and electrically secured gates. These safety systems were added after the hostel's opening in 1992, when in the context of the "asylum debate" the Guben refugee hostel was attacked several times by right-wing extremist youths. It is administered by a private business founded for this purpose by the hostel manager, David N., who comes from the Seychelles. In the weeks after Guendoul's death, David N. appeared frequently as a speaker of the refugees and complained about the police's downplaying of the situation. Among the inhabitants of the home itself, however, he is controversial. In March 2000 he was arrested on suspicion of raping an underage resident of the home. Nonetheless, in comparison with others in East Germany, this hostel is one of the better residences. Although the home's furnishings are only average, its infrastructure is fairly well connected.

Even previous to the night of the attack, inhabitants only went out at night, when possible, in groups, for fear of attacks. Inhabitants reported⁵¹ that they felt more protected rather than enclosed by the wire mesh fence. There are only a few public places where the asylum-seekers do not feel themselves to be intruding foreigners. The only discotheque in Guben that is known as "foreigner-friendly" is the discotheque "Dance-Land," where the events of that night began. However, after that night's pursuit through Guben, refugees were not allowed on the premises for four weeks due to rumors that the refugees wanted to start a revenge campaign. According to the discotheque owner's testimony before the regional court, German youths would frequently stand in front of the disco and try to start fights with the foreign guests. On the street and in the supermarkets where they can redeem their coupons, they are stared at as they came from the moon, as if they were not human, a Lebanese refugee reported on one of the commemoration ceremonies to mark the Farid Guendoul's death a year later. They had little contact with Germans, only a few of them – like Farid Guendoul – had a friend in the city.

Lack of contacts with locals and racist everyday behavior are described by almost all refugees, at least those in East Germany.

⁵⁰ Officially, Farid Guendoul lived in Sembten, 8 km away. However, as the town of 300 inhabitants lacked infrastructure and the inhabitants could only go shopping by bus twice a week, Guendoul spent most of his time in the Guben hostel.

⁵¹ Discussions of Opferperspektive with acquaintances and friends of Farid Guendoul after the event

4.1.1.3 Public Space and Public Actors

4.1.1.3.1 Work with Foreigners

Not all cities have, as Guben does, their own city-employed Commissioner for Foreigners, who also addresses the interests of the refugees. Every three months, the city also invites people to participate in a "Foreigners Discussion Circle," in which supporters of youth social work, churches, the federation of Poles "Nadodrze" and the Commissioner for Foreigners of the city and of the district come together and discuss issues concerning the city's work with foreigners or coordinate appropriate activities.⁵² In addition to this, before the local elections a "Forum Against Hatred of Foreigners and Violence in Guben" was formed, in which different associations and interested individuals came together in order to work against the strengthening of right-wing extremist parties and to develop ideas of commitments to the civil society.

4.1.1.3.2 The Right-Wing Extremist Scene

In 1987 and 1989 there were already attacks in Guben on foreign chemical workers from Mozambique, Cuba and Vietnam. Between 1989 and the end of 1992, a group of approximately 200 skinheads formed a loose association they called "Guben Home Front," with contacts to the deceased neo-Nazi leader Kühnen.⁵³ There were conflicts with anti-fascist youths and further attacks on foreigners. In August 1993 the district federation of "The Nationals" was founded, and later the "Young National Spectrum" (JNS) with Frank Schwerdt⁵⁴ presiding. After "The Nationals" disbanded in winter of 1997 in the face of their coming prohibition, "national" youths began to organize themselves in the "National-democratic Party of Germany" (NPD) or its youth organization "Young National Democrats" (JN), which became a type of collection site for right-wing extremists after the numerous prohibitions of neo-National-Socialist groups. Thus the Constitutional Police report of 1998 mentions that Schwerdt was able to find a broader-based interest group for NPD meetings in Guben.⁵⁵ Nevertheless, after Farid Guendoul's death local and state police acknowledged that they were aware of a "relatively strong right-wing extremist circle," but that they were not organized and so far had primarily drawn attention to themselves with the Hitler salute and swastika graffiti.⁵⁶ These were disorganized youth cliques who "at noon do not yet know that in the evening they will become criminals."⁵⁷

Statements as to the size of the core of the right-extremist scene in Guben vary. The Constitutional Police in 1997 assumed the existence of five right-extremist groups with 11 to 20 members each. At

⁵² For example, the "Week of the Foreign Fellow Citizen"

⁵³ "Hinter den Kulissen, faschistische Aktivitäten in Brandenburg – Update 99" (HdK), pp. 48-51. The data show sharp differences. The Interior Ministry indicates a core group of approximately 35 people.

⁵⁴ Frank Schwerdt, member of the national leadership of the NPD since 1/11/98, publisher of the "Berlin-Brandenburgischen Zeitung," in prison since 1997 for calling for racialist violence, spent his last furlough in Guben (Märkische Oderzeitung 2/16/99)

⁵⁵ Report of the Constitutional Police 1998, p. 30: About 40 participants attended a "Kameradschaftsabend" on the issue of "New ways toward national resistance" in the "Obersprucke" quarter. Jungle World, 2/17/99

⁵⁶ According to the speaker for the police Fleischer (Frankfurter Rundschau 2/15/99). On the other hand, HdK reports that weekly "JN Local Group Meetings" took place in the Obersprucke quarter.

⁵⁷ Förster, leader of the police subunit in the Interior Ministry, Berliner Zeitung 2/19/99

the time of Guendoul's death, the "hard core" was considered to be 15 to 30 persons between the ages of 14 and 20, with approximately 150 followers.⁵⁸ The meeting point of the right-extremist scene was - among other places - a gas station situated directly beside the discotheque where the deadly pursuit of Farid Guendoul began.

4.1.1.3.3 Round Table "Youth"

Since 1994, the "Round Table Youth" has been meeting, first on a monthly basis, now as necessary.⁵⁹ Created in a time of violent conflicts between "left-wing" and "right-wing" youths, it was originally intended as a means for resolving these conflicts through discourse. Therefore, "The Nationals" or their youth organization were consciously invited to the sessions. They pushed for a "national youth club" and, through their recognition as valid partners for discussion, experienced a strong rise in their social position. Even now, leading personalities of the Guben right-wing extremist scene participate in the roundtable, among them some who took part in Guendoul's pursuit.

In the meantime the committee has developed into a group of experts for social work, in which the youths rarely participate in discussions and do not give any more impulses to proceed. Political conflicts or conceptual arguments are normally avoided or postponed.

4.1.1.3.4 Social work

Like in no other city in the state of Brandenburg, Guben tried to fight the rise of right-wing extremist orientation among young people with social work and "roundtables." With 36 coworkers in six organizations geared toward youth (three funded by the city and three privately), Guben is among the leaders. The critical pressure on youth social work was heightened after the night of Guendoul's death,⁶⁰ particularly because some of the perpetrators were regulars at a city youth club. The social workers rejected attempts to blame them: "Youth social work simply cannot fail, it only becomes active if parents and the society have failed."⁶¹ However, the deficiencies of this youth work quickly became clear: The majority of social workers are employed on one-year limited governmental work-reintegration contracts. Thus, there is no personnel continuity for the care of youths. Beyond that, many are not trained in youth social work.

However, the issue with the most extensive consequences is that there are no clear concepts and procedures for work with right-wing extremist youths. Although they state that they are doing "accepting social work" - all Guben projects engage in "open youth work" - "acceptance" is commonly misunderstood as entailing the "neutrality of the social worker."⁶² These two concepts

⁵⁸ HdK indicates that the "organizational core of the local Nazi scene" includes about 20 people. The Guben social worker Ley, who knows the local scene well, spoke of 15-20 people and 150 followers in an interview with the Tagesspiegel on 2/15/99. Ms. Nedoma, chair of the PDS Guben, says there are 20 to 30 people who are ideologically schooled and create strong JN structures. Junge Welt 2/22/99

⁵⁹ The "roundtable" is a classic form of post-1989 citizen participation. Normally it is an open forum to exchange ideas and form opinions

⁶⁰ A City Council session took place on 3/17/99 that addressed this issue, and the press also reported on the failure of youth social work in Guben.

⁶¹ Unpublished interview with Ingo Ley, 3/4/99

⁶² In March of 1999, one social worker was fired and another warned for overstepping this neutrality. They had taken part in a demonstration one day after Farid Guendoul's death and thus "destroyed the basis for trust from a part of our youth clientele" (Berliner Zeitung 3/10/99).

are, however, incompatible. Political neutrality reduces social work simply to the management of young people, while the concept of “accepting social work” makes active attempts to change them.

We will only briefly deal with the concept of “accepting social work” as it was developed in the 1980’s by Professor Krafeld in the West German city of Bremen. It assumes a target group of socially conspicuous youths who must be integrated into the democratic society. In street-based social work or in youth clubs, the social worker first approaches the youths with low-level offerings, accepts their respective non-standard biographies, and if necessary works as a lobbyist for their interests. Through his personal stance as an active supporter of humanistic values, the social worker should induce a step-by-step process of reorientation in the young people.⁶³ The problems with this approach have been extensively discussed; we will only name the most important points of criticism here:

The goal is to re-integrate right-wing extremist youths into society. If, however, a large part of their surrounding society shares the youths’ right-wing views, this goal is a questionable one. In many regions of East Germany, as in parts of Guben, right-wing extremist orientations have become mainstream. Right-wing extremist cliques are thus no longer fringe group which must be integrated.⁶⁴

The approach makes multiple demands on the critical and firm personality of the social worker, who must oppose the youths’ right-wing extremist values with his own entirely different ethical attitudes, values and patterns of action. This requires at minimum an appropriate education and support of the work, and becomes more and more difficult as racist (“völkisch”) ideas become more commonplace in the social worker’s own environment.

In beginning this work, the value orientations of the youths are frequently not seen as the actual problem; rather, the problem is seen with their lack of social integration and their violent behavior. However, if there is no awareness of the youths’ political orientation, particularly in times of budget problems there is the danger that supporting measures may tend to promote the allure of the right-wing cliques rather than fight it.

4.1.1.4 Overall Assessment

In comparison with other medium-sized East German cities, Guben is hardly remarkable. Not only are substantial economic restructuring, strong population drift and high unemployment rates common, but the high number of right-wing extremist and racist acts of violence relative to the number of inhabitants are now unfortunately just as “normal” in the new states of the Federal Republic of Germany as is the small proportion of non-German inhabitants within the total population. Guben is special, however, in its position on the border and in its contacts to Poland.

The analysis common during the high phase of right-wing extremism and racist attacks in 1991/92, that these issues were a youth problem, was mistaken. The conclusions drawn from this analysis – that a high number of social workers engaged in “open youth work,” youth clubs and “youth roundtables” with the participation of right-extremist parties would reduce right-wing extremism – was not successful. To the contrary, Guben still has, in relation to other East German cities of same size, a relatively large, organized and militant right-wing extremist scene.⁶⁵ In addition,

⁶³ Zentrum demokratische Kultur (ed.): “Keine Akzeptanz von Intoleranz,” Bulletin 1/99.

⁶⁴ See 5.1.4.

⁶⁵ A declaration of the Brandenburg Interior Ministry of 3/24/00 names Guben as a center of right-wing extremist activities.

the social acceptance of "The Nationals" through their participation in the roundtables has certainly not been insignificant in contributing to this situation.

4.1.2 The Victims

Farid Guendoul was 28 years old when he died. He grew up as one of 10 children in a poor settlement in Algiers.⁶⁶ Supported by his brothers, he got a technical school diploma and studied airplane technology in a professional school. After receiving his degree, he worked for nine months as an assistant in the airport. In order to escape unemployment and the pressures of the civil war, he decided to flee to Europe. In the summer of 1997 he requested asylum in Germany (to protect his family he used the name Omar Ben Noui). After a short stay in the first admission residence he was moved to the Sempten hostel in Guben. Here, he taught himself German and tried to further his education with an electronics course he financed out of his own pocket. Farid Guendoul was survived by his pregnant girlfriend. His daughter was born on 26 August, six months after his death.

Khaled B.⁶⁷, 27 years old, accompanied Farid Guendoul on the evening of his death. Khaled B. was also from Algiers and arrived in Germany at about the same time as Farid Guendoul. A few days after Farid Guendoul's death he was relocated to Potsdam. Since that night he has suffered from Post-Traumatic Stress Disorder: Rage alternating with distrust and depression. In his court testimony, in addition to accusing the actual perpetrators, he accused the police of failing to come to his aid: A passing police car had ignored the signals for help from the three asylum-seekers. That night, he himself was struck down and suffered from head injuries as well as a concussion. At the police station, in search of his friends, he saw Issaka K. in handcuffs and was told of the death of Farid Guendoul.

Issaka K. (17 years old) had been in Germany for only four months in February of 1999. He came from Sierra Leone and spoke little English, some French and, at the time, practically no German. Together with a somewhat older Togolese man, who was acting as his older brother and supporter, he was also moved to Potsdam after the attack. There, at the end of November 1999, he was attacked again. Two right-wing extremists from Potsdam threatened him in the streetcar. This time, however, other passengers intervened and prevented the worst.⁶⁸ Issaka K. was the last person to see Farid Guendoul alive. Because of this, he was accused in court of "refusing assistance" to Guendoul. He explained his actions by noting that the seriousness of the injuries was not evident at the time, and while trying to get assistance he himself was arrested by police on suspicion of causing bodily injury. He spent eight hours in the Guben police station, part of that time with his hands bound behind his back. After the police initially denied his arrest and claimed that he had "freely invented" the story,⁶⁹ the police later justified their action by claiming there was a danger that Issaka K. might flee, and the detention cell for the accommodation of suspects was still under construction.⁷⁰ Beyond this, the police press secretary also let the press know that they would have had no interpreter "who understood African."⁷¹

⁶⁶ Spiegel Reporter 02/2000, Tagesspiegel 2/13/00.

⁶⁷ Berliner Zeitung, 9/29/99, Tagesspiegel 10/27/99, Lausitzer Rundschau 10/27/99.

⁶⁸ For this intervention, they received the "Blue ribbon of understanding" (a Brandenburg honor for civilians) in May of 2000.

⁶⁹ Märkische Oderzeitung, 2/16/99.

⁷⁰ Tageszeitung 2/17/99

⁷¹ Ibid.

4.1.3 The Perpetrators

On the morning after the crime, the first five suspects were already arrested. In the next few days their number increased to eleven youths between the ages of 17 and 20. Two were kept in detention due to other accusations against them, the others were set free after interviews with the police.

In a first statement, police representatives characterized the arrested youths as “quite normal criminal young people,”⁷² who are “ready for violence, apparently independent of the question against whom the violence is directed in a specific case.”⁷³ They belonged to a clique of 40 to 50 young people who met regularly on weekends at a gas station in the city’s “Obersprucke” quarter.⁷⁴ Some of them have drawn police attention because they have committed bodily injury and “used unconstitutional (i.e. right-wing extremist) symbols.” Five from them are now accused of additional crimes, among other things brutal, torture-like bodily injury.⁷⁵

Although the gas station clique included “some young men... who once the belonged to a right-wing grouping, one cannot speak of functioning right-wing extremists parties or groups in Guben.”⁷⁶ Only two of the youths belonged to the hard core of the right-wing extremist scene of the city, the others were “Fun-Fascists,’ followers who wanted acknowledgment and self-confidence from the clique.”⁷⁷

Little is known about the personal background of the arrested youths. The public was excluded from testimony involving psychiatric appraisals of their personality development and criminal liability, except for one in which a 17-year-old was certified to have “little resistance to pressure” and “a tendency to boast and swagger in conflict situations.”⁷⁸ The stereotypical picture of the perpetrator as an “unemployed youth from a broken home” was quickly revised: All suspects were employed, in school or in vocational training. Some may have come from “difficult home situations.”⁷⁹ Even though most parents were dismayed about their son’s the participation in this act, they were almost more infuriated by the fact that their children had to go to Cottbus, 25 km away, twice a week for over a year for court hearings. One of the fathers described this as “methods like they used in the GDR.”⁸⁰ None of them thought it necessary to express their condolences to Farid Guendoul’s brother, who traveled there for the beginning of the court case.

Research on right wing extremism assumes that the predominant majority of racist acts of violence are committed by young men under 20 years of age. The perpetrators usually attend school or are in job training. Most acts of violence against foreigners are committed by “members of informal cliques” with “clear proximity to the skinhead scene.” The proportion of members of

⁷² Neues Deutschland 3/16/99

⁷³ Lausitzer Rundschau 2/16/99

⁷⁴ Court testimony of the gas station operator, 9/7/99.

⁷⁵ For no particular reason they had stuffed a 15-year-old up to his shoulders in a gutter, threw stones at him, hit him and poured acid on him. A 14-year-old was left overnight covered in masking tape and was hit repeatedly “because he was making noise.” In the morning his hair was set on fire.

⁷⁶ Staatsschutz Cottbus, 2/15/99 (Lausitzer Rundschau 2/16/99)

⁷⁷ Social worker Ley in Der Spiegel, 2/22/99

⁷⁸ Die Welt 6/23/99

⁷⁹ A study conducted by youth researcher Sturzbecher indicates that 84% of Brandenburg children have experienced the unemployment of one parent, in North Rhine-Westphalia only 33%. 72% of Brandenburg children went through financial crises with their families, in NRW only 51%. (Spiegel 4/29/00)

⁸⁰ Tagesspiegel 8/11/99.

organized right-wing extremist groups is limited to roughly a quarter of the perpetrators.⁸¹ This was the case here as well. One can assume that that only three of the accused young men are active in organized right-wing extremist groups,⁸² but several of the other accused youths expressed sentiments hostile to foreigners or positioned themselves or other accused youths as “on the right.”⁸³

Being “on the right” has long been a synonym among German youths for “hostile to foreigners.” The response to the question “Are you for or against foreigners?” decides whether young people consider themselves “on the right” or “on the left.” The rejection of foreigners is usually justified with socio-economic reservations. One of the accused expressed himself accordingly: “Actually I do not have anything against foreigners – only if they live off of the taxes paid by Germans, make comments to our wives, and maybe become criminals, stealing stuff or something like that, then that’s too much.”⁸⁴ Not just youths hold these views. According to a poll conducted by the FORSA institute in May 1998, 57% of all Brandenburg residents agree with the statement that “foreigners abuse our social welfare system,” and 48% agree that “foreigners intensify unemployment.”

Sociological research further assumes that the immediate surroundings of the youths, particularly if they show “understanding reactions or does not quite make clear the disapproval of violence against foreigners,”⁸⁵ have the effect of confirming the youth’s views.

The gas station where the youths meet on weekends, the discotheque “Dance Land,” where arguments started, and also the house in which Farid Guendoul died, are in the “Obersprucke” quarter, which is also home to most of the accused. This socioeconomically weak quarter with many empty apartments is considered a center of the right-wing extremist youth scene in Guben. According the estimates of a social worker, over 60 % of the youths from Obersprucke have “rightist” opinions.⁸⁶ The neighbors’ attitudes toward them are shaped by fear⁸⁷ and conformity.

Right-wing extremist views and patterns of action are no longer marginal phenomena in many East German cities, but have developed into “lifestyle syndromes”⁸⁸ in the last few years. Attributes of this orientation, like right-wing extremist music, skinhead outfits, or racist insults, are no longer seen as ideologically charged by many young people and adults, but instead are considered part of everyday discourse. The right-wing-extremist-oriented youth culture is able to mobilize “substantial sociocultural capacities and create social-spatial dominance.”⁸⁹ This right-wing hegemony is produced, maintained and expanded through the threat and practice of violence. It is an “integrating and an identity-forming moment for some of the young people in the right-wing

⁸¹ Stephan Ganter/Prof. Dr. Hartmut Esser: Ursachen und Formen der Fremdenfeindlichkeit in der Bundesrepublik Deutschland, 1998, p.33

⁸² Alexander Bode is known to police as a resource person at NPD and “Freie Kameradschaft” events (Morgenpost 12/18/99) Steffen H. and Jörg D. were at a midsummer festival that was broken up by the police, where Jörg D. was wearing a T-shirt bearing the number 88 (a well-known abbreviation for “Heil Hitler”). Steffen H appeared in court with a decal of the “National Resistance” (collective designation of the right-wing extremist movement), beyond that he was seen at NPD meetings.

⁸³ Rene K. told the police that he would put himself in the right-wing spectrum. (Court transcript, 9/28/99) In a television interview, Daniel R. said that he himself wasn’t right wing, but the other participants were. (ORB 3/16/99)

⁸⁴ Spiegel 4/29/00

⁸⁵ Ibid, p. 72

⁸⁶ “030” 1/99, unpublished interview with social worker Ley, 3/4/99

⁸⁷ Cab driver: “Skins run around the city in groups of eight or ten. At night you get scared, you’d rather move to the other side of the street.” Berliner Zeitung 2/20/99

⁸⁸ Zentrum demokratischer Kultur (ed.), Bulletin 2/97, p. 11

⁸⁹ Bernd Wagner: Rechtsextremismus in Ostdeutschland und Ansätze zu Gegenstrategien, p. 298, in: Jahrbuch Arbeit und Technik 1999/2000 ed. Werner Fricke

extremist scene.”⁹⁰ Only some of this force is “politically motivated” according to the police and Constitutional Police. However, it does clearly entail an “ideologically and sociopsychologically justified concept of action which orients itself along images of ‘the enemy’ and which functions in the way that right-wing extremism intends”⁹¹ – even if it is not centrally controlled. A type of “contrasting society” develops, “in which everyone – not just right-wingers – see it as normal to have right-oriented or right-wing extremist beliefs.”⁹² Youths who grow up in a space dominated by right-wing extremism are forced very early on to decide whether they are for or against foreigners, whether they are “on the right” or “on the left.” It appears that in Obersprucke, many young people have opted for “protection through sharing of power.”⁹³ A spraypainted slogan puts it this way: “We are not right-wingers, we are Germans.”⁹⁴

4.1.4 Legal Proceedings

The trial against the 11 defendants accused of negligent homicide, coercion, bodily injury and slander began on 6/3/99 before the regional court. The court rejected the accusation of serious disturbance of the peace. The brother of the dead man, Malik Guendoul, participated in the case as a co-plaintiff. He had traveled from Algeria to be present during the opening days of the trial along with his mother, Issaka K. and Khaled B. All co-plaintiffs were represented by lawyers.

The lawyers of the accused young Guben men were two well-known lawyers of the right-wing extremist scene⁹⁵, but also particularly young, career-conscious lawyers from Cottbus and Guben. Due to the length of the procedure, nine back-up defense lawyers were designated in addition to the original defenders.

The defenders assumed that the events had begun with the pursuit of Germans by foreigners⁹⁶, and that the accused then searched for the perpetrators, and that Farid Guendoul, in an unfounded panic caused by the trauma of his escape from Algeria, crept through the broken glass door. As the proof they wanted the court to consult the asylum applications of the victims. Only one of the accused confessed in court to the attack on Khaled B; for this act, he was branded a “traitor” and was pursued and substantially threatened.⁹⁷

By the beginning of April 2000, the defense had brought a total of 43 petitions to the court on grounds of partiality.⁹⁸ Beyond that, there were several requests to exclude some of the co-plaintiffs, requests which were justified among other things by doubts as to the identity of the dead man. Questions about the appearance of the group of perpetrators, about their right-wing extremist convictions and thus about the motive for their actions were systematically blocked by the defense. A flood of requests that generally require a court order have delayed the proceedings for so long that it is feared that the case will drag on perhaps through the year 2001, two years after the crime.

⁹⁰ Bernd Wagner: Rechtsextremismus in Ostdeutschland und Ansätze zu Gegenstrategien, in: Jahrbuch Arbeit und Technik, p. 302

⁹¹ Ibid, p. 303

⁹² Zentrum demokratische Kultur: Bulletin 1/97, p. 4

⁹³ Zentrum demokratische Kultur: Bulletin 1/97, p.4

⁹⁴ Die Welt 2/16/99

⁹⁵ The lawyer Wolfgang Nahrath was national leader of the right-wing Wiking-Jugend until 1994. Now he is a speaker at NPD events.

⁹⁶ Defense lawyer Dittberner to the TV station ORB on 9/23/99.

⁹⁷ Tagesspiegel 11/20/99

⁹⁸ Berliner Zeitung 4/2/99

One of the defenders openly admitted to this strategy of delay: "The longer we can delay the proceedings, the worse the witnesses' memory gets."⁹⁹ Court observers at present assume that the defenders wish to gather reasons for appeals or to cause the proceedings to collapse. This has called forth strong public criticism.¹⁰⁰ At the beginning of March, even President of the Parliament Thierse criticized the "scandalously" long process: it gave the impression that "the constitutional state cannot deal with these right-wing extremist acts."¹⁰¹

Legally, the sentencing of youths should take place soon after the act. The educational character – the punishment is to follow the crime closely – is the focal point here. In the so-called "Mob Pursuit Proceedings" (Hetzjagd-Prozess), there is no sign of this philosophy. After about 40 days of trial, the atmosphere is "like every morning in a large office"¹⁰²: "Casually, a little bored, like theatergoers who have attended a not particularly exciting performance, [the accused] sit behind their defenders. They await the breaks with longing."¹⁰³

The actual act is forgotten. Only the short, weekly court reports of the media keep the memory of Farid Guendoul alive.

4.1.5 Reactions

4.1.5.1 First Reactions on a Communal and Regional Level

The news of Farid Guendoul's death caught the state government (SPD) by surprise; it was holding a conference that was to celebrate first successes of their program against right-wing extremism, "Tolerant Brandenburg."¹⁰⁴ In a first reaction, the Minister of the Interior called the act a "severe setback for the Tolerant Brandenburg"¹⁰⁵ and "a serious individual case that damages all efforts at positive development."¹⁰⁶ Prime Minister Stolpe, however, immediately warned of the danger inherent in prejudging the perpetrators.¹⁰⁷

The reactions of the different parties were overshadowed by the upcoming elections to the state parliament. Thus the PDS claimed that the CDU petition drive¹⁰⁸ was responsible for the Farid Guendoul's death, since it contributed to removing the taboo of violence against foreigners.¹⁰⁹ The Greens accused the SPD of "looking away," and accused the CDU of supporting latent hostility against foreigners.¹¹⁰ The CDU deplored that there were too few police forces in the country and that the confidence in the constitutional state was insufficiently developed due to years of SPD government. Cynically, the CDU compared the attacks on refugees with those on CDU stands promoting the petition drive.¹¹¹

⁹⁹ Berliner Zeitung 10/21/99

¹⁰⁰ Tagesspiegel 11/20/99, Morgenpost 11/26/99

¹⁰¹ Tagesspiegel 3/3/00

¹⁰² Süddeutsche Zeitung 11/18/99

¹⁰³ Frankfurter Rundschau 1/15/00

¹⁰⁴ See 5.1.7.1.

¹⁰⁵ Tagesspiegel 2/13/99

¹⁰⁶ Morgenpost 2/14/99

¹⁰⁷ Ibid. At least he recognized that it was not a youth problem but a problem of the whole society. (Berliner Zeitung, 2/15/99)

¹⁰⁸ See introduction.

¹⁰⁹ Neues Deutschland 2/16/99

¹¹⁰ Lausitzer Rundschau 2/16/99

¹¹¹ Die Welt 2/16/99, Tagesspiegel 2/15/99 Interview with the head of the Brandenburg CDU, Schönbohm.

Locally, the Guben mayor and the Council called for a vigil the next day and, in a press release, declared themselves to be against "hatred of foreigners and political extremism."¹¹² At the same time, the "Antifa Guben,"¹¹³ along with other anti-fascist groups, called for a demonstration at the scene of the crime. A total of about 500 people participated in both events. In the following days and weeks there were a variety of mourning and commemorative ceremonies, as well as benefit concerts for the family and Farid Guendoul's unborn child. The mayor initiated a petition drive for an "open, tolerant Guben."¹¹⁴ About 1000 people participated in a central memorial service in the state capital, among them almost the entire Brandenburg cabinet and the Federal Minister of Justice.

4.1.5.2 Media reactions

In the first days and weeks, regional and supraregional daily papers as well as radio and television stations reported on Guben almost daily.¹¹⁵ Even international media reported on the small city. Opinion pieces laid responsibility at the feet of a social climate that approved of looking the other way¹¹⁶, the materialism of the people and the overall loss of humane values.¹¹⁷ The proportionally high number of right-wing extremist acts of violence in the eastern states were seen as belated consequences of East German history,¹¹⁸ and the reputation of the city and the country were seen as endangered.¹¹⁹ Researchers on right-wing extremism and youth were asked about their research work, neighbors, young people and politicians were interviewed. Among the interviewees, a few gave partial responsibility for the racist attacks to the misdirected policy on foreigners.¹²⁰ Unlike earlier attacks, this event was not downplayed but was acknowledged extensively. Even months after the event Guben was still in the headlines, this time not because of Farid Guendoul's death itself, but because of the delays in the court case and the vandalism of a memorial to Guendoul.

¹¹² We can only refer briefly here to the problematic discourse of "political extremism." The attempts to explain social problems of racist and right-wing extremist violence by resorting to general discussions of "extremism," as happened particularly after the change in government in Brandenburg, hides the existence of racism at the center of society rather than contributing to a solution of the problems.

¹¹³ A loose association primarily of youths from the left-wing spectrum.

¹¹⁴ Lausitzer Rundschau 2/18/99

¹¹⁵ The BBC on 2/13/99. The New York Times on 2/24/99.

¹¹⁶ Frankfurter Rundschau 15/2/99, "the differences in the lamentable lack of civil courage between East and West are only gradual. Too much is secretly accepted."

¹¹⁷ Lausitzer Rundschau 2/15/99, "Closed doors, closed hearts!" Märkische Oder Zeitung 2/15/99, "The societal atmosphere still gives the perpetrators too much room to breathe," Berliner Zeitung, "Tolerance, equality, freedom and dignity are not defended as free-standing rights."

¹¹⁸ Morgenpost 2/16/99. "Hatred of foreigners also has to do with uncertainty and the fear of freedom." Osnabrücker Zeitung 2/16/99, "a late reaction to the sloganeering, superficial internationalism that was demanded of the population of the GDR."

¹¹⁹ Bild 2/15/99, "A violent minority has ruined the reputation of a city in Germany," also the Lausitzer Rundschau 2/15/99, "... no foreign investor will come to our town in the foreseeable future."

¹²⁰ Commissioner for Foreigners of the federal government Ms. Beck, Lausitzer Rundschau 2/16/99: "The real problem in East Germany is the accommodation of foreigners. They are placed at the edge of cities or even in old army barracks in the forest. So on the one hand, they must live their lives so publicly and on the other hand, they are separated from Germans. There is an 'us and them.'"

4.1.5.3 Mood of the Population

After a first phase of sympathetic response, many Gubeners wanted to return quickly to the everyday state of affairs. Thus, the actively engaged mayor of Guben reported that he was asked two weeks after the event whether one vigil would not have been sufficient and did he not want to return to his work.¹²¹ The events – according to many citizens – were exaggerated by the media. “No one talks about a dead German either!”¹²² The negative headlines hurt the city’s reputation and deterred potential investors. Many were quick to reproach the dead man rather than the attackers. The question, “What was he doing out so late?” made the rounds quickly¹²³, and was echoed by city delegates.¹²⁴ The remark only became a scandal when the mayor of the neighboring city of Spremberg repeated it.¹²⁵ He later apologized, only to add that the “first provocation” had “come from an African asylum-seeker,”¹²⁶ and that “asylum-seekers in Germany must take responsibility for the respective local situation and the conditions in Germany”¹²⁷ and should avoid certain places. The hostel rules designated 10 p.m. to 6 am as a night rest period, and it was necessary to enforce these rules.¹²⁸

This mood becomes clear once again in the case of the city’s handling of a memorial tablet established by the Antifa Guben for Farid Guendoul.

The group initially intended to attach a memorial plaque to the house, but were prevented from doing so by the police, who threatened to charge them with vandalism.¹²⁹ Months later, on 7/16/99, the memorial tablet was affixed to a granite stone in front of the house. This had been preceded by lengthy discussions with the city about the tablet inscription and the location of the stone.¹³⁰ The memorial clearly remained controversial, because in the ensuing time it was frequently vandalized. A few days after its inauguration police patrols discovered swastikas on the stone and right-wing extremist symbols in its environment. During the summer months, and before the eyes of the inhabitants of the surrounding houses, a group of right-wing youths met regularly who smashed beer bottles on the stone, urinated upon it, and stuck right-wing extremist stickers to it.¹³¹ On New Year’s Eve, the plaque was damaged so badly that the Antifa decided to dedicate a new plaque on the occasion of the anniversary of Guendoul’s death, and to include Farid Guendoul’s real name on this new plaque as well. Before this, six young people between the ages of 16 and 18 were arrested for attempting to store a plastic bottle with confetti on the stone. On the bottle was an NPD sticker,

¹²¹ Berliner Zeitung 2/27/99

¹²² Social worker Ley confirms the city’s opinion, Lausitzer Rundschau 3/6/99, similarly a worker in the refugee hostel to the Tagesspiegel, 2/13/00.

¹²³ Berliner Zeitung, 2/16/99, cites a 16-year-old in the second high school (“Europa-Schule”), Junge Welt 2/24/99 a cab driver: “If I’m an asylum-seeker somewhere, then I’ve got no reason to be on the street at 2 in the morning.”

¹²⁴ City councilman Wittchen at the city council meeting: “It is questionable what he was doing outside at that time of night.” Jungle World 3/19/99.

¹²⁵ Morgenpost 9/7/99. He added that a foreigner who “makes passes” at a married woman here should assume that he will “have to face the music.”

¹²⁶ Lausitzer Rundschau 11/5/99.

¹²⁷ Ibid 11/6/99

¹²⁸ Frankfurter Rundschau 11/10/99

¹²⁹ Berliner Zeitung 2/27/99, PE 1/10/00

¹³⁰ The inscription reads: “In the early morning of February 13th, 1999, OMAR BEN NOUI (28 years old), of Algeria, died here. He was the victim of a racist mob of right-wing Guben youths. We will remember his memory! Antifa Guben.”

¹³¹ Press release of the “Central Resource for Victims of Right-Wing Extremist Violence, Cottbus,” 1/10/00.

"Deport foreigners, don't integrate them."¹³² After the dedication of the new plaque the violations continued (the two accused youths continued to take part¹³³), until the plaque was stolen on 3/4/2000. In a press statement, the Antifa Guben challenged the city to replace the plaque and to take responsibility for its preservation.¹³⁴ After an at times vicious debate,¹³⁵ the city agreed on an inscription which no longer mentioned the cause of Farid Guendoul's death.¹³⁶ The plaque was dedicated on 5/8/2000 with the new inscription, and was once again vandalized on 5/24/2000. With each of these acts of vandalism – which occurred before the eyes of the adjacent residents, but were only discovered by police – there calls for the removal of the memorial increased. It provokes; if it were not there, it would not be a cause for racist attacks.¹³⁷

4.1.5.4 Reaction of the right-wing extremist scene

Two days after the event, swastikas and right-wing slogans were spraypainted at the site. The perpetrators were quickly arrested, and the police called them "coattail riders."

The next weekend, approximately 70 right-wing extremists gathered to protect themselves from the alleged acts of revenge from foreign gangs.¹³⁸ On 2/26/1999, the 21-year-old Kenyan man Dawis M. was pursued by a car from the train station and saved himself only by jumping behind some trees. On the same evening, offensive and anti-foreigner insults were shouted at five Turkish men in a gaming parlor, who had to be escorted by police back to the asylum-seekers' hostel. Around midnight of the next day, four young people in front of the hostel loudly demanded, "Come outside!" On 3/23/1999 several 15- to 16-year-olds marched past the scene of the crime and shouted, "Germany for Germans! Foreigners out!"¹³⁹ On New Year's 1999/2000, approximately 30 young men, among them three of the accused, marched through Guben with the war flag of the German Reich and shouted "Sieg Heil!"¹⁴⁰ Vandalism of the memorial plaque kept the public anxious.

After Farid Guendoul's death, a clear strengthening of the local right-wing extremist scene was observable.¹⁴¹ The Guben NPD candidate for state parliament considered the mood of the population after the "incident" to be a good starting point for the election campaign.¹⁴² Rumors indicate that the right-wingers began to collect weapons and ammunition.¹⁴³ During his prison furlough in February 1999, the neo-Nazi Christian Wendt was seen in Guben,¹⁴⁴ and a celebration of

¹³² Frankfurter Rundschau 2/11/00, Berliner Zeitung 2/11/00

¹³³ Frankfurter Rundschau 2/25/00

¹³⁴ "Independently of Omar/Farid, the only thing that remains is a race to see whether a small minority of Antifas and a handful of others can establish a symbolic memorial to the dead man in the face of mockery through the perpetrators, their defense lawyers and a spiteful population majority, or whether the racism of the majority will be executed by its willing neo-Nazi executioners." Press release of the "Central Resource for Victims of Right-Wing Extremist Violence, Cottbus," 1/10/00

¹³⁵ At the last minute, an amendment by the SPD to remove Farid Guendoul's name from the inscription did not pass. Lausitzer Rundschau, 3/30/00.

¹³⁶ "Farid Guendoul bled to death on 13. February 1999. A warning against racism, against violence, against hatred of foreigners. The dignity of humans is sacred!"

¹³⁷ Lausitzer Rundschau 2/11/00

¹³⁸ Report of the Antifa Guben on 3/1/99. Chief of Police Lippman assumes there are 15 right-wing extremists.

¹³⁹ Berliner Zeitung 3/4/99, and a report of the Antifa Guben on 3/1/99

¹⁴⁰ Berliner Zeitung 1/8/00

¹⁴¹ Press release of the "Central Resource for Victims of Right-Wing Extremist Violence, Cottbus," 1/10/00

¹⁴² Neues Deutschland 3/16/99

¹⁴³ Letter to the Editor of the social worker Ley, Lausitzer Rundschau 3/6/99

¹⁴⁴ Märkische Oderzeitung 2/16/99

Schwerdt's release from custody on 3/23/99 was planned.¹⁴⁵ The right-wing extremist press cynically commented on and followed the events around Farid Guendoul's death by twisting the facts of the case. The right-wing extremist press, like the defenders, assumed that Farid Guendoul "died because of his own actions." "National youths" attempted to detain a "presumed criminal," who in an "irrational panic" then jumped through a window. The whole event was preceded by an "anti-German act of violence." Farid Guendoul was the victim of an accident, and obviously counted more as a foreigner than a German would. He had - "probably without justification" - requested asylum under an "alias," and the police was investigating his "possible criminal past." This had been followed by "indiscriminate arrests of young German citizens" who were being sentenced by a "political tribunal" from which "no justice can be expected." But "it will not be long now," "the foreigners should prepare themselves to return to their homelands soon."¹⁴⁶

4.1.6 Intervention Strategies

For several years, the state of Brandenburg has been one of the leaders in the statistics in the German Federal Republic of right-wing extremist acts of violence. At present, it is in third place, with 2.39 right-wing extremist acts of violence per 100,000 inhabitants, which is still far ahead of Berlin (0.88). With brutal racist acts of violence like the murder of the Angolan Amadeu Antonio in 1990, the attempted murder of the Italian Orazio Giambianco in 1996 or of the black Briton Noel Martin in 1996, Brandenburg has again and again been in international headlines.

4.1.6.1 "Tolerant Brandenburg"

Brandenburg is the first state in which the government (SPD) has taken political responsibility for solving the problem of "right-wing extremism." It did so as a result of polls and statistics which clearly showed that racist attitudes were by no means a youth problem that could be dealt with solely through youth-oriented political measures and juvenile criminal prosecution.

The goal of the action concept "Tolerant Brandenburg," which was adopted in the summer of 1998, is the creation, support and co-ordination of structures and activities to promote a civil society. In concrete terms, this means that diverse projects and activities (some non-governmental) that share an emphasis on youth education and "multi-cultural encounters" are promoted. Beyond this, a special unit of the police was formed to control right-wing meeting places previous to any actions, in order to frighten off potential perpetrators, as well as a 12-person consulting team (MBT) which assists municipalities and institutions in handling right-wing extremism.

The excitement surrounding the inception of these programs released social dynamics that broke through the previous tabooization of these problems. As a result, several local politicians publicly positioned themselves against right-wing extremism and racism. However, with Farid Guendoul's death, which showed that the program cannot expect immediate success, and with the formation of a CDU-SPD coalition after the SPD lost a substantial number of seats in the state parliamentary elections in the summer of 1999, the positive dynamics of this program has collapsed. Particularly the conservative spectrum has increased its calls for harsher governmental response

¹⁴⁵ Letter to the Editor of the social worker Ley, *Lausitzer Rundschau* 3/6/99

¹⁴⁶ National Info Telephone (NIT), commentary 1-99: "A dead foreigner as a weapon," all other quotes NIT *Blitzlicht* and "Deutsche Stimme" (NPI)

against all forms of extremism, and not granting a special role to measures against racism any longer.¹⁴⁷

From the point of view of anti-racist NGOs, it remains problematic that the concept "Tolerant Brandenburg" locates racism and right-wing extremism exclusively in the civil society, particularly in the areas of culture and education. According to this concept, racist attitudes and actions are substantially the result of a lack of contact with foreigners. The role of national policy in establishing parameters for such "contacts" with foreigners, particularly refugees, is ignored. Governmental policy affects the opinions of all of society. If the state places all refugees in essence under the general suspicion of being welfare cheats, for example, by issuing "coupons" to them instead of cash, this indicates to the rest of society that refugees are potential criminals who do not belong and who must be met with distrust.

A connection between legal exclusion, social exclusion and racist violence is, however, denied by governmental and frequently also by non-governmental agencies. A concept that does not question these policies cannot really affect profound social change.

4.1.6.2 "Guben Open to the World"

This criticism also applies to the program "Guben Open to the World," with which the city of Guben, prompted by a suggestion of the MBT South,¹⁴⁸ responded to the death of Farid Guendoul. In a quasi-contractual "co-operation agreement" on 8/1/99, co-operation between the MBT and the city of Guben was agreed upon for the development of an "immediate program," a "situation analysis" and an "action concept." Avowed goal of this agreement is the "development of a permanent strategy for the improvement of the city's offerings, so that extremists, in particular right-wing extremist and radical right-wing forces, lose their influence in the city of Guben permanently."¹⁴⁹ The original explicit orientation against right-wing extremism (rather than against extremism) failed because of the resistance of conservative forces within the SVV¹⁵⁰. So far, the program has remained to a large extent without consequences.

Refugees or potentially endangered groups of young people, like the German-Polish youth association "Guben-Gubin" or the "Antifa Guben," were not actively taken into account in the "situation analysis," in any case. The "action concept" is expected in August 2000.¹⁵¹ In view of the mood in Guben and the local strength of conservative and right-wing extremist forces, that too seems improbable.

4.1.6.3 Anti-Racist Initiatives and NGOs

Anti-racist groups and organizations, like the "Resource for Victims of Right-Wing Extremist Violence" in Cottbus, the Antifa Guben, the "Research Association 'Escape and Migration'" in Berlin and the "Opferperspektive"¹⁵² from Potsdam at present limit their intervention in Guben to

¹⁴⁷ In the spring of 2000, for example, the "Action Alliance against Violence, Right-Wing Extremism and Hatred of Foreigners" was asked by the CDU to also concern itself with alleged left-wing extremism.

¹⁴⁸ One of five communal advisory teams established through the program "Tolerant Brandenburg."

¹⁴⁹ Lausitzer Rundschau 2/9/00

¹⁵⁰ Lausitzer Rundschau 7/5/00

¹⁵¹ Tagesspiegel 2/13/00

¹⁵² See report

two areas: They strive to keep local awareness of the topics of right-wing extremism and racism alive, in the face of the tendency to revert back to the daily order of things after Farid Guendoul's death, in order to maintain pressure on the city to take action. Apart from the establishment of the memorial plaque, a series of discussions¹⁵³ and a memorial ceremony on the anniversary as well as different press releases helped work toward this goal. A documentation of the events is planned.

Beyond this, they directly support local youths in non-right-wing subcultures and refugees in the process of organizing themselves, and try to bring their perspective as potentially endangered persons into the public arena. Their goals are on the one hand a strengthening of the ability of threatened groups to act and the establishment of a democratic youth culture which can offer young people alternatives in light of the mainstreaming of right-wing extremist orientations, and on the other hand the sensitization of the public to the situation of those affected by these orientations.

4.2 Conclusions

The following typical local and national reactions can be shown through the experiences in Guben¹⁵⁴; in practice these usually occur in combination:

1. Non-perception and concealing of the problem

The attack is described as a normal fight or – as in this case – minimized as an accident. A narrow use of the term “right-wing extremism,” which only includes actions of right-wing extremist organizations, contributes to the tendency to deny the ideological component of situational, spontaneous assaults on non-Germans.¹⁵⁵ Racism is then perceived to be a construct of a foreign, scandal-addicted media.

2. Relativizing, minimization or shifting of the problem

This reaction pattern considers the individual nature of the act and sees it as an atypical case,¹⁵⁶ normalizes the act as an unfortunate normal condition of society, and marginalizes the act as a problem of asocial criminal fringe groups or non-resident powers.¹⁵⁷ All three types of reaction deny the expansion of racist prejudice within the population and thus deny the society's own responsibility.

The currently popular extremism theory belongs to this class. Racism is reduced to a viewpoint of fringe groups in the society, the extremes, and one must protect the normal, democratic center of the society. This denies the statistical fact that racist attitudes are very common in the center of society as well. Defining the problem as the problem of (right-wing) extreme edges is particularly suited to diverting the discussion away from racism as a problem of the whole society, and to malign criticism of the social status quo.

A very popular variation on this theme is changing the places of perpetrator and victim. The act of violence thus appears to be due to a provocation on the part of the victim.¹⁵⁸ The victim is

¹⁵³ Public discussion with, among others, a lawyer of the co-plaintiffs and a refugee from Guben in seven cities thus far

¹⁵⁴ Cf. also Wilhelm Heitmeyer: Der Blick in die „Mitte“ der Gesellschaft, in: Heitmeyer (ed.), *Das Gewalt Dilemma: Gesellschaftliche Reaktionen auf fremdenfeindliche Gewalt und Rechtsextremismus*, Frankfurt a. M. 1994.

¹⁵⁵ In the case of Guben, this attitude is clear in the first police reactions. See the section on “Perpetrators.”

¹⁵⁶ In the case of Guben, for example, the Interior Minister Ziel (*Morgenpost* 2/14/99)

¹⁵⁷ Social worker Ley sees the city of Guben as threatened by “militant autonomous activists, paid contract killers and right-wing extremist criminals,” against whom one protects one's own children. (*Lausitzer Rundschau* 3/6/99)

¹⁵⁸ Thus, the reactions of the lawyers and of the mayor of Spremberg can be understood

thus, in essence, at fault – even if only because of his or her foreignness.

3. Affectedness and symbolic gestures

When compared with concealing and playing down, this reaction must be seen as progress. The municipality, the state take political responsibility for the fight against racism. Unfortunately the municipalities' readiness to act is usually connected to the intensity of negative media reports and is limited to appealing measures directed toward the damaged reputation and not toward the situation of the population, in particular not toward those groups who have been victims of violence.

Local intervention strategies should move beyond expressions of sympathy toward a goal of "solidarity with the victims – no solidarity with the perpetrators." This requires a clear, public positioning of all relevant participants against the racist act and the picture of 'the enemy' that is expressed through the act. On the one hand it must be made clear to the – usually young – perpetrators that they cannot expect understanding for their deed, but instead that they are moving outside of human behavior standards. On the other hand, in order to counter the exclusion effects of the violence and the creation of "national liberated zones," the victims of violence must experience clear social support. In concrete terms, this would mean the unbureaucratic assumption by the state of all subsequent costs to the victim, and especially the financial and ideological support of democratic youth and refugee organizations.

The example of Guben also makes clear that all these measures alone will cause no changes in the emergence and continuing conditions of racism. Racism and right-wing extremism are not youth or fringe group phenomena, but are supported by the center of the society. The underlying individual orientations are produced and reproduced in varied processes. Central elements of these processes are both opinions produced by the media and laws discriminating against foreigners.

In the experiences of the affected persons, the connection between racist acts of violence, everyday racism and legislation affecting foreigners becomes clear: everyday racist behavior is perceived as a warm-up for a possible violent attack. The experience of being treated without dignity by racist representatives of authority is smoothly incorporated and in combination with the unequal legal status forms a continuum of racist discriminations.

Non-Germans, particularly refugees, are subject to discriminatory special laws which force them into an existence beneath human dignity and to a way of life which is suspected of fraud and criminality and therefore they must be excluded or deported. The picture of the refugees produced by the laws on foreigners is used here as a concrete illustration of racist discourses.¹⁵⁹ Beyond that, the distinction between "German rights" and "foreigner rights" produces in the population the belief that foreigners cannot have the same expectations as Germans. If one does not consider these connections, actions against right-wing extremism will remain, in the long term, without consequences. Without the removal of the laws regarding foreigners there can be no effective fight against right-wing extremist violence. Municipalities, districts and states should nonetheless not withdraw behind the protection of their lack of decision-making authority, but should use the space provided for them by the law effectively,¹⁶⁰ and work for its amendment (or abolition).

Today, it is nowhere near enough to refer to the democratic constitution. Basic democratic principles must be negotiated on a daily basis, and must be experiential. Protection of minorities and the protection of basic human rights belong to these principles.

¹⁵⁹ For example, for the discursive construct that foreigners are "welfare bums," since they do not (and cannot) work.

¹⁶⁰ Differences between western and eastern states are a result of differences in the interpretation of the law.

5 Support Available Through Non-Governmental Organizations

5.1 Political and Legal Context of the Support for Sans-Papiers

“Anyone who aids and abets a foreigner... [in illegal residency], and who acts repeatedly and for the benefit of more than five foreigners will be punished with incarceration of up to one year or with a fine. Attempted aid is punishable by law.”

As quoted, the Law on Foreigners in Germany (section 92) considers support for illegalized immigrants punishable by law and has already been applied several times to individuals. Suits have been filed against ministers and individual members of refugee aid organizations, and several taxi drivers who accepted illegalized immigrants as passengers along the Polish and Czech borders as well as around the Berlin airports have been convicted. Thus, the pressure is present, even though governmental agencies have only applied it selectively. In truth, the fear of legal repercussions only plays a role at the inception of an NGO's work – the need to assist affected persons and/or to point out the scandal of their criminalization seems to weigh heavier than the attempts to push this type of work into illegality.

The political atmosphere in which the NGOs act is substantially determined by the governmental exclusion, criminalization and persecution of “illegals,” and the safeguarding through the media. The media coverage alternates between supporting the governmental pursuit of “illegals,” and the humanitarian demands of churches and welfare organizations. The tabloids clearly position themselves on the side of the governmental pursuit, and treats “illegals” solely as agents of their alleged criminality (“smugglers,” Mafia/organized crime, forced prostitution/slave trade, drug trade). Differentiated and critical reports and opinions are pushed aside for the sake of this propagandizing.

Large social organizations such as churches and trade unions are only conditionally ready to make critical statements about the position of “illegalized immigrants.” They have not been able to improve the racist tendencies of views on “illegals” in Germany in part because their positions are frequently unclear – even after the deaths that resulted from forced deportation.

Individually, the parties, trade unions, churches and welfare organizations have very different positions on “illegals.” The PDS and the party “Alliance 90/The Greens” (Bündnis 90/Die Grünen) support (and have supported) “illegals” locally and nationally (with information and/or subsidies for self-help or solidarity organizations). Since Alliance 90/The Greens has become part of the ruling coalition, this support no longer takes place on official level. The other parliamentary parties (SPD, CDU/CSU, FDP) do not even acknowledge that “illegals” face substantial social, economic, political and health problems in Germany.

There is no evidence of any governmental initiatives to provide relief to “illegals” (apart from careful warnings in the *Report of the Commissioner for Foreigners*).¹⁶¹

The “Federations of Free Welfare” in Germany operate a majority of the establishments for the social protection of the populace (hospitals, homes for the elderly, nursing care, homeless shelters, youth centers, etc.), as well as many of the counseling organizations and establishments for refugees. In April 1999, these federations made public a statement on the legal and social situation of foreigners without legal residency, and demanded that measures be taken to oppose the

¹⁶¹ P. 182 – Health; p. 199 – neutral reference to the demands of welfare organizations, which recognize the precarious situation of “illegals” and aid them; p. 154 – reference to the problem of low wages for “illegal” work

pauperization of these people (secure health care; prevention of homelessness; access to the schools).¹⁶²

The Ecumenical Council of Churches, of which the Protestant church of Germany (EKD) is member, declared 1997 as the year of "Solidarity with the Uprooted," and made numerous (political) demands for the protection of migrant workers and refugees, regardless of their (residency) status. Demands included, "Offer accommodation or places of refuge to uprooted persons," "Support of migrant workers and refugees when they demand their human rights in accordance with national and international standards," "Ratification and enactment of the International Convention for the Protection of the Rights of Migratory Workers and Their Families."¹⁶³

The EKD boycotted this resolution and currently is undertaking no practical initiatives on this level or in its capacity as leader of the Protestant churches. However, just as in the Catholic church, local churches have organized numerous activities in order to help "illegals," generally in the context of refugee counseling or with the assistance of church asylum. The "German Conference of Catholic Bishops," in its turn, boycotts or ignores the papacy's call to turn toward "illegal" persons¹⁶⁴; however, they do not forbid local churches from doing such work.

The welfare organizations and the individual church communities have not been able to influence the social climate with their positive statements and actions in favor of "illegals." At best, there is increased attention and broader solidarity vis-à-vis "illegals" in certain situations (forced prostitution) or in certain regions (regional church asylum in North Rhine-Westphalia, and local church asylum for asylum seekers whose claims have been denied or who have been "illegalized"). However, "illegal" women (and the people in most church asylums) are usually portrayed only as victims (of forced prostitution or of errors in the interpretation of asylum law), rather than as humans who have a right to resistance and who should be supported in their attempt to take their fate in their own hands. Thus, even those offering support to refugees rarely notice the beginnings of self-organized refugee groups, and such groups are certainly not promoted.

The trade unions, which in Germany are united in the German Federation of Trade Unions (DGB), have thus far undertaken no initiatives in favor of "illegals" (including "illegal workers"), and have passed no resolutions on this issue. Instead, the industrial construction trade union IG Bau in particular positions itself on the side of the government and energetically supports the raids against "illegal" workers. However, some very few trade union locals nonetheless support "illegals" and even take them up as members of the union – without the knowledge of their national leadership.

The study of migration has as yet only rarely taken an interest in the refugees and even more rarely in the illegalized refugees and migrant workers. Some workshops were conducted in cooperation with the DGB's Council on Migration, and there are research projects and publications at individual universities (e.g. Cologne, Duisburg, Dortmund, Osnabrück). However, it would be a mistake to speak of active scientific research work that keeps pace with the issues of refuge and migration.¹⁶⁵ The failure of this science on a social level is closely linked to the only minimally developed support for "illegalized" persons. After the so-called "asylum compromise" of 1993 (modification of Article 16 in the Constitution) and with the participation of Alliance 90/The Greens in the government, resistance to both isolationism and deportation mania clearly decreased.

¹⁶² "Zur rechtlichen und sozialen Situation der Ausländer ohne legalen Aufenthaltsstatus in Deutschland," declaration of the Organizations of the Free Welfare Council, Bonn, 19.4.99

¹⁶³ "Declaration on Uprooted Persons," Working Group on Refugee and Migration Work of the Ecumenical Council of Churches, Geneva.

¹⁶⁴ Cited in migration 3/97, p. 44ff

¹⁶⁵ Please refer to the extensive bibliography available in Kühne, Rüsler, Die Lebensverhältnisse der Flüchtlinge in Deutschland, Frankfurt 2000

The number of groups supporting refugees shrank, and their ability to mobilize large groups has diminished so substantially after the large demonstrations against the modification of asylum law in 1992 and 1993 (200,000 demonstrators in Bonn) that they no longer plan large public actions. Resistance is now to a great extent locally limited, and networking between the local groups is limited to information exchange and the analysis of the national refugee and migration policy.

5.2 Classification of Organizations Working with Sans-Papiers

NGOs that work with “illegalized” persons usually developed out of the refugee organizations and counseling centers for asylum-seekers and civil war refugees. Because the number of “illegalized” persons seeking advice continued to increase in the second half of the 1990s, there was a concomitant increase in the readiness and willingness to engage these issues head-on. The fields in which these NGOs work – usually legal advice, social counseling, accommodation and work problems – have accordingly been expanded to address the inquiries of “illegalized” persons. Where possible, their legal situation is discussed (again), there are attempts to address problems of the daily fight for survival, in individual cases homeless “illegalized” people are housed privately, and there is intervention in the case of an arrest. Usually, the support of “illegalized” persons is integrated into the everyday activities of the NGOs, and not delegated to new, external groups of supporters. However, many of these NGOs complain about the fact that they carry this activity out in addition to their “normal” advisory activities and are thus – also in light of the position of the “illegalized” – frequently overburdened. We report on some of these NGOs in section 4.3.

Only a few groups, amongst them the health bureaus that offer consultations to “illegalized” persons and the nationwide campaign “kein mensch ist illegal” (“no human is illegal”) came into being explicitly for the defense of the rights of “illegalized” persons and have directed their actions from the outset against the political and legal exclusion, criminalization and pursuit and persecution of “illegalized” persons (see also section 4.3).

A third “type of organization” is formed by organizations which were developed for a concrete and limited group of “illegalized” persons, or which offer a temporally limited action to protect certain “illegalized” persons. One example of such an ad-hoc group is the “Wanderkirchenasyl North Rhine-Westphalia” (cf. section 4.3.); other groups have organized around a hunger strike against the package food supply or to support other such resistances by refugees, and we consider them to be a part of this category.

4.3. Description of the Work and Experiences of the NGOs

1. Caritas Berlin – Sister Bührle

Sister Bührle is the Representative of the Archdiocese in Questions of Migration and has been working with Catholic organizations and counseling services, mainly Caritas, on the issue of “illegality” since 1993.

The Catholic church – at least in the Archdiocese of Berlin – desires to support all people in need, regardless of their residency status or nationality. One exception is formed by “such illegal persons as come to Germany in order to commit criminal offences. Those are not people in need, those are criminals, and criminality must be fought.”

The Caritas offers assistance in life emergencies. These occur primarily in the field of health care, the school attendance of children without residence papers, problems resulting from marriage

with illegals, and with wage fraud – where humans “[are] in deep misery and do not know how to go on.” “There are also cases where our first concern is securing living costs for survival, e.g. 200 DM for food. “ Beyond that, Sister Bührle also operates within the “preventive arena,” for example with “foreign citizens about whom we can assume that they must fear one day becoming illegal, for example the Kosovars.” She may try to provide some type of assistance for their return to their country of origin. “Our coworkers also drive directly there [to the refugees’ countries of origin] and tell people to be careful in the West, in Germany things are not as rosy as you think. You will have to pay 20,000 DM for a ‘smuggler’ to bring you into the country. Don’t think that you will then have wads of cash. That’s how your existence can look in Germany.”

The exact number of people who have been counseled cannot be determined. “Many do not keep statistics, as they are not officially allowed to advise illegals and may also be subject to problems as a result.” For example, “ever more illegals” came to a governmentally subsidized counseling center, “and the governmental agencies got wind of that. After that, they had to keep a record of the name, passport and residency status of every client they counseled.” Since the consultation of “illegals” cannot be accounted for, the official number of counseled persons declines, which in turn can serve as a reason for a decrease in financial support. “This is how political pressure functions.” Their own work is financed through their own resources, because “who will donate money for illegals? We’re in the political morass there. Illegals are criminals, and criminals are to be deported. The exception is when it is the personal desire of someone who is familiar with these issues – but we can’t get teddy bears with this subject.”

Sister Bührle herself deals primarily with public relations for the large network of Catholic advisory centers. Their goal is a stronger sensitization to these issues and the removal of their public taboo. To this end, she cooperates not only with German and international political and religious organizations, but also tries to bring the topic into discussion with the support of cultural organizations, “similar to the way that in France – although it cannot really be compared – the cultural and intellectual scenes are reached piece by piece on the topic.” Thus, “in Berlin, a youth play on the topic of illegality, ‘Dirty Dishes,’” is being planned. In order to bring the piece closer to reality, the organizers want to co-operate with her.

She also co-operates with governmental agencies in this sense, “by sensitizing them and encouraging them to speak publicly about their experiences, as in the brochure ‘Illegals in Berlin,’” which Sister Bührle published in December 1999. She finds it very difficult to persuade institutions and governmental offices to take a public stand. Many people, particularly in governmental agencies, are familiar with the topic of illegality, but wish to remain anonymous. One success in this area is that the Commissioner for Foreigners of Berlin or the Alien Registration Authority have discussed illegals for the first time in the brochure “Illegal in Berlin.”

“A perhaps malicious hypothesis of mine is that Germany basically is not interested in effectively combating illegality, because too many people already profit from it.” This includes private households, businesses, and the state. “The (construction) business already calculate their fines (into their building costs).” In the restaurant business, the population also profits from the employment of illegals. “Nobody asks why the pizza only costs 6 DM.”

According to her opinion “the Catholic church can be a vanguard, make a foray into a gray area, but then the state must enter. The protection of human dignity is a duty of the state.”

In order to improve the work with and for Sans papiers, an “openness to approaching this extremely difficult problem conceptually, on a political level” is necessary. Sister Bührle demands a serious political discussion, “a discussion in the sense of discursive thinking, thus not controversy,” and no rash judgements on the part of politicians who are unfamiliar with the subject. Furthermore, legal

clarification or – if necessary – changes in the law are required, explicitly the abolition of section 76, “The duty of denunciation,” or the aspect of the law which considers aid to “illegals” a criminal offence. “As a social worker, I cannot operate under the daily threat that I could be arrested because I’ve committed the criminal offence of aiding people in illegal residency.”

She names three concrete humanitarian demands:

- * The school attendance of illegals must be secured without parents or children needing to fear that they will be discovered and deported;
- * Access to public health care;
- * Legal recourse in the case of unpaid salary, even for illegals;
- * Establishment of “Difficult case commissions” in those states that have such decision-making competencies.

In principle, Sister Bührlé welcomes the self-organizing of Sans-Papiers, “because I am fundamentally of the opinion that it is always best to offer assistance with the goal of developing self-help.” However, in Germany – in contrast to France – she sees on the one hand vast language barriers which need to be overcome, and on the other hand believes that Sans-papiers in France, as “citizens of former colonial states,” “can exert a political, moral pressure on the French.” Further, in Germany there is “a much higher fluctuation in the realm of illegality” than in France. For self-organization, however, a “certain continuity of persons” is a prerequisite.

2. Clearingstelle for Unaccompanied Underage Refugees in Berlin

After a considerable increase in the number of unaccompanied children and youths, and the capacities in the regular child and juvenile welfare service mechanisms were exhausted, a first admission residence, a so-called “Clearingstelle,” was established in Berlin for foreign children and youths between 6 and 18 years of age.

The children and youths as a rule came to Berlin without parents or other relatives who could guard their personal welfare. Among the children and youths are potential asylum-seekers, youths who have a tolerated status, as well as children and youths who are without valid residence status in Berlin for different reasons (denial of the application for asylum, duplicate request etc.). The latter ones, however, do not belong to the target group and are thus at most served in the context of an emergency overnight accommodation. Generally, it can be assumed that all children and youths who arrive at this residence have no legal residency status. In connection with the first admission residency and the ensuing “clearing process,” which may last up to three months, they enter a type of legalization process. “Clearing” means that a detailed personal log is created by means of questionnaires, which includes the child’s/youth’s history and the whereabouts of parents, relatives etc., in order to possibly initiate a return of the child/youth. If parents are not locatable, or a return not possible, a guardian is appointed to take care of the legal affairs of child/youth. This however only applies to those under 16 years of age, as in the FRG youths 16 and older are already considered of age in asylum of age in asylum matters.

It is the Clearingstelle’s goal to obtain a residence title for the youth/child, or to monitor the procedure and, if necessary, to establish alternatives for the children/youths concerned. At present 35 children/youths live in the Clearingstelle. They are predominantly from Vietnam, Bangladesh/India, Lebanon/Palestine, Turkey/Kurdistan, Iran, Iraq and Angola. The house has a total of 72 beds. The number of the children/youths is subject to substantial fluctuations, due on the one hand to intensified border controls on the part of the FRG on the eastern boundaries, and on the other to a veritable “people hunt” undertaken by national police officers in order to prevent the

illegal entry. A result of this deterrence policy is a visible reduction in the number of unaccompanied children/youths served for the last two years. Another change is the increased migration to Spain and Italy, where the living situation and opportunities for work are better.

In addition to the personal log, the clearing procedure includes X-rays to check for tuberculosis (on the basis of the Epidemic Law) and the introduction of the child/youth to the responsible Youth Welfare Office, primarily in order to determine the child's age by visual inspection (dealt with differently in different regions).

The care that follows covers the first necessary care. This includes accommodation, food supply, allowance (progressive rate based on age, between 50 and 100 DM), recreational educational measures as well as language courses. School attendance begins 2-3 weeks after the beginning of the clearing procedure. The children attend a primary school. For youths there are "promotional classes." The organization is financed through daily rates, per child, from the Youth Welfare Office. The current daily rate per child amounts to 116 DM. This covers both personnel expenditures as well as materials (70% to 30% proportionally). The dependency inherent in this financing structure is clear.

The residence employs 14 workers. In the case of difficulties finding personnel, additional workers are employed on a fee basis. The personnel consists of educators, social workers and a psychologist. Of nine educators, five are migrants themselves. Altogether, the personnel covers all Slavic languages, Romanian, Turkish, Kurdish, Arab as well as English and French. The workers' expenditure of time is larger than that anticipated by the daily rate for the individual child. Further, asylum counseling activities as well as networking for contacts and personnel for meal supply are not included in the daily rate. Beyond this, the children and youths have a particular desire for new clothes, but there is no budget for such things. Only a sort of "emergency clothing" is covered, but this would only increase the stigmatization of the children and youths in public. The Clearingstelle is therefore in need of money primarily for clothes, for kitchen personnel as well as for German courses. On the legal level there are hardly options for children and youths, who as a rule want to remain permanently in the FRG. A permanent integration is not legally intended.

The residence, which is a member of the FSD (Promotion of Social Services) and a cooperative member of the AWO (Workers' Welfare Institution), does not dare to make single-handed political statements. All coworkers are contractually bound to the AWO. Official statements are thus only to be given by the "Federal Association for Foreign Children," which among other things set up an official catalog of demands to improve the situation for unaccompanied underage refugees, and submitted this catalog to the Parliament. Due to the complicated and complex nature of the topic, inquiries or demands are, as a rule, handled on an internal, i.e. informal level. The Clearingstelle must maintain the public appearance of loyalty to the Youth Welfare Office. The contractual consensus between both organizations requires the avoidance of the politicization of this topic in public. Thus, the Clearingstelle does not actively engage in media work or public relations. It only reacts when it is wrongly represented.

The suggestions to improve the situation of unaccompanied underage refugees correspond to the catalog of demands established by the "Federal association for foreign children": work and residence permits, re-integration possibilities for young people who are not recognized as being entitled to asylum, age of majority for asylum at age 18 (according to the Hague Agreement on the Protection of Minors).

The residence was in the headlines some years ago when it was reported that it was a "haven" for smugglers particularly in connection with Romanian "theft children." At this time, there were unwanted "strangers with criminal energy sleeping in the residence," who became dangerous to the children or pressured them. In these cases, they "criminalized themselves" and called the police to search the house and for protection. There is however a consensus that overnight stays by youths

without papers will not be registered with the authorities. However, they may also not ordinarily stay longer than one night.

Thus far there have been no attacks on the house. Verbal attacks have occurred outside the house, however.

Current problems result primarily from the organizational structure (financing from daily rates, financial dependency on the number of children served, emergency pedagogy, lack of long-term perspectives). There is at present no supervision and no further training. There is high fluctuation both among the clientele and among the workers. Due to the current lack of resident children there is a danger of further personnel cuts. At the moment the personnel corresponds to that of a "normal" Child and Juvenile Welfare Home. Due to the complicated and complex nature of the problems of unaccompanied underage refugees, however, the number of personnel should be increased about the "normal" level.

The overall legalization of residency for children and youths would offer options and perspectives. This could be achieved by removing minors from the asylum procedures. At the same time, a return to and accommodation in the country of origin in the best interest of the child should be enabled.

3. Office for Medical Assistance to Refugees.

The Office came into being in April 1996 on the initiative of medical students who wanted to apply their knowledge in anti-racist action, and others who were not involved with health care but wanted to support the growing number of illegalized persons. Interviews with illegalized persons were conducted in order to determine the existing needs; in the course of these interviews, two primary problems were clearly indicated: "racist attacks" and "medical care." Future co-workers came together with this in mind and created this project. In the meantime, the idea of medical aid to refugees was picked up in a number of different cities, and in eight cities, similar offices were created.

The Office is open twice a week for two hours each, during which about 30 people who cannot take advantage of governmental or private health care seek its help. During clinic hours, personnel always include a doctor, a Spanish speaking person, and, if necessary, a translator. There is an equal number of men and women. They consult with clients about their basic health problems, and then decide whether the client should be referred to a specialist. If necessary, a translator is provided for the specialist appointment as well. Previously, the Office was able to provide medication along with free treatment. Now, however, due to the current financial crisis, patients must purchase their own medication at cost from a pharmacy affiliated with the Office. In the case of problems that go beyond the simply medical, clients are referred to other counseling centers and advisory boards. But the Office also faces limits within the medical arena, for example in treating the chronically ill, or when an extended hospital stay is necessary. Although there are informal agreements with individual hospitals, but their capacity is limited and the costs of extended stays exceed the financial abilities of the organization.

The financial crisis looms over the whole organization, which is funded exclusively through donations. It is supported by approximately 80-100 doctors, healers, nurses, etc, and about 30 translators, and can place calls for donations in newspapers at no cost, but various kinds of aid also require cash. "For example, when I'm at work, there's one birth, two abortions, five pairs of glasses. At that point, I'm at about 2000 DM, and we don't get that. Our monthly inflow of donations is - at best - only a few thousand DM. We spend that in two weeks."

The organization does have access to a large support network. 10-15 members of different anti-racist groups participate in the biweekly organizational meetings, each of them representing about 50 members of their groups. Many of them work in medicine and, as beginners in their profession, do not have time after their required shifts to participate in the consultation services. They continue to support the organization to the best of their abilities, but there is a lack of staff for active medical consultation service. At the moment, the organization is discussing the possibility of applying for ABM funding (a governmental work reintegration program). However, in the past they have decided against such a move, fearing that it represents an increasing professionalization that will lead to a hierarchization within the organization. With the exception of two migrants who have medical backgrounds, all of the organizations' workers are German. Although the initial plan was that the proportion of migrants in the office staff be between 50 and 100 percent, there are no practical ideas about how to get clients or other migrants to actively participate in the project (except as translators). Furthermore, migrants who wish to work in the organization have difficulties with the discussion and decision-making process, which takes place in a plenum. "I think that the structure of a plenum is very German, and takes getting used to. Thus we will have to change this plenum structure if we want to integrate migrants into this project."

Although German legislation considers the aid to those without valid residency papers a crime, the organization decided from the outset to take the offensive and go public. The feared criminalization by the government did not occur.

Quite the opposite: the organization's good, free and unbureaucratic work is invoked even by the authorities for curbing cost expansion or for concealing their own inactivity. "It's not correct to say that authorities continue to recommend us. Ms. John (Commissioner for Foreigners, Berlin) and the District Office both use us for the same reasons, so that they can continue to do nothing. Because the problem of illegality is clearly also the problem of adequate medical care and supplies... if Ms. John mentions us, that just angers us, because we feel only used by her. Because on the other hand she is in no way trying to improve or facilitate the life situation of the illegalized. We are used as a cover, in order to show: "Look here, now we're doing something for the illegalized!," while in reality they do nothing, according to the slogan: 'We have an organization here which isn't our organization, but we can use the name.'

"If the District Office sends people to us, that's an insolence. They can give these people insurance cards. They do not need to send them to us. Due to the increasing restrictiveness of the law regulating to the care given to asylum seekers, need for the office will rise. We normally do not ask people who sent them. However, when we do inquire, they frequently say, I lives in such and such a residence. I got your address from the Caritas. People are no longer sent to the District Office because that is more difficult, more bureaucratic, more complex and more stressful. They are always obstructing. People are sent to us because we simply care for them."

Beyond the concrete medical care, the office, along with other organizations in the anti-racist and refugee aid areas, strives "to intervene on the political level." Larger demands are the abolition of the law regulating to the care given to asylum seekers and "Open borders for everyone!" However, these demands are often eclipsed by the everyday workload. "Certainly the political wind that blows against us has become more biting. The entire situation for refugees, migrants and primarily for the illegalized has become more precarious and shitty. But the fact that we do not try everything that we can try is mainly because of us."

The office rejects the Emergency Fund for treatment currently being discussed by left-wing parties. Due to the limitations of such a fund, physicians and hospitals would try to save money on medical care, which would result in a "two-caste" medical system. The Office for Medical Assistance to Refugees thus demands free or equal medical care for all. The office sees the actual reason for the governmental refusal to institute national governmental health care, such as exists in other European

countries, as being not a lack of finances, but because of the national refugee policy, which does not strive for integration. "After all, refugees should not feel too at home here."

4. AGISRA

AGISRA is the acronym for the Working Community against International Sexual and Racist Exploitation. The organization was founded in Frankfurt in 1983 and since 1993 has also had a branch in Cologne. We will focus on the work of the Cologne group.

The organization places a priority on addressing the concerns of migrant and refugee women, and offers them legal and social consultation and therapeutic care. At present three women are full-time employees (as well as one volunteer) of AGISRA. The group co-operates closely with attorneys, doctors and counselors (all primarily women). They are working on creating a stable network of supporters for AGISRA, which is also to diversify the positions and demands of the organization.

AGISRA is concerned with the protection of refugee women who are denied recognition of woman-specific reasons for asylum (female genital mutilation, sexual abuse, rape), with the protection of migrant women, who become victims of the female slave trade, forced prostitution and exploitative work conditions within specifically female work areas (e.g. as domestic workers), and with the protection of illegalized women from deportation, particularly if they have been victims of acts of violence and forced prostitution.

Several hundred women (about 400 to 500) use AGISRA's consultation and care services each year; about half of them are without legal residency status in Germany. Most of the illegalized women work, usually in low-wage jobs as domestic workers, janitorial assistants, service workers and also prostitutes. AGISRA's clients come during the center's office hours; until mid-1999, AGISRA employees got to know numerous women (about a third of their clients) in the context of their streetwork projects; this work area was cut due to cuts in funding. Counseling project workers in prisons also create further contacts between AGISRA and potential clients.

In consultations, in addition to discussing legal questions (particularly the possibilities of legalizing residence status), questions of daily life – accommodation, work and work situations – and questions of the psychosocial situation – experience of violence, health problems, children – are discussed. The limited financial abilities of AGISRA, which result in a limited number of personnel, are responsible for the fact that the problems of the clients cannot always be addressed. A frequent problem is for example the accommodation of women who are exposed to violent husbands, partners or pimps. AGISRA had access to such a shelter until the end of 1999, when this project, too, fell victim to budget cuts. Today the only option is to refer these women to women's shelters – which is by far no guarantee for the safety of women endangered by violence. Such accommodation is particularly difficult for illegalized women; they are not adequately protected in relation to their particularly precarious legal and social situation. It is even more difficult to offer alternatives to women who prostitute themselves due to economic constraints. Legal work is denied to "illegals" in Germany – thus, prostitution often appears to be the only option even for women who did not come to Germany for the purpose of working in this area, because this work is already in a legal limbo.

Illegalized women working in prostitution have limited access to health care; they are referred to public health authorities where they can be tested for sexually transmitted diseases, and in the case of illness are also cared for without being asked to show their passport. AGISRA argues that such limited protection should be expanded (to include on all illegalized women in their entire health concerns), because the UN Conference on Women has, since 1995, declared the medical care of all women to be a human right – regardless of residency status.

AGISRA's co-operation with city authorities takes place within a regulated framework. The so-called "Working Group on Prostitution," which was created in 1989 and of which AGISRA has been a member for some years, wants to take steps against discrimination in the area of prostitution and has made demands and possibilities for concrete steps in conjunction with independent women's and girls' organizations and Cologne public health authorities. A "Roundtable for the Fight against Slavery" includes the Alien Registration Authority, police, the public prosecutor's office, public health authorities and the Women's Office, as well as independent women's organizations and women's shelters, and considers the different attitudes toward women who become victims of slave trade. In these discussions, AGISRA is pushing for executive power to protect women who become victims of (sexual) violence and forced prostitution or slavery beyond their usefulness as witnesses; AGISRA condemns the fact that these women are deported as quickly as possible after their testimony. AGISRA also refuses to take part in raids against brothels etc.; AGISRA wants to aid women against the institutional encroachments of the authorities (arrest, deportation), which limits their co-operation with these authorities.

Due to its limited financial and personnel support, AGISRA has hardly the ability to organize its own political actions and activities. However, the organization's women provide education and information as advisers and presenters at meetings, seminars and in relation to the media. This informational and educational work turn, however, makes a priority of addressing supporters and experts. Their own aggressive public relations, which are aimed at potential clients and the general public, are only rarely possible under the pressure of everyday problems. As a result, public perception of the organization is dependent on the media's relative attention to the topics of prostitution, forced prostitution and migration; usually the topic "illegalization" is not the focal point of such reporting, but is rather on the margins, e.g. when it concerns the delay or prevention of the deportation of women who wish to be witnesses in the prosecution of such cases.

Nevertheless, AGISRA Cologne (and Frankfurt) have consistently been able to place their lobbying work in the public eye. Particularly with the modification to section 19 of the Law on Foreigners in Germany, which makes the residency of married migrants in the FRG dependent upon the continuation of the marriage, AGISRA was able to be proactive. The new regulation, which grants married migrants a residence status independent of the marriage if the marriage has existed for two years, can be traced to the activities of women's counseling centers, of which AGISRA is one. The current improved protection of wives from the power of their husbands, however, is only relative – the law still requires that, in the worst case, women must endure two years of violence from their husbands before they may leave them. If they do it beforehand, they are "illegalized." Thus, AGISRA demands that from the moment of marriage, migrant spouses achieve an independent right to residency. Additionally AGISRA demands a right to residency for women who have been victims of the slave trade or forced prostitution.

AGISRA works within regional, national and European-wide networks of women's counseling centers, where the topics of forced prostitution and slavery are discussed again and again. In addition, AGISRA is a member of the national umbrella group "kein mensch ist illegal" (no human is illegal), as well as of the Cologne Network.

5. The Intercultural Women's Center in Berlin

The women's center was developed in 1990 and since then has become a resource for women from all parts of the world. The center's offerings are directed primarily at migrants from Eastern Europe, Latin America as well as from Asia and Africa with and without legal residency. Weekly, an average of 170 women visit the organization; about half of them take advantage of the center's counseling services, and half the cultural and educational programs. Beyond this, there is a project for the care of foreign women in the penal institution Plötzensee in Berlin, which has been in existence since 1995. The main topics of the psychosocial counseling are the questions of accommodation, work, social welfare assistance, family problems, health, domestic violence and dependence of the migrant wives on their husbands due to the residency laws. The center offers the women information and clarifies their rights. The center's goal is to give "help to help themselves." Therefore, migrants also teach courses there (language courses, drawing and painting courses, gymnastics and relaxation courses, etc.), and space is made available for self-help groups. A program, published monthly, contains information about the organization itself as well as all the offered courses, meetings, workshops, recreational travels, a job bulletin board and a trade/exchange board. The center prefers continuous offerings over a variety of changing projects. Altogether, the center employs 36 employees, 28 of them migrants. 2 ½ positions are financed by the Berlin Senate Administration for Women, and some positions are funded through federal back-to-work programs. Beyond that, women work in the center as volunteers and interns.

The organization is financed through the City of Berlin. However, the center is also supported by donations, and applies for foundation grants for individual projects. The budget must be proposed and approved year by year, which means that financing remains a problem and long-term planning is not possible.

The women's center co-operates both with national institutions and authorities and with other NGOs on local and regional levels, as well as with numerous individuals, e.g. doctors and lawyers. In reference to their work with *Sans papiers*, it should be noted that the uncertainty among supporters (which has existed for years) as to whether and how this topic should be made a public issue is decreasing. The women's center supports journalists in their research, refers them to interviewees, and on request reports about their experiences within this issue. Last, but not least, the organization has also engaged itself politically, e.g. in supporting the campaign for the modification of section 19 of the Law on Foreigners in Germany, which made the residency of married migrants in the FRG dependent for four years upon the continuation of the marriage, and thus upon the whims of the spouse. For many migrant women, this dependency was and is torture. The campaign was successful in that the time frame was reduced to two years.

Their lacking papers and the problems that result from this lack present a continuing problem for the women who seek counseling. This becomes an issue, for example, when they try to find a school for their children. Thus, a primary goal of the organization is the legalization of the *Sans Papiers*, at least to the extent that this is the case in other European countries (Spain, France, etc.). This would enable anyone working in the FRG to attain the right to residency and "finally end the criminalization of the illegalized!" In the short term, the center is pushing for the right to anonymous medical care, protection of workers' rights in case of fraud or abuse, as well as the right of children to attend school (as required by the UN Convention on the Rights of the Child) without requiring proof of police registration, as well as the right for migrant children to attend nursery schools. Beyond that, financing and recognition of the counseling and assistance work of NGOs working with migrants would be beneficial.

6. ZAPO – Central Resource Point for Commuter Migrants from Eastern Europe/Employees' Group

In June of 1991, as a product of their 15-year experience counseling and supporting immigrants from Poland in legal and social questions, the non-profit Polish Social Council (Berlin) founded ZAPO. Since 1989 Berlin has experienced an intensified immigration from Eastern European countries. Many of the immigrants do not want or cannot obtain continual legal residency here, while others lose their (precarious) legal residency status, since, for example, their work permit applies only to a particular workplace, but their employer employs them in a different location. ZAPO advises immigrants especially concerning problems connected with their role as employees.

The organization counsels approximately 10 to 20 persons in writing and approximately 10 persons in person per week. Most consultations take place on the telephone. The organization's ten employees (seven Poles and three Germans) do about five to ten telephone consultations per day. Generally, each individual caller speaks for a group of five to ten people. In some cases they represent groups of up to 70. At present, the center is concerned with approximately 20 continuing cases. The most important problem for the callers, who work primarily in construction but also in agriculture and entertainment, is wage fraud, i.e. the withholding of all or parts of the agreed-upon wages by the employer. Other problems, for example accommodation, are subordinated to this. "They won't come just because of the precarious housing conditions. If the money is right, they will accept almost anything. They complain only when their wages are not paid or they get a lower wage than agreed upon." In rare cases, ZAPO's employees follow up on cases of discrimination and attempt to achieve an amelioration, frequently through negotiations with the employer. "One client, for example, was called 'Bimbo' on working premises by his employer, and was referred to as 'Bimbo' in writing, on the time sheet, 'Bimbo has so-and-so many hours.' In that case, we managed to get the worker transferred to another construction site."

Often, the workers' first contact with ZAPO is anonymous, as they fear repercussions from their employer. After it has been clarified whether the worker primarily wants to get his or her wages, or whether, beyond that, the worker wishes that the employer be investigated by public authorities and/or the public be informed, the necessary documents are gathered. The counselors research the union wage rate and then send a written request to the employer to pay outstanding wages. If the employer does not respond to this request, ZAPO recommends taking the case to labor court. In such cases, ZAPO helps to find an attorney to represent the worker, and also provides a means for workers to stay in contact with this lawyer, as they frequently have no permanent place of residence and are thus difficult for the lawyer to reach.

According to German law, employees who lack the necessary work and residence papers still have a right to their wages. It has been the counseling center's experience that in practice, Berlin labor courts were interested primarily in the employer-employee relationship and the performed work, rather than in the residency status of the worker. ZAPO thus considers it possible for illegalized workers to make such a judicial claim. Nevertheless, most illegalized workers do not continue with the judicial process, either because they are afraid to appear in court, because it is too complicated a procedure, or because their life situation is not steady enough for them to continue with a longer procedure.

In each case there is only a very small number of workers who resist the exploitation by their employers. Even workers with legal residency status and work permits have the realistic fear that they will be fired if they resist. "It is frustrating that sometimes the people are being totally exploited but they tell us not to call their employer because they might lose their job. They will bear all kinds of conditions in order to avoid being fired."

Beyond this, the organization offers seminars and lectures for trade unions and attempts to create a public awareness of the issues of illegal workers/wage fraud and for the situation of migrant workers. The advisory board also offers documentation about "claiming wages without a residency or work permit." ZAPO co-operates with trade unions and journalists on this particular topic, as well as with local anti-racist groups and research establishments. The organization only has a few supraregional contacts.

The organization's greatest problem is its precarious financial position. Personnel expenditures are covered by the "second job market," i.e. through short-term governmental financing. Funds must be requested again each year, and workers are only notified whether their contract will be renewed shortly before their yearly contract is up. Thus, long-term work projects cannot be planned, and the motivation of the workers decreases. At present the project has secure financing only to end of 2000.

The organization's principal demand is the abolition of the laws relating to foreigners in Germany and work permit laws. In regard to its own project, ZAPO demands that "it be possible for non-Germans who have no or a precarious residency status to proceed against their employers and that illegalized workers also have access to labor courts without endangering themselves. Although it is possible at the moment, but as rule, few people are aware of this. It must be made more public." In this case it would be necessary to support the migratory workers' legal security and ability to withstand conflict, for example through the financing and development of counseling centers such as ZAPO.

The organization expects that politicians finally recognize the fact that Germany is an immigration country, "that it is accepted that the people are here and is accepted that they have reasons why they are here, [...] that they are also here due to a policy of colonization and exploitation carried from Europe into the Third World countries. That we finally find a more humane way of handling this situation, and that they not always be seen as criminals who should be deported. That they get the same rights as Germans." Beyond that, ZAPO employees challenge the NGOs "to include the problem of illegalization in their daily work. For it is partly the case that consultations are offered only for those with legal residence status, and those without residence status are not considered, although they have the same or worse problems. That there be an awareness of the life situation of the illegalized."

7. ZAPO – Working Group on Women (ZAPOLA)

ZAPOLA, ZAPO's Working Group on Women, counsels women from Eastern Europe with and without valid residency status. They work primarily with women from Poland and the former Soviet Union. The group does not accept the term "illegal." It has "negative connotations and is often brought into the context of criminality." "That is not appropriate, because although these people lack residency permits, they are not criminals." The group also emphasizes the problems which result from women's marriage- and work-related migration. The slave trade is considered part of the latter issue, since it can be assumed that the reason for the migration was the intention to work in Germany.

ZAPOLA counsels its clients by telephone or in person for many different problems and also provides them with offerings of information and discussion for longer periods of time. Some of the consultation's focal areas are questions regarding residency, family reunification, marriage and divorce, violence in marriages and relationships, health and financial problems. Many of these

problems overlap. Thus, the unlimited right to residency depends in the first three years of marriage on the condition of the marriage. After a separation, for example due to domestic violence, the woman usually loses her right to residency. Another problems of illegalized migrant women is the exclusion of their children from the educational system. Although there is a right to education here, these "illegalized" children do not have the possibility of attending school. Illegals are de facto excluded from all social and educational facilities. "Thus, the slogan that the illegals cost too much for the welfare state is nonsensical. These people do not cost the state anything, because they no rights to anything." People without legal residence status "have practically no rights at all here."

Beyond their counseling activities, ZAPOLA also gives media interviews, participates in meetings and publishes articles in which they refer to the situation of migrants and demands the achievement of workers' rights and human rights for all.

ZAPOLA participates in regional ("Working Group against Female Slavery"), nationwide ("Group for the Coordination against Female Slavery and Violence against Women in the Migration Process") and Europe-wide networks ("Respect" - European network for the rights of domestic workers). Beyond that they co-operate with many projects and organizations, which work on similar topics, such as for example women's centers, the prostitute project "Hydra," the Commissioner for Foreigners, and church organizations.

Due to the limited legal situation of the women and the pervasive racism, work is often frustrating and depressing for the ZAPOLA employees. "We would need a much stronger, broader movement for the rights of migrants and a clear argument against racism on all levels. We would also wish for better abilities to influence legislation and to discuss the topic of migration beyond simply criminalizing it."

Beyond this, they demand "that politicians see and recognize the reality that Germany is an immigration country, and modify the laws accordingly. Fundamental rights, such as that to education, in particularly attendance in school, health, life without violence, payment for work performed and treatment worthy of human beings must be secured for all."

8. Opferperspektive: Nonprofit Organization for the Victim's Perspective

In 1999, the German Constitutional Police (Verfassungsschutz) counted two racist murders, 13 attempted murders and 602 racist and right-wing extremist attacks resulting in injuries. The number of unreported cases is high, since many victims do not wish to press charges, or the police simply does not allow the victim to file charges. The attacks focus particularly on people from other countries of origin, but are also directed against handicapped people, homeless people or alternative youths. The perpetrators are usually young men who belong to right-wing extremist cliques; but such attacks only become possible in a social climate that is shaped by racism and racist ("völkisch") nationalism. Racism comes from "the center of the society." According to public opinion polls, over half the population believes in prejudices such as 'foreigners are social parasites and take work away from Germans.' It is no wonder that the right-wing extremists see themselves as simply the executors of the people's will.

In politics, social work and the media, the right-extremist actions are explained by referring to their bad job prospects, lacking youth organizations and lack of parental care; the need for action is thus seen to be in these areas. In contrast to this, the victims of these acts and the extreme changes in their life circumstances all too frequently disappear from the field of vision.

Right-wing extremist or racist attacks do not only affect the individual victim. In an atmosphere of public ignorance, a right-wing extremist attack's effect goes beyond the concrete individual injury to affect the entire social collective. The affected persons understand very clearly that the attack, except in rare cases of acts of revenge, was not against them personally. The sense of threat spreads quickly through the entire community, the refugee residence, etc. Many avoid the places in which they fear being attacked. Such places might be train stations after dark or a location in front of the shopping center. The country becomes full of "no-go areas" for the groups of potential victims. Many can no longer move freely, and some, particularly refugees in group residences, live as if in prison. Furthermore, they have as a rule experienced racist discrimination in everyday life before, and are already intimidated. Structural disadvantages in society, like legal limitations on places of residence and work prohibitions, limit their possibilities for resisting attacks. Communication problems and legal insecurity make representing their own interests even more difficult. As "social welfare cases," dependent on and managed by authorities, they have to endure their situation here. From the view of the perpetrators, they are ideal victims.

Those areas which to victims are "no-go areas" are referred to by the organized right-wing extremists as "national liberated zones." With this name they intend to convey the fact that the social control is theirs, and no longer that of governmental institutions. They have the local hegemony, whether cultural or repressive. Violence plays a central role in achieving and maintaining right-wing hegemony. The threat of force and direct attacks are used to attempt to displace youths who do not adapt to the right-wing discourse or refugees from public spaces. This displacement process takes place essentially in the public eye; however, the public does not recognize it.

If violence is a successful tool, it is also because the intimidation is connected to the looking-away and non-reaction of passers-by, social worker, parents, and fellow citizens. Non-conforming young people, refugees etc are not only attacked, but solidarity actions from "non"participants are often missing. Thus it is made clear that they do not have a chance against the perpetrators, because they are not supported by anyone.

This has also an effect on the perpetrators. It validates their perception of the population's secret agreement to their acts. Beyond that, the indifference and the lack of solidarity with the victims arouse the impression that the society is afraid of the perpetrators. It seems as if nobody wishes to tangle with them, as if they are unassailable. Representatives of the city and the police even seek out dialogue with them. This picture of an unassailable counter-force to governmental institutions not only validates the perpetrators themselves, but also attracts other young men. This is also an effect of the fact that the society does not meet the victims with solidarity and support.

In considering the role of violence, power and fear in achieving and maintaining right-wing hegemony, it becomes clear how important the processes of developing solidarity can be for the victims of right-wing extremists, and that the lack of such a process is not only itself a part of the society's "lurch to the right," but in fact favors its continuation. The exclusion of certain subpopulations -- an element of right-wing extremist ideology -- becomes social reality.

In this atmosphere, Opferperspektive was founded in the spring of 1998. Goal of the organization is solidarity with the victims and the removal of solidarity with the perpetrators. The project encourages the victims of right-wing violence not to create for themselves the role of a passive victim but to develop collective perspectives, and encourages support by the social surroundings. Furthermore, the group works intensively with public relations and the media to end the public understanding of and apologies for the perpetrators and instead focus on the perspective of the victims of right-wing extremist violence.

In dealing with the environment of attacked refugees, workers are confronted again and again with the interaction of everyday racist discrimination, restrictive legislation affecting foreigners, and racist violence. The project reaches its limits here. "The law forces them (the refugees) to lead basically a legalized life. Many experience this repression as still more drastic than right-wing attack. But here we cannot do much. Against the everyday racism, which substantially shapes the social climate in the regions of Brandenburg, we can achieve only very little." In consequence, Opferperspektive demands the abolition of all laws regarding foreigners, laws relating to the care of asylum-seekers, and the re-establishment of the right to asylum. The government should accept "that Germany is an immigration country and that all humans should enjoy the same rights, independent of origin or nationality."

The organization's uncertain financial situation is another large problem. At present the organization is financed by donations and employs five volunteers. Financing which the Brandenburg state government made available for this work in 1998 in the context of "criminal prevention" and a government program against right-wing extremism, were no longer granted in 1999 due to the political criminalization of an Opferperspektive employee. The failure of further negotiations with the state government was connected with the political orientation of the entire organization: "We have the impression that the project's charitable, social-work elements are welcomed by the state government, its political orientation however, its critical view on the situation of refugees in Brandenburg, which it continued to publicize, was responsible for the project's rejection." The Opferperspektive therefore needs secure long-term financing for the continuation of its work. Beyond this, it also hopes for a stronger content-based lobby which can problematize the "dialectic teeth of restrictive foreigner laws and racist attacks." NGOs, foundations and particularly research on right-wing extremism should in the future "take into account more strongly the perception of social racism and right-wing extremism from the perspective of the victims and not assume perspective of the German perpetrator as a starting point." Additionally, they should recognize and name the "linkage of governmental and social exclusion" more clearly.

9. The Flüchtlingscafé

The Flüchtlingscafé is a meeting place for refugees, regardless of what status they have. It began in the north of Cologne in response to a 1995 fight against the collection camps ("first admission residences"), in which refugees were forcibly accommodated behind barbed wire immediately after their arrival in Germany. Such collection camps are distributed over the whole FRG; asylum-seeking refugees remain there for the first three months of their stay.

In order to give to refugees from the camps the possibility to meet outside the camps and in protected spaces, a group from the anti-racist spectrum in Cologne offered a meeting place in a Protestant community space. It was opened every Sunday from the afternoon to the evening. The meeting place was visited weekly by up to 40 refugees; many of them also took advantage of the legal advice and the German courses that were offered.

The Flüchtlingscafé was also intended as political meeting place; actions, among others against the food package supplies in the camp, were actually discussed and prepared there. The Café was important for the refugees and for their contact with supporters, also because many supporters were not allowed into the collection camps.

The Flüchtlingscafé itself and its offerings were publicized by handbills in different languages and imaginative actions in front of the camps (café under blue sky). When the authorities locked the camps in 1997 (the result of another plan of distribution for North Rhine-Westphalia) the

Flüchtlingscafé was temporarily abandoned. That same year, it was reopened in a center for migrants. Once again, handbills for the Flüchtlingscafé were distributed in the different refugee accommodations in the city; the offerings resembled the original: Meeting place, counseling, German courses. The Café is open once a week after 6 p.m.

With the further restriction of asylum rights and the practice of deportation, the number of illegalized among the visitors rose. The Wanderkirchenasyl (Rotating Church Asylum) encouraged those without legal residence status to describe their situation and inquire about assistance in the Flüchtlingscafé (which was supported by the Wanderkirchenasyl). The Café also obtained attorneys or referred clients to other counseling centers (e.g. for women in domestic violence situations to AGISRA, for pre-hearing asylum-seekers to the appropriate offices, etc.).

The possibilities of legalization (which are few and rarely promising: petitions, grandfather clause legislation, church asylum) or the meaningful escape from it form the center of the discussions in the Café. More rarely, problems with (illegal) work are discussed (wage scale, conditions of work, wage refusal); self-help has priority here, because so far many of the illegalized are afraid that an open argument with the employer will not only cost them their job, but will result in their arrest and deportation.

The core group in the Flüchtlingscafé uses the location as a social meeting space. Particularly refugees who do not want to remain exclusively in their own community and who also want contact to Germans or to "legal ones" make use of this possibility. The core group currently consists of 10 to 15 people, and beyond that about another 10 to 20 people make use of the German courses and the consultation services.

It is important for the Flüchtlingscafé in its role as a social meeting place that it is organized (on a volunteer basis) by migrants; the visitor has no impression of a "foreign" environment. It is "their" atmosphere, "their" questions, "their" self-evident naturalness. The question of residence status is, for example, of interest only when it concerns concrete assistance for the situation of the illegalized. Issues of discussion (also of consultations) are, for example, the chances and problems of marriage (for love or protection), which remains one of the few legalization possibilities for illegalized people. In the past, when refugees from the core group were given legal status, some of them stayed away and developed new social connections. Others remained – because of the "multi-cultural" character of the association and in spite of the fact that the social and cultural status of the refugee is unattractive and does not encourage social ties.

If the migration center which makes the space available had more working space, the Flüchtlingscafé could open more frequently. Deliberations to open similar Cafés in other areas of the city have so far not been actualized. Partly this is because the initiators of the Café are not certain whether an expansion of the Cafés would result in police observation or even criminalization with raids on the Cafés. So far, however, no such intrusions have been made against the organization.

10. Sociocultural Center with Emphasis on International Cooperation and Language Exchange

The association developed at the beginning of the 1980's as a multinational political collective with an internationalist, not intercultural orientation. The association sees itself not as a service institution but as a means for self-organization of migrants. It organizes meetings, international exchange programs and foreign language courses. In this realm, the association cooperates internationally and in Germany with different political groups and organizations from internationalist and anti-racist orientations. Since the middle of the 1980's the association has offered German courses. The language exchange is regarded as bridge across which (internationalist) contacts can be attained.

Language courses, especially German courses, serve not only as a means to establish mastery of an abstract language system, but also as a way of fostering discussion by the migrants about their experiences within German society and for the exchange of information and tips ("informational bulletin board"). Particularly for migrants who have only been in Germany for a short time, the courses form an important starting point for becoming acquainted with other people. The goal is for class participants to help themselves. The association also refers class participants to counseling centers and lawyers, but is concerned not with attaining "the vertical relationship with the counselor, but the horizontal relationship to each other."

At present the association offers four continuous German courses, and beyond that offers summer courses for language tourists and foreign language courses in five languages. In the courses and at least according to the principles of the organization, it makes no difference whether one is a citizen of the European Union, an asylum-seeker or an illegalized person. The collective consists of 13 to 17 persons, half of them German. Workers operate with scarce recompense, since the association is financed through a few project grants, fees, membership dues and donations. For illegalized persons, the courses are, if necessary, offered free of charge. The difficult financial position is one of the key frustrations. Equally frustrating is the "absurd treatment of migrants," which has already been normalized in society. "That includes having to constantly come up with new ways to include people who have neither money nor papers."

Even though the collective sometimes appears to weaken in the face of the "apparently uncontrollable dominance of the same criminal groups in positions of power," it nevertheless also sees enough potentials and ideas to resume its work and give themselves new inspiration.

Based on its daily reality, the association demands official and legal courses for Sans papiers, "so that this game of hide-and-seek ends." Since this would, however, mean "squaring the circle," they demand above all the abolition of the Law on Foreigners in Germany.

11. Rom e.V.: Association of Rom, Cologne

The Association of Rom is a resource for Roma in all of North Rhine-Westphalia. Few of the Roma who make use of the daily social and legal advice, which is offered by three full-time workers, are without legal residence status. It is not uncommon for Roma, who still frequently travel between European countries, to be "illegal" in a certain country. But these Roma come to the Association only if, for example, welfare payments are refused them. If the authorities find fault with the residency status of the Roma, there is – at least at present – still the prospect of a hassle-free legalization, at least if they are from the states of former Yugoslavia. That region is still considered to be a war or civil war area in Germany. Refugees from the region may therefore not be sent back, but instead receive "tolerances," short-term valid residence papers (from few days to some months in duration), which, however, can be revoked at any time.

It is this danger that exists at present for Roma refugees from Kosovo. Some of them came from there many years ago with their official passport listing them as Kosovo Albanians. Kosovo Albanians will soon be deported from Germany, with one exception: the Roma. Now those Roma who fled to Germany as Kosovo Albanians must prove that they are Roma. This is an extraordinarily difficult venture because there were and are no documents of identification as to group affiliation. The Association of Rom therefore issues certificates in which two witnesses (Roma) certify, after discussions with the person in question, certify that the person is Roma. The certificates are accepted by some Alien Registration Authorities in NRW, and not by others. It is the assumption of the association that those Roma who are to be deported despite their group affiliation will remove themselves from deportation and go underground into illegality (or flee into another

country). The association is not yet prepared to deal with the problems which then face the illegalized Roma who come to the association for assistance. It is also as yet unclear whether it is possible to accommodate and feed a substantial number of families privately.

The association is supported by the city of Cologne, and its positions are financed through back-to-work programs of the Labor and Social Services authorities. There are no self-financed, permanent positions. Each year, the city reduces its subsidies, so that the proportion of the private donations must increase, even though it has thus far not been possible to establish a systematic donation campaign.

Due to its lengthy work experience, the Association of Rom has a relatively strong network of journalists, lawyers and doctors, among others, on whom it can rely for support. Public relations work, which played a major role in the phase of the furious political arguments around residency law (until about 1995) has lost meaning; the position of "illegalized" Roma is hardly brought up for public discussion because there does not seem to be a chance to help them achieve legalization through public pressure. The Association concentrates its work on social, cultural and economic acknowledgment or improvement of the position of the Roma, and on measures for improved communication between Roma and non-Roma. Only in relation to the discussions about a grandfather clause of the Socialist-Green federal government did the organization engage in public action to support the demand to provide legalization for all Roma in need of protection (that is, generally, the "illegalized" ones).

In the crisis phase of the political arguments around the legalization of the Roma (particularly in the first half of the 90's), the association and certain of its members were subject to racist threats and attacks. However, no people were harmed. Since in the middle of the 90's, the Association's work has been recognized to a large extent in the city and has been supported by the local media – which may have contributed to the fact that racist attacks have not occurred for some years.

The Association of Rom works in the Cologne networks "kein mensch ist illegal" (no human is illegal) and has supported actions and events of the network concerning "illegality." In particular, it was successful, through public meetings with the education officials of the city of Cologne in the summer/autumn of 1998, in enabling illegalized children to attend school. The Office of Education was forced to retract a resolution opposing this, and had to publicly explain that it adhered to the UN Convention on the Rights of Children and would allow all children, regardless of their residence status, to attend school.

The Association of Rom is in a country-wide network of Roma organizations and groups of their supporters; however, the network is not really stable, both due to internal disputes and to legal measures taken against individual Roma (removal, deportation). It has contacts with to the European Roma agencies and federations, which try to strengthen their case in relation to the European parliament through congresses and/or internal meetings. The work of these networks and Europe-wide contacts also raises the issue of the de facto stateless Roma, but in this context limits itself to the special situation of the Roma as an ethnic minority in Europe – including the illegalized ones. Thus, the problem of "illegals" is not discussed independently of the ethnic group; rather, the goal is to set cultural, social and legal standards for the group of the Roma – taking into consideration the fact that many of them do not possess legal residence status in many countries.

Therefore, the Association of Roma has not made any particular demands to facilitate the life situation of illegalized Roma or contribute to their legalization. Illegalized Roma are not treated as a special group, but instead are viewed primarily as Roma and are as such the subjects or clients of the Association.

12. Wanderkirchenasyl (Rotating Church Asylum) North Rhine - Westphalia and the Protection of Illegal Refugees

Since January 21st, 1998, the Wanderkirchenasyl (rotating church asylum - WKA) has protected about 450 illegalized Kurdish refugees from deportation. Within a few weeks of its inception, the number of refugees encompassed by the action grew from 21 to over 100. The number of church communities participating in the action as a protest against the illegalization of refugees and the situation in Turkey, and who provided shelter for the refugees, grew from one to over ten.

According to the guiding principle of WKA during this phase, all church communities should only provide their space for about four weeks; after this time, the Kurdish refugees would be rotated into a different church, possibly in a different city. The refugees also no longer moved as a closed group - as no community was able to accommodate more than 20 or 30 persons - but were divided into several groups. The refugees had decided on this strategy for action - "rotating" - in order to carry their demand to ever new cities and communities: the stop of deportations into the state of Turkey, which practiced torture.

Until the summer of 1998 the WKA had expanded to include over 200 illegalized Kurdish refugees. More than 50 municipalities (partly united in the network "Asylum in the Church" NRW) supported the refugees, and local networks of "kein mensch ist illegal" and other groups of supporters helped to organize the struggle.

A first round of negotiations in the early summer 1998 ended with the definitive refusal of the state government of North Rhine-Westphalia to consider a statewide stop to deportations to Turkey. The WKA therefore hoped to apply appropriate political pressure in order to achieve a solution for Kurdish refugees on the federal level. Contrary to what some had hoped, the new SPD-Greens federal government did not send any positive signals about protecting the refugees by stopping deportations. Vague promises by coalition politicians to the WKA negotiation delegation to at least protect the WKA participants for humanitarian reasons came to naught.

In view of these power relations, the WKA expanded its demand to stop deportation of (illegalized) Kurdish refugees to include at least the specific protection of the WKA participants, because due to coverage in the German and also in the Turkish media they would be in even more danger should they be deported. But even this reduced demand was not granted because of the resistance of the North-Rhine-Westphalian state government and the church leadership, which wanted to terminate the action in deference to the Interior Ministry. Finally, in January 1999, the refugees saw themselves forced to consent to a second individual case review by the Asylum Agency, which would examine the persecution and personal situation of each individual. However, this was only possible for those refugees whose last legal place of residence had been in NRW. After this step, the action did not expand any further than the 450 people it already served.

These case reviews have been running for over one year now, and so far about 80 refugees have received permanent residency status, 150 are still waiting for results and are only "legalized" during the interim. Another 220 refugees have been declared as "illegal" as they were at the beginning of the action.

The WKA succeeded in achieving the school attendance of the participating "illegal" children; health care is to a large extent organized by supporters; the financing of the families is covered exclusively by donations. Paid employment opportunities were not created for the "illegals."

Particularly in the first year of the WKA, a great emphasis was put on public relations; the success of this phase of the WKA (expansion, negotiation, growing awareness of the action) gave many of the participants new self-confidence (see also the more detailed report in the appendix). Since the renewed individual case reviews, however, the "illegals" have once again been driven into separation.

Media reports in numerous publications on the WKA, particularly in the first year, were to a large extent positive.

The WKA - according to the decision of the municipalities involved - will (only) be dissolved when "even the last participant has received permanent protection."

13. The Cologne Network "kein mensch ist illegal" (no human is illegal - KMII) and the Possibilities of Self-Organization of Illegalized Persons

The Cologne network KMII developed as a result of the country-wide call of anti-racist and autonomous groups of refugees to work for the concrete support of illegalized humans and to draw attention to the scandalous political conditions of the illegalized. The call ("no human is illegal") was presented during the documenta X in Kassel in June 1997 and received widespread agreement not only from anti-racist and autonomous groups of refugees and not only in Cologne.

In the late summer of 1997, 20 to 30 people met in Cologne in order to spread the call and its goals in the city. Many of them were already working in anti-racist groups and in groups of refugees; some were working full-time in asylum consultation centers or in welfare or church organizations. Within a few weeks the KMII petition was signed by almost all Cologne groups working with refugees; a few groups who worked with migrants followed, and later church communities as well as pupil and student groups signed.

The Cologne Network KMII was a major supporter of the Wanderkirchenasyl (WKA), and in light of the many functions connected with this work, limited itself largely to this work. Nevertheless, some of the Cologne Network's activities expanded beyond the WKA: a group which organized health care for the Kurdish refugees accommodated in Cologne and which worked to refer refugees to doctors, created, at the end of 1999, its own public office for the illegalized.

The Cologne Network operated in weekly plenum meetings with different working groups; in one, the accommodation of the refugees or the expansion of the action was discussed; a public relations group prepared decision about actions for the plenum (which partly were solidified by ad-hoc groups) and took over the press work; the "legal group" concerned itself with the legal situation of the illegalized and prepared possible legal steps for the protection of individuals (follow-up asylum requests, petitions etc.). One group concerned itself with the administration of finances; frequently, the possibilities of a self-organization of the illegalized refugees was discussed in the plenum or by ad hoc groups (see text on Cologne Network in the appendix for more detail).

During the WKA the number of the active members of the Cologne Network grew to approximately 60. All worked on a volunteer basis, and the entire action was funded exclusively by donations. Currently, the Cologne Network has its own office, also staffed by volunteers; paid positions are not a goal. The Cologne Network also works with the national union of "no humans is illegal" groups. There is also the beginning of a network with other European groups (Sans papiers

in France and Belgium, groups of supporters in the Netherlands etc.). There are no contacts with governmental agencies, with the exception of the negotiations conducted during the WKA with the police (in preparation for demonstrations or at the arrests of illegalized persons), with the Alien Registration Authority or with politicians or the state government of North Rhine-Westphalia in order to place or clarify their demands and to urge their acceptance.

The Cologne Network was classified as a radical left-wing group by the Constitutional Police. Opponents of the WKA (particularly in the church leadership) tried to destroy the alliance between the Cologne Network and church communities. The attempt failed, however. So far, there have been no suits filed against Network members for aiding and abetting illegal residency etc. (though this has certainly been the case against members of church communities, and in other cities also against "no human is illegal" groups which supported the relevant networks of WKA).

With the acceptance of a renewed so-called individual case review in January 1999 by the Kurdish refugees, the WKA had to admit that it had not achieved its political goals, "Moratorium on deportations into Turkey," (later:) "Residency rights for all WKA refugees/legalization of participants of the WKA." The actions in the context of the WKA were therefore reduced. Since then, the Cologne Network has shrunk to approximately 30 to 40 active members. Apart from the continuing support of the refugees in the WKA, since spring of 2000 the Cologne Network has been participating in a campaign to convince Lufthansa to back out of the deportation program of the Federal Republic of Germany. However, in this campaign the direct contact with the illegalized and co-operation with them is not in the foreground. At the moment, the Cologne Network meets for a biweekly plenum and in two working groups with the emphases WKA and Lufthansa-actions.

6 Conclusions: NGOs between submission and resistance

The development of the work of NGOs is dominated by the following tensions:

Repressive measures on the part of the of the federal executive branch against illegalized immigrants not only continue, but are being refined – and are, again and again, being directed against NGOs.

The NGOs – in an apparent contradiction – are also utilized in the rudimentary care of illegalized migrants when governmental agencies deem it appropriate. This is done either by leaving to NGOs a duty which is in theory a public duty, e.g. the health care of illegalized immigrants, or by trying to make the NGOs accomplices in the pursuit and persecution of the illegalized, e.g. by requesting their participation in raids against prostitution, supposedly in order to better protect women who have been forced into prostitution.

Furthermore, the protection of even just one illegalized immigrant requires enormous energy from supporters. Frequently, all resources are devoted to practical assistance – and even then, the energy output often does not even result in a positive change in the situation of the illegalized immigrant. Fundamental discussions, public reactions to executive political actions or decisions are no longer possible, and the work deteriorates to purely charitable assistance, or even just to emergency aid – quite frequently against the intentions of the NGOs themselves.

Beyond this, there is no public resonance for the organization's demands – whether pragmatic and reform-oriented or radical-fundamental – in an atmosphere that is hostile to the illegalized. Thus, the potential for frustration and burnout is enormously high in political work. Only on rare occasions is it possible to break through the silent consensus on the issue of "illegality"; this was the case with

some church asylums, or the campaign against Lufthansa and their deportation business. When “illegality” is made a public issue, the discussion is usually dominated by the public outcry over “slavery,” “organized crime” etc., which is designed to hinder thoughtful reflection on the topic. Even within the nationally organized refugee lobby, in migration organizations, churches and trade unions, the barrier against the topic of “illegality” is just beginning to be broken down.

Due to the minimal public discussion of these issues, the following demands rely heavily on the individual judgments of the authors of this study.

1. On a pragmatic level, the following demands should be discussed:

- Acknowledgement that “illegalized” persons live in Germany and have a right to be treated with human dignity.
- Abolition of the laws which enable the criminalization of NGOs and individuals who work with and for illegalized immigrants; in particular, sections 76 and 92 in the Law on Foreigners in Germany (obligation of public agencies to denounce, aiding and abetting illegal residency).
- Institution of the “right to rights,” i.e. prohibition of the deportation of illegalized immigrants who are plaintiffs or witnesses in court cases or who wish to make a claim to wages or benefits due them by employers or insurance agencies.
- Prohibition of the arrest of a person solely because she is suspected of wanting to avoid deportation.
- Making governmental agencies once again responsible for genuinely public duties – such as health care for the illegalized and school attendance for illegalized children.
- As long as governmental agencies are unwilling to accept these responsibilities: the public financing of NGOs working in these areas.

2. On a fundamental level, the following positions and demands should be discussed:

- It is the European/German concept of the “Fortress Europe,” and its effect on asylum and migration politics, which brings into being the illegalized immigrants and all the consequences of illegality, such as escape assistance/human smugglers. As long as this attitude continues to determine policy, the unification of European policies in regard to the illegalized will not oppose their being treated without dignity and being criminalized, but instead will integrate these policies to a new, universal low point. This “downward” unification should be rejected.
- The illegalization of refugees and migrants is the drawback of permitted migration. By creating a precarious, “illegal” job market, the needs and rights of human beings are subordinated to the need to remain economically viable and competitive.
- The politics of “illegalization” promote governmental, social and individual racism. Taking away the rights and dignity of persons without valid residency papers aims at splitting the society and serves a racially (“völkisch”) oriented policy of hegemony.
- Contemporary migration movements are an expression of the unjust international economic system, and of the refusal of hundreds of thousands of people to accept this any longer. The demand for open borders desires to legalize this “voting with the feet,” while legalization programs always at the same time exclude the next “generation” of migrants and refugees from legality. Therefore, they are at least insufficient, and often enough create a lack of solidarity, and do not challenge the concept of international economic and social exclusion.

**Center for Studies on Ethnicity and Migrations (CEDEM)
University of Liège**



**EASY SCAPEGOATS : UNDOCUMENTED
IMMIGRANTS IN EUROPE**

Belgian Report

By Bonaventure Kagné

Supervised by Marco Martiniello

**European Project under coordination of Freudenberg Stiftung Foundation, in
partnership with the King Baudouin Foundation**

- July 2000 -

European Project

EASY SCAPEGOATS: UNDOCUMENTED IMMIGRANTS IN EUROPE

Belgian Report

By Bonaventure Kagné

Supervised by Marco Martiniello¹

1. Introduction

Since the end of the second half of the nineties the problem of “undocumented immigrants” has been in the headlines of the mass media, in public opinion and on the political platform of many member states of the European Union. In Belgium, in order to size up and understand the actions carried out concerning this phenomenon, it is important to place it in the larger context of the immigration policy² and the right to asylum conducted by the public authorities in recent years.

The petrol crisis in 1973 and its consequences in many domains led the Belgian state, by decision of the Cabinet on August 1, 1974, to put an end to the policy of work immigration with a quota begun after the war. The first wave of massive regularisation of persons without residence permits was carried out at this time.

Since the official end of work immigration, only certain categories of highly qualified workers have been allowed to immigrate of by means of work permits; family reunion which reunites family members of people living in Belgium, admission of foreign students for the length of their studies, free circulation of citizens from other European member states and the right of asylum have continued.

Also since 1974, the selection, admission, entry, visit, and settling of foreigners have been based on more and more restrictive legislative and statutory provisions, provoking the growth of illegal immigration. The December 15, 1980 law concerning territorial access, visit, settling and distancing of foreigners constitutes the basic text on questions of foreigners' administrative status. It has been modified more than twenty times. The main changes took place in 1987, 1991, 1993 and 1996³ in matters which concern refugees⁴. The Belgian nationality code which was

¹Bonaventure Kagné is a researcher at Center for Studies on Ethnicity and Migrations (CEDEM) of the University of Liège; Marco Martiniello is a senior researcher of FNRS and Director of CEDEM.

²See Morelli A. (1992), *Histoire des étrangers et de l'immigration en Belgique, de la préhistoire à nos jours*, Editions Vie ouvrière, Bruxelles.

See also COLLECTIF (1997), *La Belgique et ses immigrés. Les Politiques manquées*, Paris-Bruxelles, De Boeck Université & Larcier ; Stengers J. (1992), *L'immigration de 1830 à 1914 : données chiffrées*, in Morelli A. (sous dir.), *Histoire des étrangers et de l'immigration en Belgique, de la préhistoire à nos jours*, Editions Vie ouvrière, Bruxelles, pp. 91-104.

³The law of 14/7/1987 (came into effect on 1/2/1988), law of 18/7/1991, law of 6/5/1993, law of 10/7/1996, law of 15/7/1996, circular of 15/12/1998 (*Moniteur belge* of 19/12/1998).

adopted in June 1984, has also been modified on several occasions, in 1991, 1995, 1998 and in 2000⁵; moreover, the December 22, 1999 law (which took effect January 10, 2000) concerns the regularisation of residence permits of some categories of foreigners living in the Kingdom. The many modifications have centred on at least four major points all pointing to stronger restrictions and limitations for entry to the territory⁶. It concerns the conditions for entry to the territory (granting visas sparingly), the procedures for recognition of the refugee status (restricted and varying interpretation of international texts according to the interests of the state and the immigration candidates⁷), the conditions for residence⁸, settling, distancing, social protection and foreigners' access to the labour market (hardening of the conditions to be met). Moreover, beginning in the middle of the eighties, the process of making immigration and asylum policies at the European level the same in all countries leans towards limiting as much as possible the arrival of non-European foreigners⁹. However, in recent months in Belgium, noticeable and important progress has been made about the question of foreigners' nationality rights¹⁰.

The variations and hardening of immigration policies and asylum has caused many persons either to lose the benefits of a visa previously granted or to choose other ways to reach the territory, which has been transformed into a fortress, at least in regard to some categories of national populations from countries outside the European Union. These policies are more steeped in

⁴Read Carlier J.-Y and Saroléa S. (1997), *Les Réfugiés*, ADDE, Bruxelles. See also, Carlier J.-Y, Van Heule D., Hullmann K., Pena Galiano C. (1998), *Qu'est-ce qu'un réfugié ? Étude de jurisprudence comparée*, Bruxelles, Bruylant.

⁵Law of 28/6/1984, came into effect on 1st/1/1985 ; law of 13 juin 1991, came into effect on 1st January 1992 ; law of 13 April 1995, came into effect on 31 December 1995, modifies the naturalisation procedures and the Belgian nationality code ; law of 22 décembre 1998, came into effect on 1st September 1999, modifies the Belgian nationality code concerning the naturalisation procedures ; law of 1st March 2000 modifies some arrangements concerning Belgian nationality, came into effect on 1st May 2000. See *Moniteur belge* on 06/04/2000, 2nd édition.

⁶See Nayer A. (1991), *Introduction aux statuts des étrangers*, Story-Scientia.

⁷Kagné B. (1999), Des "centres fermés" pour étrangers illégaux à l'humanisation des politiques de franchissements des frontières en Belgique, in *Aide-mémoire*, Trimestriel, n° 10, July -August-September.

⁸ See in particular the decision of the Council of Ministers on 8 December 1995 concerning the legislative changes on the welcoming of foreigners.

Read Bienfait F. (1996), *Rapport sur le réseau d'information dans le domaine des migrations d'Etats tiers (RIMET)*, Belgium.

⁹ Refer to Conventions of Schengen, of Dublin and more recently the Amsterdam Treaty.

The decisions made at the special summit conference in Tampere, in Finland last winter show the will of the States to continue to harmonise on the European level, policies linked to free circulation of people, visas, asylum and immigration. The fact that these matters come under the field of legal co-operation and the police is also revealing of the security character that are tied to them.

See Van Buuren J. (1999), Quand l'Union européenne s'entoure d'un cordon sanitaire, dans *Le Monde Diplomatique*, January, pp. 6-7; also see *Bulletin de l'Union européenne*, 10. 1999 pp. 7-15; Bienfait F. (1999), Quelques Observations relatives à l'immigration et l'asile sur base des conclusions de la Présidence du Conseil Européen après le sommet de Tampere on 15 and 16 October, 1999, in *Revue du droit des étrangers*, n° 104, pp.487-492.

¹⁰ Since last Spring, one has witnessed the easing of access to the Belgian nationality. This step follows the direction of the governmental agreement of the new government elected on 13 June 1999. In fact, point 4 of this agreement, in the context of an open and tolerant society, the acquisition of the Belgian nationality is seen as an important integrating factor to encourage the integration of foreigners. It is planned to make important changes in the Belgian nationality code. Some see in these new arrangements the result of a political compromise, the easing of access to the nationality in exchange for not granting foreigners of other countries outside the E.U. the right to vote in town elections.

security varnish¹¹ in times of difficult economic circumstances. On the other side, they contradict some international norms, notably, the International Pact of December 19, 1966, concerning civil rights and policies¹², of which article 12 stipulates that: "Anyone legally found in the territory of a country has the right to freely circulate and to freely choose his residence. Every person is free to leave any country including his own"; likewise, article 13 of the Universal Declaration of Human Rights underlines that "Every person has the right to circulate and to choose his residence inside a country; every person has the right to leave any country including his own and to return to his country". We must underline that one of the principal characteristics of the International norms is their non-binding nature.

These different restrictive national mechanisms in matters of crossing borders mentioned above are a part of the essential factors which are at the root of the emergence of persons called "undocumented immigrants". Who are the undocumented immigrants? How does a person become one? What is their profile?

In general, in spite of its frequent use in several professional fields (associative sector, liberal professions, civil servants, political and academic milieus...) the expression "undocumented immigrants" does not have a legal definition¹³. It is a concept which has been borrowed from France since the Saint-Bernard affair in 1996. Even so, as Johanna Simeant emphasises when analysing the situation of undocumented immigrants in France, as it is used more and more, and at least in legal texts, one could give it a legal content¹⁴. But, whether in France or in Belgium, the use of the concept of foreigner is preferred, at least in legislative or legal texts. In France, it is the question of a foreigner in an illegal situation, dismissed asylum seekers making up the greatest number. The expression of "undocumented immigrants" has the advantage of being inclusive and global in defining the administrative situation of a certain number of persons. It has the defect of not explaining the plurality of the individual paths and administrative situations which characterise the concerned persons. In any case, it gives little concrete indication about the nature of their migratory route, the way they came into the territory, etc. The expression "undocumented immigrants" can be extended to any person without any official identity paper, source of rights and duties, allowing its carrier to show, in case of need, not only his national belonging, but also his status in relation to the territory where he is found¹⁵.

Since then, following the ideas of Claudine Dardy, one can distinguish the identity papers which allow one to justify "who I am" in relation to birth certificates which come from the analysis of biographical history and life events¹⁶. Because in order to be identified as a full human being ,

¹¹Vanpaeschen L., (1999), "En Belgique, un arsenal répressif contre les étrangers", *Le Monde Diplomatique*, January, pp.6-7.

¹²Text adopted in New York and approved by the law on May 15, 1981 (*Moniteur belge* on 6/7/1983).

¹³It is not used in legislation or for precedents.

¹⁴Siméant J. (1998), *La cause des Sans-papiers*, Paris, Presses de Science Po.

¹⁵See Kagné B. (1999b), *Sans-papiers en Belgique, figure sociale à géométrie variable*, in *La libre Belgique*, August 1999.

See also Kagné B. (2000), *La question des Sans-papiers à Liège : enjeux et ambiguïtés d'une mobilisation collective*, Communication presented at the April 14 seminar on the theme "Citoyenneté et nouvelles mobilités : le cas des Sans-papiers", organised in Paris by l'Institut Français des Relations Internationales (IFRI).

¹⁶Dardy C.(1998), *Identités de Papiers*, Paris, L'harmattan.

with a name, a face, and to enjoy the rights and duties inherent in any human society, it is necessary to be registered with the administration, an operation which is made real by an "identity" paper delivered by the competent authorities¹⁷. Our social relations are affected every day by having these different documents. The identity card seems to be a cardinal vector of social existence¹⁸. In a foreign country, even if the identity paper from the home country plays the role of the primary document, the residence permit usually plays the role of the most important document to which all the others are linked in a legal manner.

The undocumented immigrants have no legal residence permit delivered by the competent authorities of the country where they live. However, usually, in public opinion and in the mass media as well as in the words of many politicians¹⁹, in Belgium the idea of undocumented immigrants is connected to being a refugee, sometimes an asylum seeker²⁰, etc. Nevertheless, the asylum seeker is theoretically holder of a temporary residence permit until a definite decision has been made about his demand. Consequently, he cannot be considered to be an undocumented immigrant. Even someone who has an extendible order to leave the territory cannot be considered to be an undocumented immigrant, since he has an official document, although certainly precarious, delivered by the authorities. On the contrary, a person seeking recognition as a refugee who has used up not only all of the means of administrative and legal appeal, but also the benefits of possible extensions for the order to leave the territory, becomes a undocumented immigrant.

Linked to this, several categories of 'without papers' or undocumented immigrants can be distinguished²¹:

- A Belgian without his identity card for different reasons and who has problems to obtain a temporary substitution document;
- A foreigner²² who has lost the benefit of his residence permit;
- A former student whose student residence permit is out of date and who has received an order to leave the territory;
- A student without documents because of his parents' status;
- A student with no status;
- Persons waiting for a decision from the Office of Foreigners²³; whose papers are out of date;

¹⁷ In some countries as the USA and United Kingdom where Identity cards are not used, the individuals are identified by the other official types of document filling a similar role : for example, passport and driving licence.

¹⁸Kagné B. (1999b), op.cit.

¹⁹See *La Dernière Heure*, Delivered on 10/1/2000.

²⁰This semantic confusion can be the result of several cases in practice. In general refugee seekers are confused with recognised refugees, the latter having a legal status. The political refugee candidate is also confused with a refugee candidate, which is a legal term established in article 1 of the Convention concerning the refugee status signed in Geneva on July 28, 1951 (came into effect on April 22, 1954). Remember however that only one of the five criteria mentioned by this convention refers to political opinions.

See Cabet E. (1998), Immigration et asile politique : la confusion du mélange des genres, dans *Le Ligueur*, issue of 14 October, p 6.

²¹Typology extracted from Kagné B. (1999b), op. cit.

²²Legally, a foreigner is defined as anyone who cannot prove that he has Belgian nationality. Refer to the laws of December 15, 1980 and July 15, 1996.

- Persons waiting for re-inscription after been stricken from the population registers (this can be the case of some nationals of the European Union);
- Persons involved in procedures to request an extension of their residence permit or visa (these persons have no official document because of delays due to the Foreigners' Office, or to their own negligence);
- Former personnel of embassies or international organisations who did not want to return at the end of their mandate or who have problems with their governments;
- Former athletes (football players for example);
- Persons who had in the past obtained a residence permit and who, for many reasons, no longer have it (not being able to return to the starting point, these persons fall into the grip of becoming clandestine);
- Unaccompanied minors without a status;
- Persons dismissed in the context of family reunification procedures which were unfounded;
- Former tourists, that is persons who have obtained a temporary territorial entry visa and who haven't left at the end of the granted visa (these persons' presence is known to the administrative authorities, some of them have children who attend public or private schools.
- Former spouses of Belgians deprived of their residence permit for different reasons (fraudulent marriage and loss of Belgian nationality for example);
- Victims of human (slave) traders;
- Refused asylum seekers who are still in the national territory for different reasons; either wilfully, or who are unable to leave the territory or to follow up on the decision to leave (seriously ill persons or persons declared unable to be distanced);
- Illegals, that is persons who entered the territory fraudulently and whose existence is unknown to the public authorities (they are usually people who came alone or by a clandestine network for work. They are often exploited in many ways);
- Refugees who have lost their status for different reasons.

This diversity of undocumented immigrants, or susceptible of being, is added to an approximate estimation of their numbers. If one refers to case-files entered in the context of the regularisation campaign, they number 32,662 and concern more than 50,000 people. At present, most of the candidates for regularisation come from the former Belgium colony (the Democratic Republic of Congo) and former protectorates (Rwanda, Burundi), and other countries from Africa such as Ghana, Sierra Leone, Nigeria, Togo, the Ivory Coast, and Angola. One also finds persons from countries belonging to former immigrant installation with whom Belgium had made bilateral agreements in the past for importing labour: among these, Morocco, Algeria, Tunisia, Turkey²⁴.

²³ Making up one of the departments of the Interior Ministry, the Office of Foreigners (formerly the Police of Foreigners) is the main federal administration competent to decide about territorial access, stays, distancing, and settling of foreigners in Belgium. It is foreseen in the next months to carry out a general reshaping of this administration, including other organisations such as the General Commissariat of refugees and stateless persons and the Permanent Commission of appeal for refugees. Refer to the governmental declaration of the council of ministers on September 24, 1999 concerning immigration and asylum policies.

²⁴ In fact, after the world war, the demands of enterprises and economic imperatives led the Belgian authorities to establish agreements with some countries who exported workers. This was the case with Italy (1946-60), Spain (1956) and Greece (1957), and Morocco and Turkey (1964), Algeria (1969) and Tunisia (1970). In the beginning, the workers were mainly in the coal mines. Because of the diversification of the countries that the workers came from, they were later employed in heavy industry and construction, then manufacturing and services.

The nationals of regions of the Near East (Irakiens, Kurds), South America (Chile) Oriental Europe and the Balkans (ex-Yugoslavians, Yugoslavians, Kosovars, Macedonians, Bosnians, Albanians), Central and Eastern Europe (Poles, Romanians, Gypsies ...) and South and South-eastern Asia (Pakistani, Bangladeshi, Chinese, ...) must be added to this. Qualitatively, the majority of the candidates seem to be former seekers of refugee status, followed by people refused for family reunification, clandestine workers and human trade victims.

2. Legal and Socio-economic exclusion of 'undocumented immigrants'

The exclusion of undocumented immigrants is very strong in Belgium in every domain of life in the society. This being put in the background is especially noticeable in the domain of access to the labour market, medical care, housing or in benefiting from some rights due to any individual in a society, notably education (except for children subjected to mandatory schooling, at least in the majority of cases) and to a dignified human existence.

2.1 Treatment of undocumented immigrants by the political system and Belgian public authorities

Two important moments concern the actions of both and deserve to be underlined:

- Before the death of Semira Adamu, a demander of the refugee status from Nigeria, there was a certain indifference about undocumented immigrants except for the support from some associative organisations and some people from political circles and/or civilians acting on their own. Either they were uninterested or ignorant of what was happening, or there was even hostility on the part of the political authorities as well as that of the population on the whole.
- The death of Ms. Semira Adamu, on September 28, 1998, during the state police's sixth attempt to forcibly expel her, was a turning point. This caused a shock in the Belgian population, and even in the opinion of certain foreign countries. From this time on, there has been more and more interest shown for the cause of the undocumented immigrants, by certain politicians²⁵ as well as people from the civilian society. The solidarity movements created around church and public building sit-ins in the winter of 1998 come in the scope of the desire of the people to know about the conditions which pushed the undocumented immigrants to come to Belgium, and about their precarious situation. It is with these intentions that acts of support from different circles have multiplied.

In fact, concerning the treatment of people without documents by the political system, the action of the public authorities towards the undocumented immigrants mainly consists in managing some accommodation centres (either directly themselves, or indirectly, especially using the services of some NGO's or associations, that is the case of the Red Cross), open centres and

See, Martens A. (1976), *Les immigrés. Flux et reflux d'une main-d'oeuvre d'appoint*, Editions Vie ouvrière et Presses Universitaires de Louvain.

See also Grimmeau J-P. (1984), *Soixante ans d'immigration étrangère en Belgique*, in *Année sociale*, 1., pp. 214-221.

²⁵Read the federal policy declaration, pronounced by the Prime Minister at the opening of the parliamentary session 1999-2000 on October 12, 1999 in Brussels.

closed retention centres for illegal foreigners, and the administrative and technical organisation for territorial expulsions and recently - as will be seen further on - campaigns for the regularisation of residence permits for some categories of foreigners staying in the Kingdom.

In fact, one cannot help but notice that the intervention of the public authorities is more focused on the legislation linked to the administrative status of foreigners in general. Whether in the field of work, health, housing, or other domains, the actions of the public authorities is concerned with legal and administrative arrangements. At the administrative level, mostly to deliver papers. Whether someone has become a undocumented immigrant after running out of administrative or legal means of appeal in the context of a special procedure or if someone has entered the territory in a fraudulent manner, in both of these cases the State has no special measures in this regard. Its operations are situated at the check points when people cross the borders and, inside the country, at the level of organising welcome centres (for people asking to be recognised as refugees and transferees) and retention centres in order to distance foreigners from the territory.

In 1998, however, in the Flemish part of the country, the Flemish parliament adopted a decree on April 18, 1998 (the Belgian Monitor, which is the official government publication, of June 19, 1998), relative to the Flemish policy concerning ethno-cultural minorities. As Nouria Ouali has shown, the Flemish policy concerning minorities was until then focused on legal immigrants settled in Flemish territory²⁶. Following numerous complaints from the integration sector (such as those by the Steunpunt Mensen Zonder Papier association) over the last ten years in Flanders, the new decree by the Flemish authorities extends the target public. Article 2 lists different categories of people targeted. Other than persons who reside legally in Belgium, who from this time on are listed as recognised refugees, it includes asylum seekers who are still involved in the procedures, nomads (especially Gypsies) and the groups of people who live illegally in Belgium and who ask for aid or accommodation because of their precarious situation. In reality, the last category concerns the undocumented immigrants. The Flemish policy concerning the minorities as defined in the decree is developed around three axes. First of all, an emancipation policy destined to encourage the integration of the targeted groups. Secondly, a policy of accommodation for those who come to settle in Flanders in the case of family reunification, the objective being to direct and stimulate the new arrivals to participate in the social life. Finally, a policy of aid or accompaniment of persons with no visiting permits who are in the Flemish linguistic region or in the bilingual Brussels-capital region; it is conducted mainly in the domains of social services, health services and education policy. One of the new points of the decree is the taking into account and financing by the Flemish authorities of the associations and organisations whose activities concern the defence of cultural minorities' rights, and the welcome and help for refugees and nomads. In the same way, minority representation is foreseen in all the newly created organs and authorities by the decree. In particular, the Flemish centre for ethno-cultural minority consultation (article 10) and the Support Centres at the regional level, the Integration Services at the provincial level (one for each target group), Help Cells for refugees and nomads, local Integration Centres, and integration service and local antennas. Article 8 establishes the necessity of taking concrete action to associate target groups in the decision making process for

²⁶Read Ouali N. (1997), Bilan de la politique d'intégration de la Flandre : des immigrés aux minorités ethnoculturelles, in *Année sociale*, pp. 379-389.

questions of minority policies at the corresponding level, the objective is to be more efficient. At this time, for that which concerns undocumented immigrants, this voluntarist attitude still remains to really be put into practice. However, the financing of organisations like Steunpunt - as will be seen farther on - indirectly permits the authorities to come to the help of this group of persons.

2.2 Social Help and access to health care

As previously emphasised, undocumented immigrants are part of a larger population category, the foreign population. In fact, as well as by law, as in most countries, all foreigners are not subject to the same rights and duties in Belgium. Article 12, paragraph 1 of the Belgian Civil Code stipulates that “in Belgium, a foreigner has the advantage of all the same recognised civil rights as Belgians, except those established by the law”. Clause 2 makes an immediate distinction between foreigners by alluding to the foreigner admitted to settle in the Kingdom and inscribed in the population registry who are given the advantage of all the recognised civil rights for Belgians as long as he/she continues to live in Belgium.

Since the coordinated Constitution on February 17, 1994, it has been accepted that “every foreigner who is in Belgian territory has the advantage of protection granted to persons and goods, other than exceptions established by the law (article 191)”. It is important to note that in reality, this assimilation of principles is of an uneasy application, especially for undocumented immigrants. To find oneself in an unlawful situation and claim the benefit, for example, of the right to social, medical, and legal aid, such as the right to health protection and social security as established by article 23 of the Belgian constitution is not easy. Also, should one moderate these dispositions when they concern people with no legal status.

All foreigners do not have the right to social assistance²⁷. However, asylum seekers whose demand is still being considered by a jurisdiction have the right to social assistance. On the contrary, article 57, paragraph 2 of the August 7, 1976 law, concerning Public Centres of Social Assistance, article 1, 57 and 60 paragraph 1 (*Belgian Monitor*, August 5, 1976) arranges that “by dispensation to other arrangements of the present law, the mission of the Public Centre for Social Assistance is limited to granting medical social assistance, concerning a foreigner who is illegally in the Kingdom”.

Thus, a person to whom social assistance had been granted and who has used up all the means of appeal and has been notified a definite order to leave the territory, loses the benefit of social assistance, with the exception of urgent medical aid. A dispensation to this arrangement remains possible during the length of time strictly necessary to permit the foreigner to leave the territory, not to exceed one month under any circumstances.

²⁷See the Royal Decree of 12 December 1996 concerning emergency medical care granted by the Public Centres of Social Assistance to foreigners who are illegally in the Kingdom. (*Moniteur belge* du 31/12/1996, 3^{ème} édition).

By decision number 43/98 on April 22, 1998, the arbitration court set a precedent by limiting the constitutionality of interpretation of article 57 of the law of July 8, 1976 by arranging that the person who has received a definite order to leave the territory at a determined date will not receive, if he has not obeyed, any more social assistance, with the one exception of urgent medical care. The legislation has used, as the court judged in its decision number 5d1/94 on June 29, 1994, a means whose results permit them to reach the desired objective and to incite the concerned person to obey the order.

The question that can be asked here is to know if the introduction of a demand for regularisation by an illegal foreigner opens the door to social assistance. It is foreseen in article 14 of the December 22, 1999 law that “ other than the distancing measures motivated by order or national security, or unless the demand obviously does not answer to the conditions in article 9, a distancing will not be materially carried out between the introduction of the demand and the day when a negative decision has been made in application of article 12”. In addition, the demander for regularisation must be in Belgian territory at the time of his demand in order to be able to support it. In order to realise this project, he/she must be in condition to lead a life of human dignity.

As pertains to the decision of the Verviers court on March 28, 2000, handed down in a case opposing the Public Centre for Social Assistance and a demander for regularisation in application of the law of December 22, 1999, article 57 paragraph 2 the August 7, 1976 law does not apply to a foreigner who consequently has the right to social assistance, in order to live in dignified human conditions in the Belgian territory during the time necessary to support his demand for the regularisation of his stay. This results from the principle that the demander, who is authorised to stay, must be able to survive and, consequently, to benefit from social assistance²⁸. On the same way, it pertains to the decisions of the Bruxelles labour court on march 3, 2000 and may 18, 2000 (R.G. 15.598/00) that the person having asked the regulation on the basis of the December 22, 1999 law concerning the regularisation of residence permits of some categories of foreigners living in the Kingdom, keeps the right to social assistance as long as an unfavourable decision related to higher demand for regularisation has not taken place.

All things considered, social assistance to persons without visiting documents are often the objects of controversy in political circles. All those who have received this assistance for the moment have gone through the courts. The principle remains that social assistance is only granted to persons whose regularisation demand has resulted in a positive response. Some politicians such as Johan Vande Lanotte, the federal Budget and Social Integration Minister, plead for this assistance to be given only to persons having proved their integration into the labour market. At least this is what is interpreted from his comments during one of his recent declarations about the subject: “I think that the first thing to do is to apply the law for the regularised candidate then one can work and apply the law when there is a demand of social assistance; first check and try to put

²⁸Cf. Cour du Travail de Liège, 22/3/2000 RG.28.392/99 et Tribunal de Travail de Verviers RG 0416/2000.

people to work and only if one has checked that they have done this, decide about social assistance”²⁹

2.3 Housing

Just as in matters of access to work and the right to social and medical assistance, housing constitutes one of the biggest problems to which undocumented immigrants and the organisations that try to help them are regularly confronted.

In this matter, article 23 of the Belgian constitution of February 17, 1994 establishes the principle of recognition of economic, social and cultural rights for everyone. Among these rights is the right to decent accommodation. Beyond the universal character that the legislator thought should be given to this arrangement, its application comes up against numerous difficulties in reality, a condition worsened when it is a question of undocumented immigrants, even if these people are not the only ones with this problem.

In fact, even though the laws do not forbid people illegally in Belgium to sign a lease, one is forced to admit that the problems they must face are multiplied, especially when they have little financial means. The rights and the obligations which govern the relationship between renters and landlords are more often than not, as has been commented on by some workers, if not trampled on, voluntarily unknown to the landlords whose only objective is to bring in money.

Among the problems with which the undocumented immigrants are confronted in matters of accommodation, one can mention the absence of financial resources for rent deposits (in general, one needs three months of rent) and the difficulties in proving a regular income.

The public authorities do not have special policies concerning accommodation for undocumented immigrants. They are excluded from planning in management and allocation of public or semi-private housing. By definition having no status, they are not taken care of by the authorities. The undocumented immigrants can thus only turn to associations who say they have enormous problems trying to satisfy all the demands they receive.³⁰

The associations themselves are faced with financial problems and only have very small means to use in this way. In addition, they do not all want to have the undocumented immigrants as a target public; in so far as they work for the long term. Sometimes they even refuse the asylum seekers because they do not know if they will be taken to the border in a brief or short time.

All things considered, only some associations (Steunpunt Mensen Zonder Papieren, Co-ordination et Initiatives for Refugees and Foreigners, Point d'Appui, Aide aux Personnes Déplacées, ...) fight to try to find housing and accommodation for the undocumented immigrants. Sometimes, they take upon themselves to take the necessary steps themselves.

²⁹Interview with the minister during the newscast (7:30 p.m.) on Belgian Radio and Television of the French Community on Friday July 7, 2000.

³⁰See *Le Journal du Mardi*, n° du 9 au 15 mai 2000, p. 18.

Segregation in certain areas

It is difficult to talk about residential segregation for undocumented immigrants in terms of geographical location. If there is a concentration of foreigners in general in a neighbourhood, this comes about in an implicit manner and through affinity between the communities because the undocumented immigrants go where they will find accommodation. In general they are settled in the big cities where it is relatively easier to find an undeclared job.

2.4 Work

Access to the labour market for the undocumented immigrants is the object of restrictive legal measures in relation to foreigners. In fact, the foreigner who is not allowed or authorised to stay or settle in the Kingdom is excluded. Among the twenty-some³¹ categories of persons exempted from the obligation to obtain a work permit³² which are listed in the Royal Decree of June 9, 1999, the undocumented immigrants are not included. The complexity and contradictions of the legal and governing texts on the question do not make the work easy for the civil servants or the people's life.

In addition, to be able to work, the foreigners must have both the required work permits and residence permits³³. Professional authorisation and work permits depend on the context of the labour market and, in general, this authorisation is only given if it is not possible to find among the workers on the labour market a worker apt to do the job satisfactorily and within a reasonable time period, even if professional training is necessary.

The granting of a work permit comes under the responsibility of regional authorities which act according to the context and the political priorities of the moment.

In addition, all residence permits do not automatically give the right to a work permit. The validity of the latter is always conditioned by the residence permit or authorisation. One could mention the cases of demanders of recognition as refugees who are waiting for a definite decision. On demand, the temporary work permit which is granted to them remains valid as long as their case is pending before an administration or court. A negative decision accompanied by an order to leave the territory invalidates this temporary authorisation to work.

Having said this, the undocumented immigrant does not have (or no longer has) a residence permit. Thus, he cannot easily claim the right of access to the labour market. Working legally becomes impossible for this category of foreigners. However, in reality, these persons are employed informally. Generally, they are used in the construction sector, for seasonal jobs such as picking fruit or vegetables, in restaurants, cafes and hotels, for domestic jobs and as cleaners

³¹There are two distinct categories of work permits in Belgium; for an unlimited length of time, the A work permit gives access to all salaried professions. The B work permit is for a limited time period, maximum 12 months, and is limited to one occupation with one employer.

³²See article 2, Royal Decree of June 9, 1999 about the execution of the April 30, 1999 law concerning the occupation of foreign workers (*Moniteur belge* of 26/6/1999, pp. 24167-24184).

³³Article 5 of the April 30, 1999 law concerning the occupation of foreign workers (*Moniteur belge* of 21/5/1999).

etc. The conditions and places of work are not very safe, the precariousness of their administrative status gives them little possibility to complain without the risk of losing the little income they get³⁴. The most frequent problems noted by the NGOs concern excessive work hours, salaries under the legal minimum, or sometimes not paid at all. Briefly, the rights and duties in matters of work are far from being respected by the employers and are most often unknown by the employees who do not have the required official documents. These people live in an extremely precarious situation.

The right to unemployment benefits in case of job loss is not guaranteed because the work was done illegally and the employer has not paid the employer's contributions to the National Office of Social Security, resulting in the loss of the right to paid vacation, pensions, etc.

One of the most important risks incurred by the undeclared worker is to be arrested and taken to the border for undeclared work and illegal residence.

Moreover, free lance work (for example as a restaurant or grocery store manager) cannot be exercised without authorisation. One must have a professional card, only given to foreigners allowed to settle or visit in the Kingdom. Access to a profession proves to be impossible for any person lacking the official residence document. The law concerning this, foresees obtaining the professional card at the Belgian embassy in the home country or legal residence.

In case of an accident in the workplace, the illegal worker has nevertheless the right to compensation, to be requested from the Work Accidents Fund, as long as certain conditions are met: proof of the place of accident in relation to the place of work, prove that one really works in Belgium for an employer subject to the work legislation, a medical certificate listing the bodily injuries suffered. All this is totally illusory in the case of person without residence document.

However, even if application of the laws runs up against numerous difficulties, the federal Minister of Employment and Work recently made a decision on April 6, 2000, coming into effect on the same day³⁵, concerning temporary work authorisations for foreign citizens having introduced their demand for regularisation of their situation. Thus, article 1 of the text extends the possibility to deliver a temporary work authorisation to certain categories of persons such as:

- Foreign citizens who have introduced a demand for regularisation of their residence based on the December 22, 1999 law concerning the regularisation of residence of certain categories of foreigners living in the territory of the Kingdom.
- Foreign citizens having introduced before January 10, 2000 a demand for regularisation based on article 9, paragraph 3 of the December 15, 1980 law concerning entry to the territory, stay, settling and distancing of foreigners who have not yet been subject to a decision based on the December 15, 1998 relative to the application of article 9, paragraph 3 of the December 15, 1980 law concerning the access to the territory, stay, settling and distancing of foreigners and the regularisation of special situations.

³⁴Read *Le Journal du Mardi*, n. 9 of May 15, 2000, p. 19.

³⁵See *Le Journal du Mardi*, n° du 9 au 15 mai 2000, p. 18.

The text says that even though the delivery of temporary work authorisation does not carry with it the delivery of a work permit for the worker, this authorisation is delivered for a period of maximum one year and can be renewed, it ends as soon as a decision has been handed down about the regularisation. The documents to be supplied are a form demanding the authorisation to work for foreign workers, a copy of the work contract and a copy of the acknowledgement of reception for the introduction of the demand for regularisation of residence or, if this is not possible, a certificate proving that such a demand has been filed. This arrangement is new in that the filing of a demand of regularisation by an undocumented immigrant changes an aspect of the person's situation, in particular, the right to work.

2.5 Other sources of income

In principle, except for resources from undeclared work which some undocumented immigrants do occasionally, they do not have any other source of income.

In Belgium there are Public Centres of Social Assistance which guarantee to all persons on Belgian territory a legal minimum existence. The benefit of this aid is nevertheless subject to a certain number of conditions³⁶, in practice, not everyone has the right (refer to the preceding point concerning access to health care).

2.6 Prostitution

Some undocumented immigrants fall into prostitution either because it is the only means they have to be able to live, or because they came into Belgium with a passer (network of human trade), and consequently, prostitution is one way to be able to reimburse. They are also victims of the human traders³⁷. Pimps go look for girls in their countries (Eastern Europe, Black Africa) and dangle in front of their eyes a better life in the West. According to the January 13, 1997³⁸ Decree the Belgian authorities accredited three specialised accommodation centres - one in each of the three regions of the country - that they subsidise in order to guarantee adequate accommodation and accompaniment for the victims of human traders. These are the "Payote" association in Flanders, the "Pag-asa" in the Brussels capital region, and "Surya" for the Walloon region. The assistance policy for the victims targets help and accompaniment in Belgium as well as accompaniment for return to the native country. In the context of the April 13, 1995 law (published in the *Belgian Monitor* on April 24, 1995) containing the arrangements aiming to repress human trade and child pornography, the July 7, 1994 Circular³⁹ explains the conditions for granting residence permits and work permits for foreigners who are victims of human traders.

³⁶See, in particular, Saroléa S. (2000), *Droit de séjour et aide sociale. Deux ans après l'arrêt de la Cour d'Arbitrage du 22 April 1998*, dans *Revue du droit des étrangers*, n° 107, pp. 19-40.

³⁷Read *Lutte contre la traite des êtres humains. Entre la politique et les moyens, le grand fossé ?*, *Rapport annuel 1999 du CECLR*. See also CGRA (1999), *Onzième rapport du Commissaire général aux réfugiés et apatrides*, année d'activité 1998.

³⁸Directives of January 13, 1997 to the Office of Foreigners, the courts, police services, services of Social Inspection concerning the assistance to victims of the trade of human beings (*Moniteur belge* du 21 février 1997, err. *Moniteur belge* du 25 février 1997).

³⁹See *Moniteur belge* of the July 7, 1994, came into effect on July 17, 1994.

In fact, by collaborating with the police forces and judicial authorities (entering a complaint or witnessing), it is clearly foreseen, in addition to turning to one of the specialised help centres, the possibility of granting residence permits and authorisations in the work market for the victims. The granting of these documents takes place in three phases and follows the development of the judicial procedures begun at this time. At first, the victim who resides illegally in Belgium is offered specialised help in a centre. An order to leave the territory to be executed within forty-five days is notified to the person. If the person shows the desire to stay in Belgium and consequently to make declarations concerning the persons or networks of human traders who exploited her, the help centre contacts the Foreigners' Office to begin the second phase. During this phase, an arrival declaration valid for three months is delivered. From this time, the Royal Decree of May 13, 1994⁴⁰ stipulates that the victim of human trade can receive social assistance from the competent Public Centre of Social Assistance or through the specialised help centre. In the case that one is faced with a case-file concerning human trade following the victim's declarations or complaint, the third phase is begun and consists of delivering a residence permit valid for three months (a certificate of inscription in the foreign population registry), renewable until the end of the judicial procedures.

2.7 Family

If the right to live with one's family is a basic right recognised by international agreements, one is forced to acknowledge that the benefit of this right varies from one country to another and is strongly tied to the legal and administrative context of the person.

In Belgium, only persons having a residence permit in order can have members of the family come to Belgium. In fact, the December 15, 1980 law concerning entry in the territory, stay, settling, and distancing of foreigners establishes this right. For the undocumented immigrants, one cannot speak of family reunification in the meaning of the law, but there may be family reunification in an illegal framework, that is, bringing clandestine parents, children, brothers, etc.

As for the children's situation, those who are of school age may attend schools. However, associations are often forced to lead steps with some school directors in order for them to accept the children. One can remark here that there is a certain consensus among politicians to be less strict concerning the administrative situation of children.

2.8 Distancing of undocumented immigrants

The distancing from the territory is frequently the method used by the authorities. The means of distancing the undocumented immigrants in Belgium hinges on retention centres for foreigners. Organised by the May 4, 1999 law, the retention centres are where persons who are found in the territory without residence permits are kept in order to expel them⁴¹. Those who pass through these centres have different migratory paths. It may concern persons refused in the context of

⁴⁰Royal Decree in execution of article 12 of the April 2, 1965 law concerning the responsibility for rescue granted by the Public Centres for Social Assistance *Moniteur belge* on 12/08/1994.

⁴¹See Kagné B. (1999a), *op. cit.*

their demand to be recognised as a refugee, former students deprived of their residence permit, persons who are a danger for the public order or security, persons refused in the context of family reunification procedures, etc.

These distancings do not always take place in the best of conditions. The death of Semira Adamu, mentioned above, proves this. For several months, many people in the associative circles regularly have organised demonstrations in order to close the retention centres and to attract public attention and that of public authorities to the important role that the respect of human dignity plays in Western democracies. The recent report on immigration and asylum in Belgium by the Senate Interior and Administrative Affairs Commission in March 2000 is entirely of this opinion⁴². In another registry, during the preceding government, a commission responsible for the evaluation of investigations in cases of distancing resulted in the Vermeersch report, and was presented to the Interior Minister on January 21, 1999, in the name of the president of this commission, the Distinguished Professor E. Vermeersch. It is, in fact, from this report that the idea of "distancing" began to be used officially, which some people do not hesitate to qualify as "deportation". The recommendations in this report on the subject of the distancing policy were to "humanise" the distancings and to use escorted private jets. This study was the object of a lot of criticism from different persons in civilian society. In fact, on the initiative of CIRE (Co-ordination and Initiatives for Refugees and Foreigners) a counter-report to the document filed by the Commission on distancing was drawn up. The study tried to bring into focus the cost of escorted expulsions which are around twenty-five thousand Euros for each expelled person (the use of private jets, the police escort...). It seems that the distancing policy as formulated in the conclusions of the Vermeersch commission is financially costlier for low results in terms of effectiveness in relation to a more open policy of immigration and that they are less secure, leaning on an objective analysis of the factors which are at the origin of human migrations⁴³.

2.9 Exclusion of civil and political rights

In general, access to civil and political rights for persons without documents is very limited, because of their particular administrative situation. In fact, in principle they have access to civil rights underlined in article 7 of the civil code which stipulates that the exercise of civil rights is independent of being a citizen, which is acquired and kept only in conformity with constitutional law. On the contrary, the foreigner who is staying illegally in Belgium does not have political rights, these matters being constitutionally reserved to limited and well defined categories (Belgians and to some degree citizens of other countries who are members of the European Union (article 8 of the Belgian Constitution). However, due to demonstrations and movements of all kinds (petitions, building sit-ins), the undocumented immigrants have brought their case to the public scene, certainly thanks to the support of many Belgian associations and organisms⁴⁴. In this way, they question some basic social values such as the respect of human rights, denounce some practises judged non-conform to some international conventions to which

⁴²Belgian Senate, session of 1999-2000, 2-112/1. *La politique gouvernementale à l'égard de l'immigration. Rapport fait au nom de la Commission de l'intérieur et des affaires administratives par M. Wille, Mme Nagy et M. Daif.*

⁴³See the text of the CIRE press conference of 24/02/ 1999, called " Pour une autre politique des migrations ". Read *Le Matin du 25/02/1999.*

⁴⁴See *La Libre Belgique*, n° du 15/10/1998.

Belgium belongs (The European Convention for the Safeguard of Human Rights), revealed to the common public their existence, their underground exploitation by the parallel economic circuits (undeclared work, forced prostitution, ...etc.), the repressive policies of the public authorities in matters of immigration. Even though in an illegal situation, the undocumented immigrants have acted politically and have caused if not radical changes in the direction of political decisions, at least easing of some of the most unrealistic and iniquitous aspects.

2.10 Education, training

The majority of the actions carried out in this domain are the result of associations and NGO's. However, some NGO's which are subsidised by regional or communitary governments can act only thanks to these subsidies, without which training could not take place. There are training programs organised by the FOREM (Walloon Office for Professional Training and Employment)⁴⁵ but the undocumented immigrants are excluded because these programs are reserved for job seekers, that is to say, persons who fill a certain number of conditions and have papers.

2.11 Access to information and the possibility to communicate with other people

The undocumented immigrants are rarely aware of the steps they must take to get the information necessary to regularise their situation. The ignorance of the mechanics of administrative services or of certain institutions that they must address turns out to be an important handicap in the contacts they are called on to make. In addition, these persons live under unending stressful psychological conditions which increase their precarious situation. The circulation of information between the undocumented immigrants varies according to the groups, nationalities, ethnies and communities. In addition, the NGO's and the associations make with difficulty all this different information available to them.

2.12 Harassment, checks, etc.

Other than the undocumented immigrants admitted in the retention centres for foreigners (closed centres), in Belgium there are not any particular problems for free circulation within the national territory for any individual who is there. However, the fact that one is an undocumented immigrant causes restricted mobility, in any case, avoiding places where there are often police checks, or during street demonstrations or gatherings of persons in public places.

⁴⁵Issue of the separation of the National Office of Employment (law of December 16, 1988), the Forem is a public organisation dependent on the Walloon Minister of Economy. It is directed by the Regional Decree of May 6, 1999 (*Moniteur belge* of July 6, 1999). In the lists of its missions as described in article 3 of the decree, are the organisation and promotion of hiring and placing of workers, and professional training directed henceforth by the French Community (see the July 22, 1993 decree).

3. Public policies with regards to undocumented immigrants

The policies that the Belgian authorities intend to carry out with regard to people without residence permits are situated in a more general context, that of the foreigners found in Belgium. They depend on three closely linked pillars⁴⁶:

- 1) A rapid and clear asylum procedure which guarantees the respect of the right to defence;
- 2) Distancing measures for all who, at the end of the procedure, find themselves refused the status of refugee or who are illegally found in The Kingdom's territory;
- 3) A procedure of regularisation of the stay, limited in time and permitting regularisation to be done case by case, according to well-defined criteria, for a great number of people in an irregular situation.

The situation of undocumented immigrants comes more specifically under the third point; the second point should in principal be the strict application in case of refusal of regularisation.

3.1 Regularisation campaigns

The actions of the Belgian authorities are the result of several things. Firstly, the difficulty⁴⁷ to face up to the flood of asylum demands which has increased in the last decades in Belgium as well as in other countries in the Schengen Space. Then, the increase in demands favours the build up of an important backlog of files to be treated by the various competent authorities. One can also mention the massive flood of certain specific population groups pushed by serious wars, poverty, all kinds of persecution and the lack of co-ordination between European policies in matters of immigration and asylum. Thousands of persons have been found illegally in the territory and some of them, for many years.

In addition, a backlog of demands for regularisations based exceptionally on article 9, paragraph 3 of the December 15, 1980 law concerning access to the territory, stay, settling and distancing of foreigners was noticed by the former government (Social-Christians, Socialists). These latter tried to come back on the principle because, in reality, article 9 paragraph 3 simply stipulates that the minister can grant, in exceptional circumstances, a visa allowing a visit for more than three months in Belgium. It did not allude to a particular regularisation, simply the granting of a visa which determines the visit.

In view of the deviation from the legal sense given to this article by the sometimes abusive use of the procedure (for example to avoid the execution of an order to leave the territory), it was judged necessary by the authorities to re-define the limits that one could give to this article. This situation resulted in the circular of December 15, 1998 concerning the application of article 9, paragraph 3 of the December 15, 1980 law on the access to the territory, stay, settling and distancing of foreigners and the regularisation of particular situations⁴⁸ which well explains the

⁴⁶See Exposé des motifs; Doc.50 0234/001, Chambre, 2^{ème} session de la 50^{ème} législature.

⁴⁷See the Governmental Declaration of 12 October 1999, op. cité.

⁴⁸*Moniteur belge* of 19 December, 1998.

procedure to follow as well as the field of application of article 9 paragraph 3 (explanation of the exceptional circumstances which motivate the demand for a visa in Belgium rather than in another country, and circumstances explaining the imperious reasons to obtain the visa very rapidly).

Besides this clarification, the authorities also made explicit the circumstances and conditions in which a demand for regularisation of persons who live in Belgium (to be filed individually) could be made. A certain number of cases were thus enumerated: among them, the asylum seekers who must or who have had to wait for a definite decision over an unreasonable length of time (five years for single persons and four years for families with children going to school); persons who because of reasons outside of and independent of their will, cannot follow an order to leave the territory; seriously ill persons; and persons in anguished humanitarian circumstances. This new procedure, which completed the first, established article 9 paragraph 3 mentioned above, was to be more flexible and able to guarantee a certain objectiveness in decision making⁴⁹.

The use of the circular's technique allows one to avoid going through parliamentary discussions - in principle, open-debate - and control of the legislative section of the State Council on matters judged to be extremely delicate. While its existence is worthwhile, the December 15, 1998 circular did not solve all the problems it was supposed to find solutions for (slowness of procedures, discovery of cases not foreseen in the circular, inadequacies between the procedure set up and the increase of demands)⁵⁰. It was not sufficient to absorb the enormous backlog of current cases (several thousand case-files). Out of the six hundred and fifty demands for regularisation filed in January 1998, very few had obtained results at the end of the parliamentary term, whether they were positive or negative. Barely one hundred.

As a result of the parliamentary election on June 13, 1999, a new governmental coalition was formed. It is made of French and Flemish liberals (PRL, VLD), ecologists (ECOLO, AGALEV) and socialists (PS, SP). This rainbow coalition made the decision to proceed differently, in trying to clarify as much as possible the criteria to be satisfied in order to rapidly regularise a certain number of persons. The new idea was to proceed with mass regularisation but under individualised and precisely defined criteria. Faced with the urgency of the situation, and in the desire to rapidly put into practice its political decision as shown in the framework of the governmental agreement of July 1999 (called "the voice of the XXI century"), the government acted by declaring a Royal Order on October 6, 1999 (Belgian Monitor on October 10, 1999), determining the criteria to justify the introduction of a demand for regularisation without having to give proof of the exceptional circumstances targeted by article 9 paragraph 3 of the December 15, 1980 law on the access to the territory, the visit, settling, and distancing of foreigners⁵¹.

⁴⁹To be complete, for several years, in order to free the competent authorities to be able to examine the many demands, the Belgian state proposed to refugee candidates who were involved in procedures for more than five or six years a regularisation in exchange for their abandoning their demand for refugee status. This procedure was totally individual and the decision was made based on the integration report about the concerned persons in Belgian society. Drawn up by the Office of Foreigners, the checking of the criteria was done by the town police where the candidate resided. The final decision was made by the Interior Minister.

⁵⁰See Beauthier G.-H. and Fermon J. (2000), *Régularisations, Comment, pour qui ?*, Bruxelles, E.P.O.

⁵¹See *Moniteur belge* du 7 October 1999, pp. 37912.

This text was done in a state of emergency, without the advice of the Parliamentary Section of the State Council.

The Royal Order of October 6, 1999 whose objective was to thoroughly reform the system was suspended by the State Council the day after its publication in the Belgian Monitor with the motive that by presuming certain exceptional circumstances in the cases of the demanders which would allow them to ask for regularisation, the government had modified article 9 of the December 15, 1980 law, and in this way went beyond the powers attributed to it in article 108 of the Constitution. The use of the State Council was formulated by deputies belonging to the far right of the Belgian political chessboard, who were opposed to any measure in favour of immigrants in general⁵².

In the mean time, after having taken all the legal precautions, under pressure of the government, the parliament voted for a law, of December 22, 1999, taking effect on January 10, 2000, date of the beginning of the most recent regularisation operation.

It must be noted that the decision of the Belgian authorities to proceed with the regularisation was made under pressure and as a result of demonstrations by people from different circles. The emergence on the political scene of the situation of the non-rights of undocumented immigrants, the visibility of the difficulties which they face was done, to begin with, thanks to themselves. In fact, they grouped together in many committees in different provinces and big Belgian cities. The committees of undocumented immigrants are made up of people from several countries, with a majority of citizens from sub-Saharan Africa such as those from The Democratic Republic of the Congo.

By coming out into the open, the undocumented immigrants first called on the public authorities and then on society as a whole. They were rapidly supported by several associations⁵³. In April 1998, after having joined together for their actions and demands, the main actors involved in the struggle for the Undocumented immigrants set up national scale co-ordination, and baptised it National Movement for the Regularisation of Undocumented immigrants and Refugees (MNRSPR). Other than representatives from different committees of Undocumented immigrants, two principal organisations have played a major role in its creation: the Co-ordination and Initiatives for Refugees and Foreigners Association and the Platform for Vigilance for the Refugees⁵⁴.

⁵²See Kaiser M. (1999), La suspension par le Conseil d'Etat de l'arrêté royal sur les régularisations, note sous Conseil d'Etat n° 82.719, dans *Revue du droit des étrangers*, 1999.

⁵³For example, read *Le Soir* of 03/12/1998 ; *La Lanterne* of 16/11/1998 ; *La Libre Belgique* of 6/11/1998.

⁵⁴The Platform of Vigilance for Refugees is in fact a co-ordination of more than forty associations created in the winter of 1991 by the League of Human Rights. Its social objective hinges on the question of asylum rights and refugees. In 1996, following more and more restrictive legislations and rules by the Belgian authorities in questions of immigration and asylum one noticed an increase in the refusal of asylum rights with an order to leave the territory. Many of them stayed in the territory and consequently became undocumented immigrants. The Platform decided as of 1997 to extend its target public by including the undocumented immigrants, thus its present name, Platform of Vigilance for Refugees and Undocumented immigrants.

Other than the question of the right to urgent medical care and the wording of a rather lukewarm state of affairs of the immigration and asylum policy of the Belgian State, four major demands were put forward by this co-ordination during a joint press conference on July 14, 1998. The four demands were: a specific measure of across-the-board regularisation for foreigners who have been in Belgium for more than five years (ten years for students); the regularisation of foreigners involved in procedures for more than three years (asylum procedures...); a thorough examination by an independent commission of all the other demands for regularisation (in view of the role of judge and party played by the Foreigners' Office, the principal administration in these matters)⁵⁵; the granting of a status of protection complementary to the Geneva Convention for persons fleeing their country out of fear of persecution. In their strategies of bringing their demands on to the public scene, one must add the respect of fundamental rights for man as established in the international conventions (European Convention for the Safeguard of Human Rights, 1950) such as the right to human dignity. Thus, many persons belonging to different groups in society (religious authorities, unions, universities, higher education, schools, artists, politicians, associations) revolted by the situation of the undocumented immigrants, have given their support to actions in favour of their cause, by their presence, their participation in demonstrations, signing petitions and giving speeches. There are as many reasons as there are actors. As far as the political parties are concerned, the French and Flemish ecologists, and some politicians from other parties acting in their own name, have declared themselves in favour of the ideas defended by MNRSPR. Other French-speaking parties such as the Liberals, Socialists and Social-Christians defend the choice of a case by case regularisation. On the Flemish side, Social-Christians and Socialists have declared themselves in favour of examining each individual case as an exception. The Vlaams Blok, the Flemish far right party, will choose to organise actions to protest against the operation. This will be the case after the beginning of the campaign, especially in Antwerp⁵⁶.

3.2 Regularisation Procedures

The first regularisation of foreigners in irregular situations in Belgium dates back to 1974 under the government directed by the Social-Christian Leo Tindemans. A while after the official end of work immigration, hunger strikes carried out by some workers in irregular situations led the authorities to organise this campaign. These demonstrations had the advantage of the active support of the unions. At the time, it concerned a specific regularisation of work. One had to have a job, or at least the promise of one. Out of 8,420 regularisation demands filed between August 1974 and October 1975, 7,448 work permits were granted, or an acceptance rate of 88.4%.

Since this time, the only possibility of regularisation consisted of a foreigner's use of the article 9 paragraph 3 of the December 15, 1980 law which stipulates that a demand to obtain a residence permit when one is in the territory can not be filed, as mentioned above, except in exceptional circumstances (diseases), because the demand must in theory be filed via Belgian consular mail

⁵⁵See *Document parlementaire* Sénat 1-768/1 – Session de 1997-1998, *Evaluation de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers*, pp. 34-94

⁵⁶Read *Le Soir* of Tuesday 11 January 2000 ; *La Dernière Heure* the same day.

from the native country, that is to say, before one comes to Belgium⁵⁷. Moreover, many circulars have been sent (in particular that of 1998⁵⁸ and before that 1997⁵⁹) in order to ease the opacity of the criteria on which the Foreigners' Office makes its decisions⁶⁰. Following this, a report from the Senate⁶¹ assessed the law on foreigners administrative status which put forward a series of recommendations destined to improve the status of foreigners. The Council of Ministers of August 4, 1998, then, took several decisions aimed at improving the regularisation policy. As a consequence was created within the Office of Foreigners a special permanent committee to deal with long time asylum seekers in procedure. A Consultative commission for regularisation was also established. This commission was composed of one representative of the Interior Ministry and one from the CECLR (the Centre for the Equality of Chances and Struggle against Racism) and presided by one magistrate. The regularisations having followed this new procedure have occurred case by case and according to criteria lacking some precision⁶².

It was not until the rainbow government adopted the December 22, 1999⁶³ law that there was a mass operation of regularisation.

The outlines of the new government's actions on the question of regularisation, begun in the month of January 2000, offered better guarantees to foreigners, because they are presented as a permanent regularisation of protection and can be summarised as follows:

To be able to file a demand for regularisation, the persons must meet two conditions:

- 1) Have truly been in Belgium on October 1, 1999;
- 2) Belong at the time of the demand to one of the four categories listed in article 2 of the law. These categories are:

- a) The foreigner who has asked to be recognised as a refugee who at the end of more than four years has not yet received a binding negative decision,
The foreigner who has demanded, more than four years ago, to be recognised as a refugee and who, at the time of his demand for regularisation, does not yet have a binding decision.

⁵⁷Bernard F. (1998), L'article 9, alinéa 3 de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers : d'une règle de procédure à une règle de fond. Commentaire de la circulaire du Ministre de l'Intérieur du 9 octobre 1997, dans *Revue du droit des étrangers*, n° 97.

⁵⁸See *supra*, *Moniteur belge* du 19 décembre 1998.

⁵⁹Circulaire du 9 octobre 1997 relative à l'application de l'article 9, alinéa 3, de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (*Moniteur belge* du 14/11/1997). The aim of the Circular was to give more precisions to the law article. See also, Circulaire du 10 octobre 1997 relative aux étrangers qui, suite à des circonstances extérieures et indépendantes de leur volonté, ne peuvent provisoirement pas donner suite à un ordre de quitter le territoire pris à leur encontre dans le cadre de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (*Moniteur belge* du 14/11/1997).

⁶⁰See *Document Parlementaire Sénat*, 1-768/1- Session de 1997-1998, op. cité, pp. 333 et s.

⁶¹See *Document Parlementaire Sénat*, 1-768/1- Session de 1997-1998, op. cité, pp. 370-384.

⁶²See *Document Parlementaire Sénat*, 1-768/1- Session de 1997-1998, op. cité, p.376.

⁶³*Moniteur belge* on 10 January 2000.

The foreigner being part of a family who have underage children of school age and were living in Belgium on October 1, 1999, who have asked to be recognised as refugees and who have not received at the end of more than three years an binding negative decision, The foreigner being part of a family who have underage children of school age and who were living in Belgium on October 1, 1999, who asked more than three years ago to be recognised as refugees and who at the time of their demand for regularisation do not yet have a binding decision;

- b) The foreigners, who for reasons outside their control cannot return either in their native country, or in the country where they used to live in before their arrival in Belgium, or in the country of their nationality;
- c) The foreigners who are seriously ill;
- d) The foreigners who can show humanitarian circumstances and who have developed lasting social ties in Belgium.

The demands for regularisation must be filed within three weeks from the day the Royal Decree came into force (January 10, 2000) in the town of the demanders' residence. They have another month at their disposal to complete their files. This demand is proved by the delivery of an receipt foreseen in article 7 of the law and delivered by the mayor.

It must be noted that the demand for regularisation does not in itself give the right of residence to the demander. His situation of residence is not at all really changed by filing his demand. However, it is foreseen by the law a moratory on the carrying out of possible distancings from the territory, if this is not motivated by national security or public danger, or unless the demand obviously does not meet the regularisation conditions (such as, for example, not being in Belgium on October 1, 1999). The fact of having asked for the regularisation does not change maybe anything the status of the place of residence of the undocumented immigrants, but, at least, we have to note that whom several owners put in the door of such applicants. Legal situation did not maybe change, personal situation sometimes changed dramatically. Officially, 32,662 cases have been filed, which represents nearly 50,000 persons with about 23,000 children. Nearly all continents seem to be represented (see Point 1 of the Introduction).

The regularisation commission is made up of the chambers and a secretariat. There are eight chambers (five French-speaking and three Flemish). Each chamber is composed of three members (article 3 paragraph 1 of the December 22, 1999 law.) There is a magistrate (or a former magistrate or a member, or a former member, of a administrative jurisdiction) who acts as president of the chamber, a lawyer and a representative of a Non-Governmental Organisation (NGO) recognised in the field of human rights.

The secretariat is made up of two sections: the clerk of the secretariat who is responsible for organising the hearings, and the secretariat of investigation who centralises the demands for regularisation transmitted to the Commission and examines them in accordance with article 12 of the law (where it is foreseen that in case of an incomplete file, it is sent to the minister for his decision, with a negative opinion). The members of the secretariat-clerk do not take part in the chambers' deliberations.

An administrator directs the secretariat, co-ordinates the activities of the clerks of the secretariat and of the secretariat of investigation, and directs and supervises the personnel.

The first President, the Vice-president and the Administrator compose a consulting office on the organisation of the work and the setting up of the files in the context of the application of the law. The office is responsible for establishing a set of rules for the interior order to be submitted for approval to the minister.

The procedure in front of the regularisation commission

The law foresees individual examination of the demands.

In brief, the secretariat is an administration which has the right to investigate the files and to transmit them to the minister for his direct opinion, without necessarily going through the Chambers. Installed only since last May 8, the Chambers will be called upon for the most difficult and problematic cases. The procedure before them is open debate, with all the guarantees to the right for defence. The chambers are independent. They give justified opinions and have the power of interpretation of the law. A specificity of the law is that the chambers must foresee the uniqueness of jurisprudence (Royal Decree January 5, 2000), uniqueness in the treatment of the demand, the necessity to consult the members, and to avoid prior interpretation of the text of the law.

The decision of the minister is sent to the address of the demander by regular mail and by the city police (the decision must be personally notified to the demander).

The chambers of the commission of regularisation are called upon in the following cases:

- When the secretariat notices that the file is incomplete, it transmits the demand to the minister with a negative opinion. This opinion is then notified to the person concerned (by ordinary mail and by the city police) who has three working days from the notification of the police to make his point of view known to the minister (by registered letter). If the minister agrees to dismiss the negative opinion, he calls on the chamber of the commission, who, after a open debate, hands down its new opinion, which will again be transmitted to the minister for his decision.
- When the secretariat notices that the file attached to the demand is complete but that it includes things which could lead to dispute, it calls on the chamber of the commission who, after a procedure with open debate, hands down an opinion which it transmits to the minister for a decision.
- When the secretariat notices that the file is complete but that at first glance it does not seem that this can give rise to a favourable opinion, a chamber is called upon, with an open debate procedure.
- When the secretariat notices that the file is complete and at first glance it seems that the demand could give rise to a favourable opinion, it transmits it to the minister for decision with a favourable opinion.

If the minister wants to dismiss this opinion, he calls on the chamber of the commission who after an open debate hands down a new opinion, to be transmitted to the minister for a new decision.

The demander (who is invited to appear at least ten days before the day of the hearing) can be assisted by a lawyer that he chooses or by a lawyer assigned by the legal aid office, or by another person. The file may be examined by the members of the chamber, the demander and the lawyer as of the eighth working days before the day of the hearing. The non-justifiable absence of the demander to the summons of the commission will automatically lead to a negative decision.

The decision will be sent to the demander by ordinary mail and by the city police.

At this time, there seem to be problems in collaborating between the two sides of this commission (secretariat and chamber).

At present, only the case files of demands for regularisation according to the third category (seriously ill persons) are being dealt with. They have resulted in a few regularisation (twenty-some according to the data made public). In the beginning, the government considered that all the files would be treated in one year but it seems more and more clearly that many of them will not be treated until 2001, at least if factors such as tensions which undermine the good development of the tasks allotted to the commission do not disappear.

3.3 Problems of the regularisation campaign

In order to avoid what some call "*whistling in the wind*" which could be generated by the regularisation campaign, the Belgian government has considerably re-enforced its border checks. Belgium used the Schengen agreements which authorise its members to remove the obligations, by re-imposing the checks at the borders, for short periods if they refer to special circumstances. The decision to re-introduce border checks was to avoid having criminal organisations take advantage of the vast regularisation operation for foreigners in an irregular situation to get clandestine immigrants to enter Belgium by promising them papers in order.

The short period (three weeks) left to regularisation demanders to introduce their case-file caused a flood in the towns and mainly for those who tried to come to their aid, particularly by opening their offices on Saturdays and Sundays. Some demands filed in the towns proved to be incomplete; moreover, the towns did not have time to make recalls, even if the law foresaw that after the expiration date for registration of the files, the demanders had one month to bring complementary information considered useful.

During the regularisation campaign the Interior Minister sent re-enforcement teams to the towns. These proved to be, as observed by some town authorities, inadequate. Questions of ignorance of the matter to be treated were raised.

Some problems faced by the persons making up the commission added to these difficulties. Since the beginning of its activities, the commission has had to reproach the towns for not having checked if the case-files were complete before sending them.

3.4 Conclusion

Following the example of its neighbour countries, the question of the undocumented immigrants was first brought to light on the public scene in Belgium by the undocumented immigrants themselves. Their lot aroused the commitment to different degrees of numerous persons, professional groups from many sides among them the NGO's and associations.

As Marco Martiniello⁶⁴ rightly emphasised, "the question of regularisation was vital, beyond that of case by case regularisations. However, the questions forces one to a reflect deeply on the immigration policy in Europe. As immigration has never stopped and will continue, a proactive policy of immigration is needed". In fact, the immigration and asylum policies carried out in most of the European countries for the last fifteen years have been marked by incoherence and the lack of prospective vision. The national legislation act on the matter according to current political interests and needs.

Moreover, in light of the regularisation operations which have taken place in some countries of the European Union, one wonders if resorting to this formula is related to a new policy of immigration or if it is a policy of *fait accompli* (consisting of transforming the presence of persons without administrative and legal status on the territory into rightful subjects). We lean more towards the second answer, because at the present time, the government does not intend to make this regularisation operation a first step towards structural regularisations.

4. Services provided by NGO's⁶⁵

4.1 The legal and political context

In general, even if each organisation has its own social target and is turned toward specific interests, it is important to note that the NGOs' actions in support of the undocumented immigrants is bigger than the self-organisation of the undocumented immigrants themselves. The Non-Governmental Organisations intervened at a time when evidence of violence come to light during measures of forced distancing from the territory. This situation has existed for several years and has recently been put under the spotlight of the mass media following the death of

⁶⁴Martiniello M. (2000), Pour une politique proactive d'immigration en Europe, in *La Libre Belgique*, 11 January 2000.

⁶⁵We would like to say thank you for their collaboration and availability, the organisation and persons that we interviewed in the context of this report. We are thinking of Mesdames Anne-Francoise Bastin de l'APD, Nicole Mayer du MRAX, Jeannette Bertrand et Sophie Drion de Point d'Appui, Isabelle Doyen de l'ADDE, Véronique Oruba du MOC et Valerie Velghe de la Croix-rouge, Messieurs Jean Cornil du CECLR, Pieter Degryse pour l'OCIV, Mario Gotto du CIRE, Pierre Ryckmans de MSF, de Benoît Van der Meerschen de la LDH, Jozef Cleemput et Danièle Madrid de Caritas Secours International et Didier Vanderslycken de Steunpunt MZP.

Semira⁶⁶. Strong criticism was made such as that of the “Belgian Cockpit Association”. In fact, as of July 12, 1999, it asked its members to systematically refuse all repatriations of escorted “deportees”⁶⁷. This led the authorities to declare a moratorium on forced deportations.

On another side, coming to the assistance of persons without documents or residence is not done without posing problems. Article 77, clause 1 of the December 15, 1980 law on territorial access states that “anyone who knowingly helps or assists a foreigner either in the acts which prepared his illegal entry or his illegal stay in the Kingdom or who eased them, or in the acts in which they consummated, is punished by eight days to three months in prison and a fine of twenty-six to two hundred francs or only one of these penalties”.

However, this legislation was recently modified by the April 29, 1999 law (*The Belgian Monitor* June 16, 1999), modifying article 77, clause 2 of the December 15 Law on territorial access, stays, settling and distancing of foreigners. Article 2, clause 2 says that the preceding clause does not apply if the aid or assistance is offered to the foreigner for principally humanitarian reasons. It remains to be precised what can be considered or not to be humanitarian reasons.

4.2 Principal NGOs for the support of undocumented immigrants

Non Gouvernemental Organisations	Activity Sectors	Targetted Groups
1. APD (Help for Displaced Persons)	Refugee Welcome Scholastic Support	Firstly, the refugees, then immigrants and undocumented immigrants
2. CIRE (Co-ordination and Initiatives for Refugees and Foreigners)	Accommodation Training Pressure Movement	Refugees, asylum seekers, undocumented immigrants, and new arrivals
3. SMZP (Steunpunt Mensen Zonder Papieren)	Accompaniment in all areas	Undocumented immigrants
4. LDH (League of Human Rights)	Political Lobbying	No target group
5. CECLR (Centre for Equal Opportunity and the Struggle against Racism)	Welcome and psychological and/or legal support Making Proposals	Victims of Racial Discrimination
6. MSF (Doctors Without Borders)	Medical Visits Emergency Medical Help	Illegals

⁶⁶Read Ringelheim S. (1999), Qui contrôle les gendarmes de Zaventem ?, in *MRAX-Info*, n° 116, pp. 3-4.

⁶⁷Read Van der Meerschen B. (1999), Les régularisations selon le gouvernement arc-en-ciel, in the *Nouvelle Tribune*, n°22, pp. 7-12.

7. OCIV (Het Overlegcentrum voor Integratie van Vluchtelingen)	Legal Support Accompaniment Training Welcome	First, asylum seekers during procedures and recognised refugees then illegals and undocumented immigrants
8. MRAX (Movement against Racism, Antisemitism and Xenophobia)	Social Services Complaints Office Training Lobbying	Illegals and undocumented immigrants Victims of Discrimination, School classes, groups
9. Caritas International Rescue	Accommodation Aid to persons in distress	Asylum seekers, former asylum seekers who are refused, illegals, undocumented immigrants
10. MOC (Christian Workers Movement)	Pressure Movement	Firstly, the workers
11. Point d'Appui	Accompaniment	Asylum Seekers, foreigners, undocumented immigrants
12. ADDE (Association for Foreigners' Rights)	Legal Consultation Training	Asylum Seekers, Foreigners, undocumented immigrants Field workers (lawyers, etc.)
13. Red Cross	Food help Welcome	Asylum Seekers in procedures

As all of these organisations do not have the same legal status, their status has an influence on the field and extent of their activities, the way they work, the pertinence and results of their operations. In the same way, the size and the make up of these organisations are tied to their legal nature. The majority of these organisations work under the status of non-profit organisations (ASBL)⁶⁸, one being the public institution (CECLR) and the other an association of fact (MOC). The relationships of these organisations with the political environment and the political decision-makers are diversified and vary according to their activities and their status.

Most of the organisations work in networks. These are in the civil sector as well as those of public authorities at different levels. The directors of the organisations are in fact skilled in the principle "the union is the force". In addition, even if the associations act in the same activity sector, they insist that they do not compete with each other. They emphasise that there is enough room for everyone, each being able to act in function of their objectives and their own specificity. However, in practice, this is not always the reality, especially when one knows that, in general, the associations must fight to survive, at least financially.

⁶⁸The associative structures are ruled by the June 27, 1921 law, which accords a civil identity to non-profit organisations. The law defines ASBL in its article 1, as that which does not carry out industrial or commercial operations, or does not try to get profit for its members.

During the period before the setting up of the regularisation campaign, rivalries took place between organisations on one side, and organisations and committees for undocumented immigrants on the other⁶⁹. These rivalries concerned the attitude that the undocumented immigrants should have vis-à-vis the public authorities, the interpretation of conditions to satisfy in the context of the regularisation operation as it was officially formulated⁷⁰, and on the orders and demands to be put forward in the context of national co-ordination and support organisations. This was also the case during the rare meetings between representatives of committees of undocumented immigrants and members of associations on one side and, on the other side, federal civil servants (federal and regional negotiators), collaborators of the Interior Minister and some politicians⁷¹.

It must be noted that even if most of the organisations claim to be apolitical, they are tainted with ideological beliefs which are sometimes at the root of eventual conflicts of interest which come out in their interaction.

It is clear that the financial problems are unfortunately recurrent in the life of the associations, in any case, those which are not public. The majority of them receive subsidies from the French and Flemish communities, the Walloon region, the federal government, different foundations or even -but rarely - the European Union. The problem is that, on one side, the subsidies are never very big, and on the other, the majority of these subsidies are non-recurrent. Thus, the associations are financed through special projects and specific activities and not for the work of the association (infrastructure, material, ...). This means that from one year to another, the associations cannot count on the same sum of money; in fact the funds depend on the projects proposed to the different subsidising organisations and only if the projects are accepted. If the associations could manage to get a few recurrent consequential subsidies, their daily life would be greatly eased.

However, the financing of many of the salaries of permanent workers is charged, at least in part, to public authorities (the Walloon region, ORBEM (Brussels Regional Office of Employment), the French community especially with ACS contracts (Subsidised Contractual Agents⁷²) for example or PRIME contracts (Regional Projects and Insertion into the Work Market⁷³). However, this responsibility implies some inconveniences such as the respect of certain procedures or criteria for hiring personnel; not everyone can be hired (obligation with respect to length of unemployment to be respected, for example).

⁶⁹Note however that the Committees of Undocumented immigrants are made up of undocumented immigrants themselves and are most often dependent on the actions and support of the associations.

⁷⁰See *Le Soir* on 11 January 2000.

⁷¹Refer in particular to preparatory meetings between the representatives of the committees of undocumented immigrants and NGO members or associations in light of their audition in October 1998 by the Interior Commission of the Senate.

⁷²Agents hired thanks to the support of the partial or total salary by public authorities through subsidies.

⁷³This is a program to decrease unemployment which allows the Walloon Region to support the salary costs for personnel hired in the non-commercial sector.

Other than financing through subsidies, it seems clear that the associations must be able to count on other sources of finance. They usually set up specific activities to collect funds throughout the year. Beyond the direct appeals for funds practised by some of them, numerous suppers, evening events, concerts, ... are organised.

Finally, other than their direct activities, some associations have financial income which allows them in part to finance themselves; these activities are, for example, magazine publications, organising training and seminars, dues,...

For these organisations, the fact of having financial room to breathe would allow them to realise many projects concerning the undocumented immigrants, especially for accommodation (which is a crucial problem).

Generally, the associations do not have only the undocumented immigrants as a target group, their primary interest group often being made up of asylum seekers, recognised refugees and other foreigners. It was only with the birth of the National Movement for Regularisation of Undocumented immigrants and Refugees⁷⁴ that the undocumented immigrants have become a real part of the target groups of these associations. In truth, before the regularisation campaign, few associations carried out concrete and privileged actions in favour of the undocumented immigrants, many of them have joined the national movement for the regularisation of undocumented immigrants and refugees after or at this time. Other than sporadic support during the street demonstrations, most of the organisations did not act concretely until the launching of the regularisation campaign.

The most important action carried out by the associations in regard to the undocumented immigrants has been the legal and social offices trying to help people make their regularisation files as complete as possible. Some associations have closely collaborated in the development of the regularisation law, in any case during the prior consultations the Interior Minister held with some well-known NGO's active in the field of human rights or during the hearings in front of the parliament. Among the organisations consulted, one can mention the CIRE, the LDH, the ADDE, the Red Cross, Caritas Secours International, OCIV and Steunpunt. Today, they all claim to be vigilant as to the regularisation procedure taking place, they follow it closely - which is relatively easy given that the majority of them have representatives in the regularisation commission - and are hoping that most of the cases filed will be accepted and regularised.

In addition, they all hope that this first regularisation campaign will not be specific and "just a drop in the ocean". They hope that this first campaign will be the first step towards a structural and permanent regularisation of persons in irregular situations. They also hope that the debate about immigration will be able to continue and that the government will view the policy of immigration in a global and realistic manner.

⁷⁴This structure was inspired by the demonstrations of undocumented immigrants and the regularisation campaign in France under the Jupe and Jospin governments. Some associations decided to constitute a co-ordinating group to be more effective.

At the level of Belgian policies in matters of immigration and asylum a difference of opinion exists between the governmental authorities (represented by the Minister of the Interior or his close collaborators) and some organisations in civilian society. To synthesise to the extreme, the first intend to carry out a deterrent policy with the will to be firm and humanistic⁷⁵. As for the latter, they seem to be in favour of a more open immigration and asylum policy⁷⁶ which takes into account the evolution of migratory flows at the international level, of the socio-political situation of the countries who export migrants as well as the diversity of causes and migratory movements.

4.3 Detailed analysis of the work and experience of the NGO's

4.3.1. Assistance to Displaced Persons (APD)

The APD is an ASBL (non-profit organisation) which was founded in 1949. It has two kinds of activities: welcoming refugees in Belgium for one and scholastic support for children of refugees, displaced persons and political prisoners for another. The people who come to APD are mostly foreigners, the majority being asylum seekers, but the APD also helps immigrants, undocumented immigrants and foreign students when asked. As for welcoming refugees, the APD informs them as much as possible about the procedure to follow for asylum (the different steps to take, the deadlines, the possibilities they may have, etc.), it intervenes in the procedure by helping the persons fill in the questionnaires, write their demands or prepare interviews. It also takes care of all the additional administrative problems such as extending town documents, family allowances, getting social assistance⁷⁷. It also offers psychological support to people by listening to them tell about their situations. Finally, the APD publishes a quarterly "Yesterday's Refugees, Today's Refugees" which informs donators, sympathisers, and volunteers about its activities and points of view.

Concerning the undocumented immigrants in particular, the APD has been associated since the beginning with the MNRSPR (it was a member of the Platform for Vigilance for the Refugees and Undocumented immigrants, which became part of the National Movement) and concretely participated in the regularisation campaign by helping people file their demand. It also plans to accompany some people in the commissions. In addition, one of its members is a part of the regularisation commission. Finally, social assistants of the APD regularly visit the closed centres in order to help the persons who are interned during the different steps of the process but also to observe how the centres work (it thinks that it is dangerous to have a structure so tightly closed where there is little observation from the outside).

The framework of the APD is made up of twenty-some persons of who five are full time social assistants, there are also administrative personnel and people in charge of the organisation's finances. At this time, one of the workers comes from a country outside the European Union.

⁷⁵See the governmental press conference on 24 September 1999, called *Une politique d'immigration et d'asile globale : humanité et fermeté*.

⁷⁶*La Libre Belgique*, n° du 26-27/09/1998.

⁷⁷Read *Aides aux personnes déplacées (1999), Rapport d'activités 1999*, pp. 26-28 et pp. 10-12.

The financial resources of the APD are different. The Walloon Region intervenes partially for the salaries of three full time social assistants (the other two are PRIME contracts). It grants a small recurrent subsidy (between 6,200 and 8,700 Euros for organising French language courses). Sometimes for occasional activities, the APD receives a subsidy. For the rest, the association benefits from gifts from sympathisers and also organises activities such as flea markets and dinners, etc.

The APD is a member of different co-ordinating groups (the Belgian committee of help for refugees (CBAR), CIRE, the platform for foreign refugees, the regional centres for integration of foreign refugees or of foreign origin⁷⁸, etc.). There are also temporary collaborations in function of the need. It also operates networks.

As for the problems which the APD faces, they are mostly of the structural kind for finances and subventions (difficulties in getting donations because the association's target public is not very popular). There is also the fact that as the laws become more and more restrictive toward asylum seekers, the APD comes up against a great number of administrative and legal obstacles. Finally, another problem concerns the integration of people and the population's hostility toward the foreigners, so the APD has many problems to help people find housing for example.

Finally, as for recommendations and demands, the APD would like immigration to be seen differently and that the confusion between asylum and immigration, to the detriment of the refugee status as defined by the Geneva Convention, would no longer be a problem. However, one good thing is that the debate (about immigration) has been imposed on the public opinion because, before, it was very difficult to speak positively about refugees.

4.3.2. CIRE (Co-ordination and Initiatives for Foreign Refugees)

CIRE is a co-ordination of nineteen French-speaking organisations who take care of sensitising the public about the problems of refugees and foreigners either in their welcome or in their rights. CIRE is a non-profit organisation and was created in 1954 to welcome people deported from the camps in Germany after the Second World War. At the beginning, CIRE was called Centre of Initiation for Foreign Refugees and was a school to teach French. It was in the beginning of the nineties that it adopted its present name and became an organisation to lead pressure actions and sensitisation of the public opinion.

Between two thousand and fifteen thousand people call on CIRE's services every year who sometimes re-direct them toward the member organisations. The public is mostly made up of asylum seekers, refugees, undocumented immigrants and first-arrivals. All age categories are represented (from 18 to 65 years old) as well as about seventy nations.

⁷⁸Centres created by the regional decree of the Walloon government on July 4, 1996, in the aim of promoting the integration of foreign persons or persons with foreign roots and this in the social, cultural, and economic domains (socio-professional integration, in particular). Undocumented immigrants are not included.

In addition to its role of co-ordination, it has its own services and activity sectors. It has several fields of intervention. It has a welcome and integration department which takes care of everything that concerns accommodation. It was recognised as an accommodation centre by the State and manages three hundred beds and also has funds to use for rent guarantees. A second important activity sector of CIRE is that of training. It has a training centre in Brussels and gives training in French, computer skills, cultural awareness of Belgium but also manages the assistance programs for job hunting, professional integration programs or even programs about housing management. CIRE also acts in the domain of international intervention with projects to prevent migrations in some countries and with projects for the return of refused asylum seekers in their countries or in other countries. Finally, CIRE is mostly an movement for lobbying and sensitising public opinion.

As far as the undocumented immigrants are directly concerned, CIRE was one of the pioneers in the origin and creation of MNRSPR. It accompanied the church sit-ins, demonstrations and petitions⁷⁹. Because of its experience in the domain of foreigners' rights and others, CIRE participated in the context of the ministerial consultations in the discussions about the criteria for regularisation and currently is keeping an eye on the follow-up of the regularisation campaign. In addition, it the founder of a training program specifically for undocumented immigrants who have requested to be regularised, the start up is foreseen for next September; it is agreed that when they are regularised, these people will be able to work without a work permit. The content of the programs is the same as those mentioned earlier (assistance in job search, professional integration, etc.).

These services are given by forty-four employees of whom there are fifteen interpreters and thirty-some official and administrative staff who work in different sectors; some of them are immigrants but only from Europe. The leaders say that the choice to not hire immigrants from outside of Europe was made because, in the past, this caused the exclusion of nationalities not represented by one of the employees. There are also volunteers in CIRE's personnel.

The greatest part of CIRE's budget (90%) is guaranteed by occasional subsidies from public authorities at all levels (regional, town, European), which is a problem because CIRE has very little structural subsidies - only 5% of the budget. CIRE organises specific collections of funds; a call for donations was launched to support the undocumented immigrants movement. Finally, in 1996, in the context of its sensitisation campaigns, it put on an interactive exhibition in Brussels using role play to illustrate the theme "Without an invitation? A voyage like the others"⁸⁰; the objective being to retrace the route of an exiled person in order to live the person's life, to exchange identities by taking the place of the exiled person, to understand the reasons which pushed him to leave, the problems with which he is faced in the country of so called "welcome" during the administrative steps, etc. After Brussels, this exhibition went on tour to Rome, Paris, Frankfort, Hamburg and Luxembourg where it ended on June 30.

⁷⁹*La Libre Belgique* du 15/10/1998.

⁸⁰See especially "Mettez-vous dans la peau d'un demandeur d'asile", in *La Lanterne* du 26/02/1996; read also *La Libre Belgique* on 05/03/1996; *Avancées* n° 41, March 1996; *Le Vif/L'express* March 1996; *Le Ligueur*, n° du 10/04/1996.

It will be set up again in Rotterdam in 2001 in the context of the Rotterdam Cultural Capital. CIRE has benefited from the effects of this exhibition.

CIRE is in constant contact with journalists specialised in matters of refugees and asylum seekers. It maintains relations with a series of experts and European NGO's. It is considered to be a spokesperson for the program of integration of regularised persons in the Walloon Region.

The biggest problem faced by CIRE is financial because its services are recurrent but its finances are only given for specific programs, but it also needs finances to function on a regular basis. In addition, the rapid growth rate of CIRE poses a problem for its financial viability and treasury.

As for CIRE's demands, one of its requirements in relation to the public authorities is to be able to debate and open new immigration policy (it is worthless to elaborate a reform of the procedure for asylum seekers if it is not in the context of a new immigration policy.⁸¹). As for the other associations, it is to make them understand that social action is not only social assistance but also political and collective action. The undocumented immigrants movement and the regularisation campaign show that a collective movement which goes to the end can solve problems in a structured way.

Finally, one of CIRE's objectives is to structure the groups created by the undocumented immigrants, foreigners themselves and that, in two or three years, the groups could relay with CIRE and have their place inside the co-ordination, which is the whole point of CIRE.

4.3.3. Steunpunt Mensen Zonder Papier (SMZP)

Steunpunt is a non-profit organisation which helps volunteers or professionals who work with undocumented immigrants of all kinds, no matter what their migratory history. The objective of the association is to promote human rights for these groups. It was founded in answer to the question "what is the kind of organisation which can answer to the needs and demands of undocumented immigrants?". It offers to accompany undocumented immigrants who ask for their help in their administrative steps. It does not do the work in their place (the objective being to show that solidarity exists between people without papers and those with papers). For one thing, Steunpunt welcomes undocumented immigrants and tries to answer their different questions (request for accompaniment, legal advice, demands linked to humanitarian questions (housing, health, children's education,...), requests for accompaniment to find work on the informal market, questions about income, etc.) and for another thing, it offers support and strategy for volunteers or professionals in their work of accompaniment. Steunpunt is the Flemish equivalent of Point d'Appui.

Steunpunt has written a guide about the rights of undocumented immigrants with 150 questions (such as, can a undocumented immigrants have a contract,...)⁸² In this way, the association shows that the undocumented immigrants are citizens who have rights and who must be respected.

⁸¹"Pour une autre politique des migrations", CIRE Press conference on 24/02/1999.

⁸²SMZP (1998), *Rechtengids voor mensen zonder wettig verblijf*, Bruxelles.

It has also set up a housing project in order to have a welcome house which is always ready to open its doors to undocumented immigrants. The Federation of Welcome Houses in Flanders has taken over the project, with plans to follow-up the action with Steunpunt so that there may be a change in legal texts and funds to guarantee housing for undocumented immigrants who are in need. Finally, Steunpunt tries to sensitise the medical world in order that it does not hesitate to help the undocumented immigrants. The association thinks that it has directly contributed to changes in the laws, which now guarantee urgent medical care for persons who are without residence permits. In the field of access to medical care, the association's action are mostly concentrated in the Brussels-capital Region⁸³.

As soon as the law was clarified, Steunpunt sent a newsletter with explanations about the regularisation campaign to all the people who had previously called the association. It has also helped people who wanted to constitute a case-file. Currently, it is trying to get people to keep in contact with the commission in order to exchange information.

Eight persons are employed by the association (none are immigrants). Some of them have been taken on by the new Flemish centre for integration of migrants, the Vlaams Centrum voor Integratie van Migranten (VCIM). This situation illustrates the ties that exist between the public authorities and the associative sector. As mentioned above, the associative sector working in the field of migrant integration was consulted in view of adopting the decree of the Flemish community in relation to Flemish policy towards ethno-cultural minorities. This text seems to have taken into account the requests formulated over the last years by the associative milieu, especially the inclusion of persons in illegal situations in the public target as proposed by Steunpunt at the time.

In the beginning, Steunpunt worked by collecting funds but it quickly received subsidies from the Flemish Community, the Dutch-speaking Community Commission of Brussels (VGC), the Eastern Flemish province and the Flemish Community Health Cabinet. Today, 80% of its budget is made up of subsidies and 20% from donations.

The association is faced with problems of subsidisation. In addition, it reproaches the federal authorities with acting badly towards the NGOs often treated with mistrust. There is also a certain feeling of frustration because the persons who ask for assistance are sometimes in hopeless situations. And what lacks, in Steunpunt's opinion, to give them hope are instruments such as the regularisation campaign which is very important in their opinion. This is why, the association militates so that a system of permanent regularisation will be included in the law.

Steunpunt has two representatives in the chambers of the regularisation commission. It works with many partners (other associations, journalists, authorities) in function of its needs and its projects.

⁸³SMZP (1999), *Het Medisch Steunpunt Mensen Zonder Papieren, Jaarverslag 1999*, Bruxelles.

One of the present priorities of Steunpunt is to regulate expulsion policy because the flip side of the coin of the regularisation campaign is distancing from the territory and expulsion. It would also like to get the message across that accessibility to medical care must be assured for minors even if they do not have papers. In the same way, it is important to separate human rights from residence permits (to be able to supply basic rights to persons without the need to show their identity card). Finally, the association intends to carry out sensitisation campaigns to demystify migration as the problem rather than a means of development. To promote the idea of migration - development aid which would show another image of the migrants' presence in Belgium. The direction of its future activities might take another turn, because, in collaboration with other structures, Steunpunt has just created a European Co-ordination of Associations for assistance to Undocumented immigrants, named PICUM (Platform for International Co-operation for Undocumented immigrants)⁸⁴.

4.3.4. The League for Human Rights (LDH)

The League of Human Rights is a non-profit organisation which keeps watch on the respect of fundamental human rights. It intervenes in the most diversified domains, such as the right of foreigners but also in that which concerns all civil and political, economic, social and cultural rights. The League is not a service of direct assistance to persons but rather a vast organisation of political lobbying on various legislative issues and recommendations piled up by different governments. It goes to meet cabinet members, ministers, and parliament members to attract their attention to the compatibility of projects that they want to set up (or which are already done) with instruments which protect fundamental human rights. In parallel to its lobbying activities, the League also tries to promote fundamental human rights through training programs.

It actively participated in many consultations which led to the adoption of the law for regularisation. It refused to participate in the regularisation commission for at least two major reasons: it considers, for one thing, that the criteria of regularisation are not clear enough and for another thing, that the aforementioned commission of regularisation as it has been set up is not, in their opinion, endowed with real guarantees for independence from the organisation point of view, in its future workings as well as from the decisional point of view. Because, in the end, it is the politician (in this case, the competent minister) who decides whether or not to grant the residence permit.

The work team of the League is made up of six permanent employees, some of them immigrants, but they have not been hired as such, as emphasised by one of the association leaders. Other than this framework, the League has many militant members.

The financing of the League is a problem. It does not find structural solutions to its financial problems. It sometimes receives a subsidy for different projects from the authorities. The problem faced by the Leagues is that it has an image which is difficult to define, the daily work done by its members (examining texts, meetings,...) is not "sellable" and thus the problem to gather financial resources.

⁸⁴See, in particular, SMZP (1999), *Jaarverslag 1999*, p. 43.

The League works with many partners. It is a member of many federations, co-ordinations, platforms such as the vigilance for refugees and undocumented immigrants, etc. It maintains privileged contacts with many organisations. The mass media is indispensable in accomplishing its task.

Beyond its enormous financial problems, the League must face a problem to get its message across which is often contrary to public opinion. Also, it often has the impression that things do not move, thus, one must believe in the theory of "one drop in the ocean". It would like to see a real awakening of the population which sometimes seems to be too sleepy, and that there will be a real awareness of the problems of each individual.

In spite of the financial problems that most of the associations have on to solve, the League hopes to continue its actions. In the case that a financial problem threatens its existence, it would choose to become a purely militant associations.

4.3.5. The Centre for the Equality of Chance and the Struggle against Racism (CECLR)

The Centre for the Equality of Chance and the Struggle against Racism is a public institution created in 1993 whose legal mission is to fight all forms of discrimination based on the origins, race, and/or nationality, thus against all kinds of racial discrimination. It is attached to the service of the Prime Minister, in the framework of the Inter-ministerial Conference of Immigrant Policies (CIPI)⁸⁵. The activity field of the CECLR is two-fold. On one side, it welcomes and supports - psychologically but also by actions in justice - the victims of racial discrimination⁸⁶, and, on the other side, to make associations and public authorities appreciate all the recommendations, opinions, suggestions, or proposals in matters of the struggle against racism and for better participation in Belgian society of foreign persons or persons with foreign origins⁸⁷. It is important to notice that the government has decided to extend the competencies of the Centre in a few months⁸⁸. To respond to the first objective, the Centre has legal and social help centres where people can discuss their problems of discrimination, family reunification, naturalisation, or even regularisation. In matters of recommendations, the Centre plays a role of intermediary between the civilian and political society by grouping actors in a specific field around a table. In addition, the Centre manages the secretariat of the Funds for Influencing Immigrant Policies (FIPI)⁸⁹ as well as budgetary follow-up and evaluation of the projects.

⁸⁵This concerns a cross co-ordination which paly the role of inteface at the national scale of public policies in amtters of integration of immigrants or ethnic minorities in Belgium. See Kagné B. et Martiniello M. (1999), *Politiques du multiculturalisme et formes de citoyenneté dans les villes européennes (MPMC) : le cas de la Ville de Liège*. Research report in the context of the Most-Unesco project, pp. 35-36

⁸⁶Read CECLR (1999b), *Citoyens à part entière*, Annual report of the Centre for the Equality of Chance and the Struggle against Racism, pp. 13-35.

⁸⁷Read CECLR (1999c), *Egaux et reconnus. Bilan 1993-1999 et perspectives de la politique des immigrés et de la lutte contre le racisme*, Bruxelles.

⁸⁸See *Actualité en bref*, n° 47, 28 avril 2000, p. 7.

⁸⁹The Impulsion funds was created in 1991. It acts to finance projects in the public sector as well as in the private sector, in the context of the policy of integration of foreign youths or with foreign roots. It is fed by means coming from the net profits of the national lottery.

The question of regularising the undocumented immigrants was already posed by the Centre in 1997, when this was a problem completely ignored in Belgium. During the regularisation campaign for undocumented immigrants, the Centre organised information meetings about the campaign⁹⁰. Seeing that the social services were extremely overloaded in relation to the number of demands, the Centre opened an office where hundreds of persons came. It has also set up a Call Centre that people were able to contact during the entire regularisation campaign in order to get information.

The framework of the Centre is made up of about sixty-five people of whom nearly 30 % to 40 % are of foreign origin or foreigners. The Centre decided to no longer work with volunteers because there was discrimination between the volunteers and the salaried persons.

The financial sources of the Centre are exclusively public. The Centre receives a financial endowment from the Prime Minister which is completed by subsidies for certain specific projects (the subsidies can be paid in kind).

The Centre is an open service for all persons (associations, concerned public authorities, universities, etc.). The role played by mass media is essential. Sensitisation projects with the mass media are set up. In addition, the mass media turn to the Centre for its comments on an event or a political happening.

In relation to the Centre's problems, it is not the financial or technical problems which are the greatest. One of the wishes is to better sensitise and influence people who are the hard core of the racists. It thinks about the best way to reach these people because at the level of public authority, the action led by the centre has born its fruit.

Concerning its recommendations vis-à-vis politics, the Centre would like to make all governments understand that it is necessary to take a long term political view in managing fields such as that of immigration and the right to asylum, by thoroughly analysing the endogenous and exogenous factors which are at the root of the increase in human mobility.

4.3.6. Doctors Without Borders (MSF)

Doctors Without Borders is a non-profit organisation which has many activities. First of all, there is the health aspect which is the consultation programs - access to care. Thus, MSF holds consultations and tries that people have access to care. On another side, MSF defends the rights of people who are involved in asylum procedures and who have the right to health care, as well as the right to emergency medical assistance for illegal immigrants. Another activity sector of MSF is the public opinion aspect: in this context it organises newsworthy actions, by trying to sensitise the public to some problems. They have also called on teams on-site to know what has happened to people who were expelled from Belgium. In the course of its daily work, MSF tries to come up with possible solutions and to send them on to the government, and more official structures. Thus, the objective is not to take the place of the structures but to stimulate them so that they take charge of the actions.

⁹⁰CECLR (1999b), op. cit, p. 53.

In the context of the regularisation procedures, through its Consultation Centre, MSF has sometimes asked its field workers for information about the possibilities of treatment (of disease) in the native country - there were thirty-some demands over a few weeks during the inscription of regularisation case-files in the beginning of the year 2000.

MSF was threatened by the Vlaams Blok when they opened an emergency welcome centre for clandestine immigrants in Ostende.

The target public of MSF is made up of all people who have problems to get care, either persons staying illegally who do not have the right to health care (44 % of its public are illegals who have never asked for asylum, and 15 % are persons refused in asylum procedures). They are mostly young men from Africa (Maghreb and sub-Saharan Africa) and Eastern Europe; a consensus was obtained in the hospitals to treat children without asking too many questions about their situation.

Even if the association often manages to find solutions, people in illegal situations must take many steps to be treated. In view of the slowness of the procedure (the road is long and filled with obstacles), the illegals do not always dare to go to the competent administration for fear of being arrested.

The salaried personnel is made up of about ten people (mission chief, doctors, social assistants, psychologists, etc.) of whom one is not European and there are also many volunteers (receptionists during the consultations, doctors, etc.)

In the financial chapter, the association receives a subsidy from the French Community (12,400 Euros) out of a total budget in the neighbourhood of 496,000 Euros (non specified private funds). The private funds are mostly private donations and some occasional activities (few campaigns are directed toward MSF projects in Belgium, they are mostly directed toward MSF activities in foreign countries or toward the MSF image in general). Thus, MSF depends on MSF International of which it is a mission.

There is a lot of funding work (lobbying toward institutions to obtain better access to care⁹¹,...) which is done without publicity but on the other side, there are lightening actions where publicity is very important.

One of the problems of MSF is that the association deals with a problem (access to health care for the illegals) which is not well-known and is badly perceived by the public. In addition, Belgium is an administrative country where everything is very slow at the administrative level; even when health care is possible, the procedures are often very long and slow. Thus it must be less bureaucratic. Given that the consultation centres depend on MSF Belgium, there are sufficient means. Finally, there is a feeling of frustration to see that problems, which would be basically relatively easy to solve, are made complicated and take a long time.

⁹¹Médecins Sans Frontières (1998), *Accès aux soins. Bilan 1998*, Bruxelles.

MSF would like the public opinion to be more objectively informed about human migrations, the reasons and the risks which go along with them. In order to take the heat out of the debate about immigration, the association invites the public authorities to look at this question from a global point of view. Finally, it is in favour of simplifying all administrative procedures at all levels of power in Belgium.

4.3.7. OCIV (Het Overlegcentrum voor Integratie van Vluchtelingen)

The Centre for Reflection on the Integration of Refugees, abbreviated OCIV, is a non-profit organisation created in 1987 which regroups the traditional NGOs work work for refugees in Flanders. Thus it is a pluralist platform which is active in welcoming asylum seekers and accompanying and integrating the refugees. OCIV is the equivalent of CIRE in the French-speaking part of the country. The public of the association is composed primarily of asylum seekers involved in procedures and recognised refugees but it also takes care of persons who have been refused asylum, thus undocumented immigrants. The Centre does political work linked to the rights of refugees', asylum seekers and refused ex-asylum seekers. Another part of its work is legal support for these groups (legal and administrative problems). Currently, three projects are being carried out and directly concern the situation of asylum seekers. The first project (financed by the Minister of Social Integration) is a project of accommodation and accompaniment of asylum seekers. They are housed (it can accommodate 500 persons) and accompanied in the different steps (drawing up case-files for their demands, research for concrete information concerning the country of origin in the perspective of the request for asylum,...); social and psychological accompaniment is also available. The second project (financed by the Flemish Community and the European Union) concerns recognised refugees and helps them in the context of their socio-professional integration. The last project is for the return and integration of persons who do not have the possibility to remain legally in Belgium and who "have decided" themselves to return to their native country.

The team of this non-profit organisation is made up of fifteen persons (lawyers, social assistants,...) of whom several are immigrants (European or non-European). There are no volunteers.

A large part of the finances of the OCIV comes from subsidies from the federal government, the Flemish government and the European Union.

The OCIV works in a network with a number of NGO's. At the European level, it assumes the secretariat of a network for a integration project ("European Task Force of Integration").

It often calls on the media to divulge its points of view, in most cases through press conferences.

Nevertheless, The Centre is sometimes frustrated, especially in political work where it does not manage to impose its ideas or get them accepted. This could be explained by the fact that the Centre depends financially on different public authorities. On another side, realisation of the projects seems to be influenced by the political direction defined beforehand by the subsidising authorities.

In the Centre's opinion, they would like to solidify many projects but the money is not granted or at least not sufficiently. With greater means, its actions could multiply and the association could attract more competent persons.

In relation to the problem of undocumented immigrants and regularisation, the Centre watches that the measures are really carried out in practice so that the regularised persons get the right to work. It also asks questions about what will happen to the persons who did not enter a case-file for regularisation or who entered the country after October 1, 1999. The other haunting question is to know what will happen to the policies on these themes in the future.

4.3.8. The Movement Against Racism, anti-Semitism and Xenophobia (MRAX)

The MRAX is a non-profit organisation created in 1975 whose actions are mostly concerned with the struggle against racism, anti-Semitism and xenophobia. These actions are part of the defence of foreigners' rights. MRAX manages a social service, a welcome service specialised in foreigners' rights where people come to consult them about questions of residence, naturalisation, regularisation, etc. (for the traditional social services, people are directed toward other organisations). The second important service of the movement is a complaint office where victims of discriminatory or racist treatment can come. The MRAX also has a legal section which studies and analyses all texts, rules, decrees and laws concerning the foreigners⁹². It distributes an information bulletin (ten times a year) which assures the link between the movement and its members. MRAX also manages a small document centre focused on the problem of immigration and foreigners. Finally the MRAX team includes two trainers/animators who, at the request of schools or groups, organises interactive performances about racism, immigration and foreigners. In addition to all this, they do a lot of lobbying of public authorities at all levels.

The public of MRAX differs in function to the different services offered. In the complaint office, it is often young people (from Turkey or Morocco and sometimes Africa) who are victims, for example, of racist behaviour by the police. The trainers go into all kinds of schools but they also work with groups (groups of low-income women, unemployed persons, etc.). Concerning social services, those who turn to them are made up of first generation immigrants but the present day public is made up many more people who are not in order with their residence permits, thus, illegals and undocumented immigrants, who come to get help to regularise their situation.

During the regularisation campaign, more than one hundred undocumented immigrants came to MRAX to ask for advice (MRAX discouraged those who did not meet the conditions to satisfy the criteria). As a recognised non-governmental organisation, MRAX applied to be on the regularisation commission. Two members were chosen⁹³.

Thirteen persons are currently paid by MRAX (trainers/animators, lawyer, social assistants, reporter and administrators) of whom several are immigrants (European and non-European).

⁹²Read MRAX (2000) *Rapport d'activité February-1999-April 2000*, p.32.

⁹³ Golman H. (2000), Le MRAX dans la commission de régularisation, in *MRAX Info*, n°118, March, pp.4-5.

Other than this framework, the movement counts on volunteers who come to help with some of MRAX's activities.

As for its financial means, most of the personnel expenses (except for half of the animators) is paid by the public authorities (the French Community for one animator, ORBEM for the others who have an ACS status). MRAX is also subsidised as a permanent education organisation by the French community⁹⁴. It also has a recurrent subsidy from the COCOF (French Community Council of the Brussels-capital region)⁹⁵ Finally, it receives dues from its members as well as donations. And it receives occasional subsidies for specific projects. These subsidies are essential to its activities.

The movement works in a network in function of its activities, it has special partners with whom it frequently works (The Human Rights League, The Centre for the Equality of Chances and the Struggle against Racism and the CIRE among others). The mass media also play an important role in its activities because in this way, public interest is created and can attract the public's collaboration.

Concerning the problems which it must face, MRAX has financial problems like nearly all other associations with the same legal status. The lack of means is constant and the financial situation is often in the red. Another problem results from the fact that all the workers (except one) have an ACS status (subsidised contractual agent), that is to say, they can only be hired with the approval of the ORBEM (Brussels Regional Office for Employment) and they must meet certain criteria (length of unemployment, qualifications, etc.) Thus, the movement cannot always hire the person most suitable for the job. It also has problems of frustration. And finally, there are problems for the salaried workers and the militants to understand each other's situation.

In relation to public authorities, MRAX would like to be better listened to.

4.3.9. Caritas Secours International (CSI)

Caritas Secours International (Caritas International Rescue) is a non-profit organisation founded in 1948 with the aim of showing the solidarity of Belgian Catholic society vis-à-vis persons in distress in Belgium as well as in other countries. In Belgium the associations' activities are directed toward refugees, asylum seekers, immigrants and persons who have no status and who are in an irregular situation. In the eyes of the leaders, that which is essential, is that the person can explain his problem and be listened to attentively as a human being. The services of assistance in Belgium are composed of the Social Service (thirteen social assistants), the Housing

⁹⁴The permanent education sector is directed in Belgium by the decree of April 8, 1976 (see article 2) concerning permanent education. It is similar to popular education in France. It concerns all the cultural or socio-cultural activities which aim at the individual or collective promotion of people, by helping them to adopt a critical opinion concerning the society in view of change. In fact, it concerns activities which encourage the involvement of citizens in managing the society in which they live.

⁹⁵One of the legislative bodies (representing French-speaking Brussels residents) of the Brussels-capital region which is one of the three regions which compose Belgium (Flemish and Walloon regions).

Service (nine persons) and the Structural Service, or a total of thirty-some persons of whom many are immigrants⁹⁶.

Forty-five percent of the people helped are Africans and forty-two percent are Europeans, forty-six percent are asylum seekers, twenty seven percent are refused asylum seekers, eight percent are recognised refugees and seven percent of the persons are in illegal situations⁹⁷.

Concerning the undocumented immigrants, Caritas is one of the Non Governmental Organisations consulted by the Minister of the Interior before adoption of the law on the regularisation operation. It also signed the demands formulated in the context of the National Movement for the Regularisation of Undocumented immigrants and Refugees. Since the law on regularisation came into effect, it has mostly worked towards sensitising interested persons by letting them know that this operation is an opportunity to be grabbed. In the same way, its monthly publication, called *Documentation Notes*, on the theme of the rights of refugees and foreigners on one side and on the analysis and interpretation of the laws in matters of regularisation is an important addition for those who work in the field. The association has also helped many people to file their demand for regularisation and to fill in their case file as thoroughly as possible⁹⁸. Finally, two members of Caritas International Rescue have been chosen as members of the regularisation commission.

The finances of Caritas International Rescue are assured by subsidies handed down by the State (the Minister of Social Integration gives subsidies to ensure the welcome to asylum seekers) and by its own funds (gathered through fund-raising).

Caritas International Rescue is a member of many co-ordinations (the Belgian Committee for Help to Refugees at the federal level, CIRE for the French-speaking part and OCIV for the Flemish part, the National Movement for the Regularisation of Undocumented immigrants). It is also part of other Catholic organisations.

Caritas regrets that although there is a series of conventions, human rights are not taken seriously by local, national or international authorities. It reproaches the authorities of forgetting humans and their backgrounds.

4.3.10. Christian Workers' Movement (MOC)

MOC is an association of fact which acts as a pressure movement. It co-ordinates of organisations which touch all domains of social, economic and political life (the health insurance is concerned with health problems, the union is concerned with the work world, etc.) in the desire to defend a project for society based on solidarity, equality, and which tries - through different political connections - to get its demands to the government.

⁹⁶See CSI (1998), *Service social: rapport d'activité 1998*.

⁹⁷See CSI (1998), *Service social: rapport d'activité 1998*.

⁹⁸See *Notes de documentation*, monthly publication of C.S.I on the migrations, n° 161-162, November-December 1999.

MOC quickly joined the national movement for regularisation of undocumented immigrants and refugees. In the beginning, it wanted to carry its political demands. Then, step by step, the regions pointed out that they were receiving visits from undocumented immigrants and that it would be useful to put the MOC at their service. This is how at the health insurance level, social service offices were organised by social assistants; they could help undocumented immigrants with health problems, fill in their papers and call on doctors to identify different pathologies. For their part, the unions gave the first information in the information services that were held. Legal services were also offered to the undocumented immigrants with lawyers who were available for complicated problems and thus their explanations helped to complete the files. MOC co-ordinated open offices for the undocumented immigrants; about four hundred persons were thus welcomed. Before opening the offices, MOC had worked with associations who had knowledge in the field in order to train people who would provide help in the offices. The movement has also worked with the Centre for Equal Opportunity where some lawyers from the health insurance went to re-enforce their team. It also provided some buildings for the Centre to hold their offices. At present, the offices are still maintained by volunteers because there is a lot of follow-up to be done. MOC is looking for a way to be able to pay the volunteers. They are also looking for possibilities to free money to be able to pay the lawyers of undocumented immigrants who will go to the regularisation commission. Finally, two MOC representatives will sit on the regularisation commission.

The general secretariat of MOC is made of five people as acting spokespersons for the directors at the national scale: the president is a volunteer, the general secretary, the political secretary and two national secretaries are paid. In all, about a hundred persons work for the organisation. In the regions, there is usually a permanent representative who is subsidised by the French community and the others have ACS (Subsidised Contractual Agent) or PRIME (Regional Projects for Integration in the Work Market).

The main financial source is the French community (permanent educational subsidy). Next are the dues, part of which come from MOC organisations such as the Central Christian Union, the health insurance, etc.

Given that the culture budget is a small budget, MOC sometimes finds itself a little squeezed for working subsidies. Inside the movement, the decision-making process is a little slow, which is a handicap compared to small associations which can make decisions and take positions from one day to the next. One of the problems in relation to the regularisation campaign was that MOC was not equipped legally, no one was specialised in foreigners' rights, for example. MOC was able to count on a network of volunteer lawyers. One of the movement's frustrations is that it wants to continue the work begun during the regularisation campaign but would need more means in order to be able to keep its information centres for undocumented immigrants open.

Concerning the public authorities, the movement denounced the political behaviour in the start up of the regularisations which dragged its feet in nominating the NGOs, the judges and the lawyers. It would like the regularisation to be done quickly and will be watching everything that happens in the regularisation commissions. It would also like regularisation to become structural.

4.3.11. Point d'Appui

Point d'Appui is a non-profit organisation created four years ago. It is a service to people who accompany undocumented immigrants and asylum seekers. It is the French equivalent of Steunpunt. The first contact between people and the non-profit organisation is done through telephone hotlines organised two times a week. The first job consists of asking about all the steps taken to demand asylum (have all the administrative steps been taken?, are there no more appeals in abeyance?, etc.) They also get information from other services to continue the follow-up of cases. The requests made to Point d'Appui are diverse and may be about health, housing - which is a crucial problem - , children's schooling, marriage, etc, in brief, everything that concerns people's day to day life. There is also the question of voluntary returns; in four years, three returns have been accompanied.

Point d'Appui is trying with other organisations to set up a work group to try to find a structural solution to the problem of undocumented immigrants.

The public of Point d'Appui is thus composed of asylum seekers, foreigners in general and undocumented migrants. They are generally persons between the ages of 18 and 50 years old who come from sub-Saharan Africa and Eastern Europe.

Only one person works full time and is paid by a subsidy from the Walloon region (PRIME contract). All the others are volunteers. In addition to the job created in the context of the PRIME project, the Walloon Region gives the association a small subsidy. At its start-up, it received a large grant from the King Baudoin Foundation. Today, it receives other small grants and organises activities such as concerts to collect some money.

Point d'Appui works in a network with Steunpunt as well as other organisations and services. It acts as a link between people and the organisations.

As for its problems, there is first of all a financial problem which leaves little room to move. Point d'Appui also finds it frustrating to help people about very existential things and then be blocked by housing problems (in all the official structures, as soon as it concerns undocumented immigrants, the doors are shut).

Finally, vis-à-vis politics, Point d'Appui thinks that more structural regularisation need to be considered (there will always be undocumented immigrants). As for other associations, it is necessary to be a little coherent about the undocumented immigrants. There are also dysfunction, an association which provides food assistance cannot help the undocumented immigrants because in order to receive the aid, a document from the CPAS is required.

4.3.12. Association for Foreigners' Rights (ADDE)

ADDE is a non-profit organisation founded more than twenty years ago by lawyers working on questions of foreigners' rights. The objective was and still is to make foreigners' rights known.

ADDE analyses difficult situations of housing, expulsions, asylum rights with juridical instruments of national and international law with the objective of finding a solution to the problems. The target public of ADDE is mainly field workers, lawyers, social workers, communal agents and ministers who work in the context of foreigners' rights. ADDE does a job of 'education' through training sessions and seminars. Aimed at the same public, ADDE publishes a legal review. A third sector of activities is legal advice through help centres for foreign persons who have a problem or workers in the field. When there are too many demands, people are directed to other services such as the Protestant Social Service for Foreigners among others. Finally, ADDE takes part in platforms for associations and reflection on current projects.

Until 1997, the association participated at the European level in seminars of reflection on the theme of migration. It was the Belgian spokesperson for the Network of Migrations in Third States (IMET). It also benefited from a financial intervention of the European Union at the time a colloquium was organised about foreign minors in 1994 which was the subject of a publication⁹⁹ and in 1996 for a colloquium "15 years after the December 15, 1980 law" which also gave rise to a special issue of the magazine¹⁰⁰.

In relation to undocumented immigrants, ADDE is one of the organisations whose members were consulted before the regularisation law was adopted. It organised a daily help centre during the regularisation campaign where people could come to fill in the forms (more than a hundred people came). It also organised a month-long training session in January during the regularisation on how the questionnaire should be filled in, how to understand the law, etc. ADDE is also part of the regularisation commission. Before the December 22, 1999 regularisation law, ADDE had often studied in its training sessions article 9 clause 3 of the December 15 law and the different circulars in application of article 9. Every year it also organises a complete recycling on the right of foreigners and how it affects different questions (and thus, regularisation). In 1999, there was a special training session concerning the latest circulars (Van den Bossche of December 15, 1998). The Interior Minister also consulted it as an NGO having experience in the domain of human rights.

The public addressed by the ADDE is made up of about 75 % people from other countries, 20 % people from the community and 5 % Belgians. People from Eastern Europe mostly come for asylum questions and North Africans for problems of family re-unification.

The work team of the association is composed of four permanent employees (lawyers, secretary, drawers) of whom two are European or non-European immigrants.

As for financing, each of the team members is subsidised. ADDE also benefits from financing from COCOF (French Community Council of the Brussels-capital Region) as an association working in the domain of permanent education.

⁹⁹See *Le mineur étranger et le droit belge*, Actes des journées organisées les 19-20 mai 1994, numéro hors série de la *Revue du droit des étrangers (RDE)*.

See also Bienfait F. (1996), op. cit.

¹⁰⁰See *Droits des étrangers. Loi du 15 décembre 1980, 15 ans après*. Minutes of the colloquium organised in Belgium on October 17 and 18 *Revue du droit des étrangers*, n° 90, 1996.

Finally, ADDE finances itself through the training sessions that it organises and by sales of memberships or reviews. It does not carry out fund-raising collections.

ADDE collaborates with some associations, especially in the context of reflection on regularisation or on the asylum procedures, it is a member of a platform with the Human Rights League, a member of the board of direction of CIRE, etc. In the context of its training sessions, it works with experts who are invited, with the Walloon Region, with the General Commissariat for Refugees and Stateless Persons, with the European Union,...; this depends on the subject.

Finances remain a problem, ADDE would like to organise a decentralised legal help centre and go to the people in their neighbourhoods, but to do this, it needs money.

Vis-à-vis the politicians, ADDE would like them to see the reality without blinders, in global way and not always stigmatise the person who resides illegally by trying to understand why he is there, to not have a narrow view of things. The new direction of the Belgian immigration policy is in its opinion mixed. It notes nevertheless positive aspects: regularisation, promises concerning minors (especially those who are in the closed centres or the adaptation of the law on the entry to the territory concerning unaccompanied minors), the changes in the Belgian Nationality Code. However, it also notes more negative aspects: the distancing policy as it is directed towards collective distancing and “ethnic” targets (for example, the Slovakian people).

Indicative Bibliography

Actualité en bref, n° 47, du 28 avril 2000

Aides aux personnes déplacées (1999), *Rapport d'activités 1999*

Beauthier G.-H. et Femon J. (2000), *Régularisation, Comment, pour qui ?*, Bruxelles, E.P.O.

Bernard F. (1998), L'article 9, alinéa 3 de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers : d'une règle de procédure à une règle de fond. Commentaire de la circulaire du Ministre de l'Intérieur du 9 octobre 1997, dans *Revue du droit des étrangers*, n° 97.

Bienfait F. (1996), *Rapport sur le réseau d'information dans le domaine des migrations d'Etats tiers* (RIMET), Belgique

Bienfait F. (1999), Quelques observations relatives à l'immigration et l'asile sur base des conclusions de la Présidence du Conseil Européen après le sommet de Tampere des 15 et 16 octobre 1999, dans *Revue du droit des étrangers*, n° 104, pp.487-492

Bulletin de l'Union européenne, 10. 1999, pp. 7-15 ;

Cabet E. (1998), Immigration et asile politique : la confusion du mélange des genres, dans *Le Ligueur*, numéro du 14 octobre.

Carlier J.-Y et Saroléa S. (1997), *Les Réfugiés*, ADDE, Bruxelles.

Carlier J.-Y, Van Heule D., Hullmann K., Pena Galiano C. (1998), *Qu'est-ce qu'un réfugié ? Étude de jurisprudence comparée*, Bruxelles, Bruylant.

CECLR (1999a), *Lutte contre la traite des êtres humains. Entre la politique et les moyens, le grand fossé ?* Rapport annuel.

CECLR (1999b), *Citoyens à part entière*, rapport annuel 1999 du Centre pour l'Égalité des Chances et la Lutte contre le Racisme.

CECLR (1999c), *Egaux et reconnus. Bilan 1993-1999 et perspectives de la politique des immigrés et de la lutte contre le racisme*, Bruxelles.

CGRA(1999), *Onzième rapport du Commissaire général aux réfugiés et aux apatrides. Année d'activité 1998*.

Dardy C.(1998), *Identités de Papiers*, Paris, L'harmattan.

Documents parlementaires - Projet de loi n° 50 0234/001.

Droits des étrangers. Loi du 15 décembre 1980, 15 ans après. Actes du colloque organisé à Bruxelles les 17 et 18 octobre, Revue du droit des étrangers, n° 90, 1996

Grimmeau J-P. (1984), Soixante ans d'immigration étrangère en Belgique, dans *Année sociale*, 1, pp. 214-221

Kagné B. (1999a), Des „centre fermés“ pour étrangers illégaux à l'humanisation des politiques de franchissements des frontières en Belgique, dans *Aide-mémoire*, Trimestriel, n° 10, juillet-août-septembre.

Kagné B. (1999b), Sans-papiers en Belgique, figure sociale à géométrie variable, in *La libre Belgique*, août 1999.

Kagné B. et Martiniello M. (1999), *Politiques du multiculturalisme et formes de citoyenneté dans les villes européennes (MPMC) : le cas de la Ville de Liège*. Rapport de recherche dans le cadre du projet Most-Unesco.

Kagné B. (2000), La question des Sans-papiers à Liège : enjeux et ambiguïtés d'une mobilisation collective, Communication présentée dans le cadre du Séminaire du 14 avril sur le thème „Citoyenneté et nouvelles mobilités : le cas des Sans-papiers“, organisé à Paris par l'Institut Français des Relations Internationales (IFRI).

Kaiser M. (1999), La suspension par le Conseil d'Etat de l'arrêté royal sur les régularisations, note sous Conseil d'Etat n°82.719, dans *Revue du droit des étrangers*, 1999.

Le mineur étranger et le droit belge, Actes des journées organisées les 19-20 mai 1994, numéro hors série de la *Revue du droit des étrangers (RDE)*.

Martens A. (1976), *Les immigrés. Flux et reflux d'une main-d'œuvre d'appoint*, Editions Vie ouvrière et Presses universitaires de Louvain.

Martiniello M. (2000), Pour une politique proactive d'immigration en Europe, in *La Libre Belgique*, 11 janvier 2000.

Médecins Sans Frontières (1998), *Accès aux soins. Bilan 1998*, Bruxelles.

Morelli A. (1992), *Histoire des étrangers et de l'immigration en Belgique, de la préhistoire à nos jours*, Editions Vie ouvrière, Bruxelles.

MRAX (2000) *Rapport d'activité février-1999-avril 2000*

Nayer A. (1991), *Introduction aux statuts des étrangers*, Story-Scientia

- Ouali N. (1997), Bilan de la politique d'intégration de la Flandre : des immigrés aux minorités ethnoculturelles, dans *l'Année sociale*, pp. 379-389
- Ringelheim S. (1999), Qui contrôle les gendarmes de Zaventem ?, dans *MRAX-Info*, n° 116, , pp.3-4
- Saroléa S. (2000), Droit de séjour et aide sociale. Deux ans après l'arrêt de la Cour d'Arbitrage du 22 avril 1998, dans *Revue du droit des étrangers*, n° 107, pp. 19-40
- Siméant J. (1998), *La cause des Sans-papiers*, Paris, Presses de Science Po.
- Stengers J. (1992), L'immigration de 1830 à 1914 : données chiffrées, dans Morelli A. (sous dir.), *Histoire des étrangers et de l'immigration en Belgique, de la préhistoire à nos jours*, Editions Vie ouvrière, Bruxelles, pp. 91-104.
- SMZP (1998), *Rechtengids voor mensen zonder wettig verblijf*, Bruxelles.
- SMZP(1999), *Het Medisch Steunpunt Mensen Zonder Papieren, Jaarverslag 1999.*, Bruxelles
- SMZP (1999), *Jaarverslag 1999*
- Van Buuren J. (1999), Quand l'Union européenne s'entoure d'un cordon sanitaire, dans *Le Monde Diplomatique*, janvier, pp. 6-7.
- Van der Meerschen B. (1999), Les régularisations selon le gouvernement arc-en-ciel, dans *Nouvelle Tribune*, n°22, pp. 7-12.
- Vanpaeschen L., (1999), En Belgique, un arsenal répressif contre les étrangers “, *Le Monde Diplomatique*, janvier, pp.6-7.

Annex: List of NGO's contacted

1. APD
Rue Jean d'Outremeuse, 26-28
4020 Liège
Personne de contact : Anne-Françoise Bastin

2. CIRE
Rue du Vivier, 80/82
1050 Bruxelles
Personne de contact : Mario Gotto

3. Steunpunt
Gaucheretstraat, 164
1030 Bruxelles
Personne de contact : Didier Vanderslycken

4. Ligue des droits de l'homme
Rue de l'enseignement, 91
1000 Bruxelles
Personne de contact : Benoît Van der Meerschen

5. Centre pour l'égalité des chances et la lutte contre le racisme
Rue de la Loi, 155
1040 Bruxelles
Personne de contact : Jean Cornil

6. MSF
Rue Dartois, 46
1000 Bruxelles
Personne de contact : Pierre Ryskmans

7. OCIV
Gaucheretstraat, 164
1030 Bruxelles
Personne de contact : Pieter Degryse

8. MRAX
Rue de la Poste, 37
1210 Bruxelles
Personne de contact : Nicole Mayer
9. Caritas Secours International
Rue de la Charité, 43
1210 Bruxelles
Personne de contact : Jozef Cleemput et Danièle Madrid
10. MOC
Chaussée de Haecht, 579
1031 Bruxelles
Personne de contact : Véronique Oruba
11. Point d'Appui
BP 57
4020 Liège
Personne de contact : Jeannette Bertrand et Sophie Drion
12. ADDE
Avenue de Stalingrad, 24
1000 Bruxelles
Personne de contact : Isabelle Doyen
13. Croix-Rouge
Chaussée de Vlorgaet, 96
Bruxelles
Personne de contact : Valérie Velghe



Centre d'Estudis Demogràfics
Andreu Domingo
Adriana Kaplan

Alicante Acoge
Carlos Gómez Gil

ÍNDICE GENERAL

1. INTRODUCCIÓN

2. POLÍTICAS ESTATALES RESPECTO A LOS SIN PAPELES

- 2.1. Los inicios de la legislación española sobre inmigración*
- 2.2. La política de Contingentes*
- 2.3. Un entramado legal claramente discriminatorio*
- 2.4. El resultado de una política deficiente*
- 2.5. Una nueva figura de inmigrante: el inmigrante temporero*
- 2.6. La polémica contrarreforma de la Ley de Extranjería*

3. EXCLUSIÓN SOCIOECONÓMICA DE LOS INMIGRANTES INDOCUMENTADOS

- 3.1. El número y el "efecto llamada".*
- 3.2. Una propuesta tipológica*
- 3.3. Ámbitos de exclusión*

4. SERVICIOS PRESTADOS POR LAS ONGs

- 4.1. Contexto político y legal*
- 4.2. Tipología de las ONGs trabajando con sin papeles*
- 4.3. Descripción detallada de las ONGs entrevistadas*
- 5. Un caso de racismo: los sucesos de El Ejido, por Almería Acoge*

6. CONCLUSIONES GENERALES

BIBLIOGRAFÍA

1. INTRODUCCIÓN

En estos precisos momentos que finalizamos el presente informe, a 31 de julio de 2000, concluye el plazo de la regularización del 2000 en España iniciado el 31 de marzo de este mismo año como consecuencia de la entrada en vigor de la polémica Ley de Extranjería aprobada por el Parlamento en enero del mismo año. Este proceso actualmente en marcha afectará a la situación de irregularidad de más de doscientas mil extranjeros que se encuentran sin papeles y que han sido capaces de acreditar su estancia en territorio español antes del 1 de junio de 1999, estando en estos momentos pendientes de que sea aceptada su petición y por lo tanto sean regularizadas, o que sea

denegada, y por lo tanto se mantengan en su situación de irregularidad. Se comprenderá pues, que forzosamente el informe que aquí se presenta sobre la situación de los sin papeles en España y la actuación de las ONGs deba ser tomado como una aproximación parcial y provisional, sometida a la extraordinaria polémica que se vive en estos momentos en materia de inmigración. Pero la perturbación introducida por la regularización es mínima si tenemos en cuenta que el marco legislativo referente a la extranjería en España está sujeto a modificaciones que pueden cambiar radicalmente el número de los sin papeles, y lo que es más importante, su acceso o no a los servicios públicos, y con ello su grado de integración o rechazo social.

El 11 de enero de 2000 se aprobó en el Congreso de los Diputados la nueva Ley de Extranjería contando con un amplio consenso político, al haberse elaborado con la vocación de poner fin a la endémica producción de inmigrantes sin papeles, y eliminar sus penosas condiciones de vida, reiteradamente denunciadas desde la sociedad civil. Al poco de ser aprobada, el partido del gobierno anunció su decisión de modificar de forma restrictiva esta nueva Ley. Entre tanto, el 6 de febrero de 2000, se iniciaron los lamentables hechos xenófobos de El Ejido, en los que durante unas semanas los trabajadores inmigrantes de nacionalidad extranjera residentes en dicha población fueron acosados por parte de numerosos vecinos de esta localidad, ante la pasividad de las fuerzas del orden público, y cuyas imágenes se difundieron por toda Europa. El 12 de marzo, el Partido Popular ganaba las elecciones generales alcanzando la mayoría absoluta, ratificándose a los pocos días en su intención de modificar la Ley de extranjería. Desde entonces, en el transcurso del propio proceso de regularización, se han venido sucediendo a diario noticias referentes a la situación de los sin papeles en España, ya sea presentándolos como víctimas de las mafias que trafican con inmigrantes, ya sea presentándolos como delincuentes cuyo ejemplo perjudica a los extranjeros que residen legalmente en España. Pero fundamentalmente poniendo en marcha una extraordinaria campaña de publicidad por medio de la cual se dice que los inmigrantes están invadiendo España debido al supuesto "efecto llamada" provocado por esta Ley.

La situación de interinidad e incertidumbre de esta Ley actualmente en vigor, se ha visto incrementada por la devolución, el 27 de julio del presente año por parte del Consejo General del Poder Judicial, del anteproyecto de reforma a la misma que el gobierno ha elaborado, conteniendo graves críticas sobre la discriminación en que coloca a los inmigrantes y su falta de tutela judicial, especialmente a los sin papeles, a la que se añade el informe negativo que también emitió el foro de la inmigración. Todo ello explica que el presente informe se mueva entre la experiencia de exclusión en el marco de la antigua Ley de extranjería de 1985 y su desigual aplicación, y la aprobación de la nueva Ley del 2000 y su futura modificación, con la sucesiva provisionalidad que se cierne sobre cualquier especulación futura. Buena parte de esta situación queda reflejada en el primer capítulo sobre las políticas estatales hacia los inmigrantes.

A continuación, en el segundo capítulo, damos cuenta de la exclusión socioeconómica de los inmigrantes indocumentados, presentando una aproximación tipológica a la situación diversa de los sin papeles en España, generados por la propia legislación, después de algunas reflexiones a modo introductorio sobre las estimaciones del número de los sin papeles, y el denominado "efecto llamada" producido por los recientes cambios legislativos. Para finalizar este apartado presentamos algunos de los ámbitos de exclusión que más repercuten en la situación en general de los trabajadores

inmigrantes en España, y en particular de aquellos que se encuentran en situación irregular: la vivienda, la educación y la atención médica y sanitaria.

El cuarto capítulo se dedica a los servicios prestados por las Organizaciones No Gubernamentales. La intención del capítulo es hacer un recorrido a lo largo de la historia reciente de la inmigración en España, de su contexto político y legal que facilite entender la formación y la especificidad de las ONGs que se dedican de forma directa o indirecta al tema de los sin papeles. También en dicho apartado detallamos algunas experiencias en los ámbitos del mundo laboral, la vivienda, y la educación. Para la realización de este apartado hemos contado con la información resultante de las entrevistas efectuadas a representantes de doce ONGs, a los que agradecemos desde estas páginas su colaboración y el tiempo dedicado. Dichas ONGs entrevistadas han sido seleccionadas en función de su representatividad, sea por su papel de pioneras, por la veteranía y la extensión de la población atendida, sea por su actuación exclusiva a los sin papeles, o bien a algún colectivo específico de población inmigrada de nacionalidad extranjera, donde el número de los sin papeles sea de por sí relevante. Este informe no tiene como objetivo una presentación exhaustiva de las ONGs, que en estos momentos se dedican a la situación de los sin papeles en España, y por lo tanto ni las entrevistas efectuadas, ni las muchas más organizaciones citadas en el texto pretenden agotar el listado de las organizaciones no gubernamentales que dedican sus esfuerzos a denunciar y mejorar las condiciones de vida de los inmigrantes en situación irregular en España. Son todas las que están pero ni mucho menos están todas las que son. Como apartados finales del capítulo, presentamos un cuadro tipológico y una descripción detallada de las ONGs entrevistadas.

En el quinto apartado del informe se cuenta con la participación de Almería Acoge, que se ha hecho cargo de la redacción del documento que se presenta sobre un caso específico de racismo en España: El Ejido. Queremos aprovechar esta introducción para agradecer su buena disposición, y el trabajo efectuado, que nosotros no habríamos podido realizar con tanto conocimiento de causa.

Por último, se presentan unas conclusiones generales, en las que recogemos tanto un resumen de lo anteriormente expuesto, como aquellas reflexiones que se deducen de la globalidad del informe aquí realizado. Esperamos aportar una información que permita conocer mejor la situación de los sin papeles en España, una labor nada fácil, pero que hemos tratado de hacer como aportación a la mejora en la situación de estas personas.

2.- POLÍTICAS ESTATALES HACIA LOS INMIGRANTES

España es un país relativamente nuevo en el fenómeno de la inmigración, algo que se pone de manifiesto por el bajo porcentaje de población inmigrante que tiene, uno de los más pequeños del conjunto de países europeos, así como también por el hecho de tener un elevado número de población emigrante en el extranjero, muy superior al número de inmigrantes que tiene en su propio país. Efectivamente, el número de extranjeros residentes en España se ha mantenido en unos niveles muy bajos hasta la década de los noventa, en que poco a poco empiezan a llegar inmigrantes de forma continua y creciente. Así, en el año 1990, el número de extranjeros residentes en España era de 407.647 personas, de los cuales el 50% de los mismos procedían de otros países europeos más desarrollados que el nuestro, mientras que la población española ascendía en esa misma fecha a 38 millones de personas. En 1999 según datos disponibles en la

web del Instituto Nacional de Estadística, el número de residentes de nacionalidad extranjera ascendía a 801.329 personas, registrándose un notable aumento de los inmigrados procedentes de países en vías de desarrollo. Es decir, España ha necesitado cerca de diez años para doblar el número de extranjeros residentes, situándose todavía en porcentajes muy bajos de la población. Ha sido precisamente en los últimos años cuando se ha venido produciendo un notable crecimiento de la población inmigrante dirigida a España, en consecuencia con los altos índices de crecimiento económico y desarrollo social que se han experimentado durante los últimos años, un factor al que ha contribuido de forma muy importante la situación estratégica de la península ibérica, como frontera y límite natural con África, junto a sus vinculaciones históricas con Latinoamérica, y que hacen de España en estos momentos una entrada privilegiada hacia Europa para numerosos inmigrantes.

Desde esta perspectiva, las políticas estatales que España ha venido desplegando hacia los inmigrantes son muy recientes, pero siempre enfocadas a abordar la inmigración desde el control policial de fronteras y una perspectiva de orden público que ha impregnado todas las actuaciones de las diferentes administraciones públicas. Los partidos políticos se han movido en un espacio de ambigüedad calculada que no evidencia diferencias sustanciales ante los grandes ejes sobre los que discurre la inmigración, y que se evidencia cada vez que sucede algo importante, como los sucesos racistas de el Ejido, donde no hubo posiciones diferenciales entre uno y otro partido. La consecuencia más palpable de todo ello es que la política de inmigración en España ha ido acumulando leyes, disposiciones y normativas enormemente contradictorias, de un escasísimo soporte jurídico ante las que incluso el propio Tribunal Constitucional se ha pronunciado de forma negativa, al vulnerar derechos básicos y esenciales de los inmigrantes. Todo ello ha ido en detrimento de un desarrollo político, social y administrativo integrador hacia los inmigrantes y la propia inmigración que avance en un fortalecimiento de la democracia y de la propia solidaridad a partir del respeto mutuo y la propia riqueza aportada por la inmigración. La perspectiva policial y legal ha ocupado todos los espacios, sin dejar prácticamente huecos para un despliegue de iniciativas sociales que haya construido una trama integradora y respetuosa de los inmigrantes, dejando abiertos un sin fin de agujeros que colocan a estas personas en una situación de continua vulnerabilidad. El ejemplo más palpable de ello es la reciente adscripción del nuevo Secretario de Estado para la inmigración al Ministerio del Interior, fuera de cualquier cometido desde el Ministerio de Asuntos Sociales, donde venían trabajándose estos temas.

2.1. Los inicios de la legislación española sobre inmigración

En un sentido estricto, es a partir de la Ley Orgánica de 1985 cuando se pone en marcha en España una política de extranjería en sentido estricto, si bien en aquel entonces más con medidas reguladoras y sancionadoras que de carácter social y político. Estas, tuvieron que esperar algunos años más para empezar a ocupar espacio en la agenda política del gobierno y en la acción de los diferentes ministerios, ya que no es hasta diciembre de 1990 cuando el gobierno remite al Congreso de los Diputados un informe sobre la situación de los extranjeros en España y las líneas básicas de la política española de extranjería, lo que llevó un año después a que el Congreso, en abril de 1991, aprobara una proposición no de Ley en la que instaba al Gobierno a aprobar una

serie de medidas básicas en torno a tres ejes: control de los flujos migratorios, integración de los inmigrantes y ayuda al desarrollo a los países de procedencia de estos inmigrantes, unos enunciados mucho más voluntaristas que reales.

Hay que destacar que esta Ley contó ya entonces con una fuerte contestación por parte de las organizaciones sociales, que llegaron a interponer un recurso de inconstitucionalidad sobre varios de sus artículos que restringían los derechos tan básicos como la reunión, asociación y la tutela judicial efectiva, y que este alto tribunal estimó, fallando en contra del gobierno en sentencia de julio de 1987. Obligando a modificar estos polémicos apartados.

La Ley de 1985 estableció un proceso puntual de regularización de inmigrantes, tanto de aquellos que hasta el momento estaban exentos de la obligación de obtener permiso de trabajo como de aquellos que nunca lo tuvieron, si bien este proceso generó un progresivo caos, al formarse una considerable bolsa de trabajadores extranjeros en situación irregular que no se podían regularizar. Se demostraba así su incapacidad para regular eficazmente los flujos de llegada y también para documentar a los inmigrantes que estaban en España, produciendo precisamente el efecto opuesto, una llegada caótica de inmigrantes hasta España, muchas veces en condiciones de clandestinidad y en manos de mafias, junto al establecimiento de un grupo de inmigrantes sin papeles que crecía año a año.

Tras las movilizaciones sociales de 1991, el Parlamento se replanteó algunas líneas básicas en materia de extranjería contenidas en esta Ley, aprobando una propuesta no de Ley en abril de 1991, donde se incluía una nueva regularización de inmigrantes sin papeles, a la que se acogieron cerca de cien mil personas. Pero en la medida en que los efectos de la Ley en vigor eran insuficientes para regular de manera efectiva los flujos de inmigrantes que llegaban a España, así como su regularización e integración, se fueron creando nuevas bolsas de inmigrantes irregulares, bien porque tenían órdenes de expulsión pendientes, bien porque llegaban y no podían acceder a la documentación requerida.

A la vista de lo anterior y ante la ineficacia de la Ley en vigor, en junio de 1994 se vuelve a iniciar la negociación de un nuevo Reglamento de Extranjería (Real Decreto 155/1996), cuyo cambio más significativo fue su adecuación a la Ley de Procedimiento Administrativo, pero dejando fuera una ordenación efectiva de los flujos migratorios y la tramitación de una documentación real, tanto en permisos de trabajo como de residencia, de los inmigrantes que iban llegando a España, en la medida en que la legislación en vigor apostaba por dejar fuera de la Ley a grupos importantes de inmigrantes a los que no ofrecía ninguna posibilidad de regularizar su situación.

Fuera de los procedimientos normativos habituales contenidos en la Ley para facilitar papeles a los inmigrantes, y que rozaban el absurdo (para contratar a un inmigrante éste necesitaba papeles, pero para conseguir los papeles necesita un contrato de trabajo, en una espiral sin solución), era prácticamente imposible regularizar la situación de estos, propiciando todo tipo de fraudes y situaciones de inseguridad. Así, todo el despliegue normativo parte de la consideración de que los inmigrantes son "ilegales", y que tienen que probar sus buenos fines, dando igual si es para un matrimonio (para el que deberá de facilitar "pruebas de amor" para darle validez), o si es para la concesión de un visado por un consulado español en su país de origen (que puede ser denegado sin motivo alguno). Por tanto, la inseguridad jurídica hacia los inmigrantes que esta Ley proporcionaba ha sido una constante que se ha mantenido

hasta la actualidad, junto a la conformación de un grupo muy notable de “ilegales” crónicos, aquellos que no encuentran trabajo pero que, en caso de encontrarlo nadie podrá contratar al carecer de identidad, de papeles, y que, infringiendo la Ley de Extranjería tampoco pueden ser expulsados a ningún país.

2.2. La política de Contingentes

En la medida en que la política general de regularización ha fracasado, en España el Contingente anual o cupo se ha convertido en el ansiado instrumento de regularización de inmigrantes, siendo también la figura legal más conocida y publicitada. El Contingente lleva funcionando desde el año 1993, siendo utilizado como mecanismo básico para que los trabajadores extra comunitarios puedan tener sus papeles en regla en España, si bien está llena de particularidades y peculiaridades que le dan una cierta excepcionalidad en su uso, inseguridad jurídica en su tramitación, presunción de fraude en su gestión por la administración, lo que conlleva un continuo maltrato hacia el extranjero. En la medida en que el Contingente nace sin amparo legal y convive con los permisos ordinarios de trabajo para extranjeros (que no se aplican), su uso destaca las insuficiencias de la actuación gubernamental para regular eficazmente los flujos migratorios, y con ello, para abordar una política de inmigración.

Toda la filosofía de los Contingentes se basa en una falsedad legal, ya que sobre el papel se dirige a los inmigrantes que quieren entrar en España a trabajar, si bien, los solicitantes son personas que ya están aquí. Al mismo tiempo, en la medida en que la solicitud de estos permisos se basa en la oferta de trabajo de los empresarios, se coloca a los inmigrantes bajo la dependencia de éstos ya que son los inmigrantes que ya están en España los que buscan empresarios que les hagan una oferta de trabajo, lo que favorece todo tipo de fraudes y explotaciones por parte de los empresarios, no siendo infrecuente que los inmigrantes paguen elevadas sumas de dinero a estos para que les proporcionen ofertas de trabajo falsas, algo notorio incluso a las puertas de las propias oficinas de extranjeros. Al mismo tiempo, la normativa, plazos, tramitación y regulación del Contingente cambia cada año, por lo que se producen retrasos y correcciones sobre la marcha que provoca una sensación de angustia en los inmigrantes, así como no pocas especulaciones innecesarias. Finalmente, y por si fuera poco, el cálculo del número de permisos incluido en cada Contingente lo realiza el Gobierno directamente y sin conexión con la realidad social y económica del país, convirtiéndolo en una auténtica lotería. Así, para el último Contingente autorizado por el Consejo de Ministros en el año 1999, se autorizaron 30.000 permisos para toda España, si bien se llegaron a presentar 96.542 solicitudes, lo que significa que por cada permiso se presentaran 3,2 solicitudes, una especie de lotería que propicia todo tipo de irregularidades. El Gobierno argumenta que para evitar problemas a la sociedad española, se reserva el cálculo de los inmigrantes que nuestra sociedad puede acoger por medio del proceso de Contingentes anuales, tratando de evitar así trastornos sociales o perjuicios económicos; unos cálculos que no se sabe bien en qué se basan, ya que son absolutamente insuficientes para las necesidades que los empresarios reclaman y muy alejados del número real de inmigrantes presentes en territorio español y capaces de ser integrados social y económicamente.

La realidad es que existen en España miles de trabajadores inmigrantes

que pueden acreditar arraigo, cuentan con una oferta de trabajo y han hecho un esfuerzo por integrarse durante bastantes años, y que podrían incluirse en estos Contingentes anuales, si bien, el escaso número de permisos aprobados por el Gobierno impide su regularización efectiva y a la larga, hace que aumente esta bolsa permanente de irregulares.

La perversión de este sistema de concesión de permisos favorece la actuación de mafias y actividades delictivas ligadas a los inmigrantes, así como la falsificación de documentación para los mismos, no sólo en España, sino también ante los propios consulados españoles en el extranjero, donde se ofrecen a sus mismas puertas, documentos falsificados con toda naturalidad.

El clamoroso fracaso de este proceso de Contingentes contrasta con el hecho de que todos los partidos políticos, y el propio Gobierno a través de la nueva Ley de extranjería, se apoye en el mismo como una de las piezas claves para la concesión de futuros permisos de trabajo a los inmigrantes en España, lo que evidencia de manera fehaciente las insuficiencias de las políticas de inmigración en España.

2.3. Un entramado legal claramente discriminatorio

Han sido numerosos los colegios de abogados en España que han manifestado la perversión del aparato legal estatal hacia los inmigrantes, calificándolas con frecuencia como “instituciones viciadas y claramente discriminatorias que atentan contra derechos básicos. Y ello afecta no solo a cuestiones básicas como la obtención de permisos de residencia y de trabajo, sino también a otros muchos aspectos que afectan a la vida normal de los inmigrantes. Un elocuente ejemplo de ello lo tenemos en el caso de los matrimonios mixtos, que parten de la consideración de ser fraudulentos, al celebrarse según la administración únicamente para que los inmigrantes puedan tener su documentación para residir en España. Para ello se ha creado un amplio despliegue propagandístico para crear un estado de opinión que justifique todo tipo de controles y exigencias a los matrimonios mixtos. Así, se llega incluso a la capacidad de los registros civiles o consulados de negarse a celebrar estos matrimonios, pudiendo desplegar todo tipo de exigencias, investigaciones y controles policiales sobre sus contrayentes, incluso durante varios años. Incluso la administración llega a pedir lo que se llaman “pruebas de amor” sobre la veracidad de su unión sentimental, algo implanteable para el resto de los ciudadanos, pero que se materializa para estos matrimonios a través de pruebas. Todo ello choca con el artículo 32 de la Constitución española, y también con el artículo 12 de la Declaración Europea de Derechos Humanos, así como el artículo 16.1 de la Declaración Universal de Derechos Humanos.

Algo similar sucede con la expulsión de los extranjeros a su salida de la cárcel. Así, desde el momento en que se inicia contra un extranjero un procedimiento penal, comienzan un conjunto de actuaciones para lograr la expulsión del territorio nacional del mismo, algo que se produce bien antes de procedimiento penal, durante el cumplimiento de su sentencia o incluso una vez que ha cumplido la totalidad de su condena, con lo que supone de incumplimiento de su tutela judicial efectiva así como la total reinserción social derivada de la condena que ha cumplido. De hecho, la práctica totalidad de los extranjeros que se encuentran en prisión tienen iniciado un procedimiento de expulsión, bajo el argumento de realizar actividades “contrarias al

orden público". Estas expulsiones, además, se realizan sin ningún tipo de asistencia jurídica, al estar excluidos de su aplicación aquellos procedimientos administrativos que no sean de asilo y negarse este derecho a los extranjeros que se encuentren en situación irregular en la jurisdicción contencioso-administrativa. Bien es cierto que con la entrada en vigor de la L.O. 4/2000 se avanza en una intención de permitir que las personas extranjeras puedan acceder a la ansiada reinserción social por medio del artículo 29.4, si bien, la propuesta de reforma que sobre el mismo ha realizado el Gobierno del PP, así como su deseo de que esta posibilidad sea potestativa de la administración, siempre bajo circunstancias excepcionales, arroja nuevas preocupaciones sobre este punto.

Por último, en este rápido recorrido sobre el entramado legal discriminatorio desplegado contra los inmigrantes en España no podemos olvidar el marco institucional del asilo político, uno de los temas más polémicos, no solo en España, sino en otros muchos países europeos, al cuestionar de manera grave los compromisos internacionales derivados de la Convención de Ginebra de 1951 para la protección de los refugiados políticos. Es cierto que las dificultades del sistema administrativo español de regular eficazmente los flujos migratorios y dotarlos de permisos de trabajo y residencia ha llevado a que muchos de ellos opten por el sistema de asilo, creyendo falsamente que ello les permitirá finalmente establecerse en España. Así vienen actuando importantes colectivos, como el de rumanos, empujados a ello por las propias autoridades policiales, conocedoras de la imposibilidad de esta solicitud y sus consecuencias futuras (facilitar los procedimientos de expulsión de estos solicitantes al tener una salida obligatoria no efectuada). Pero ello ha llevado a situar la figura y el derecho del asilo en términos kafkianos y sometida a la arbitrariedad de la administración y sus funcionarios, siendo buen ejemplo de ello el "procedimiento de admisión a trámite", una figura esperpéntica que obliga a los solicitantes de asilo a que hagan una petición para que se les admita su petición de asilo, y que lleva a que en España, un 70% de estas peticiones previas sean directamente rechazadas y por tanto, ni siquiera sometidas a estudio. Junto a ello, la insuficiencia en las medidas de protección y apoyo efectivo de las personas a las que se les ha admitido su solicitud e incluso se les ha concedido el estatuto de refugiado, los problemas de desprotección legal sobre los solicitantes de asilo en frontera (algunos de cuyos aspectos se encuentran actualmente recurridos ante el Tribunal Constitucional estando pendientes de sentencia), así como el escasísimo número de solicitudes concedidas por las autoridades españolas, un 4% del total en el año 1999, plantea numerosas interrogantes sobre el respeto efectivo de este derecho universal y básico. Finalmente, hay que destacar que el gobierno español viene haciendo una utilización política de este derecho, lo que añade más polémica. Así, es fácil conceder el asilo a cubanos o guineanos, mientras que ni siquiera se admite para ciudadanos de países en guerra o conflicto civil, como argelinos, colombianos o saharauís.

2.4. El resultado de una política deficiente

En el momento actual, la política española de inmigración parece pivotar en torno a dos ejes contrapuestos: el deseo de integrar a los inmigrantes legales, junto a una tendencia a la criminalización de los *sin papeles*. En el primer caso, se admite que los inmigrantes son necesarios para la economía española, pero no se facilita su llegada

ordenada, y mucho menos una regularización sensata de los mismos. Si finalmente el inmigrante ha conseguido acceder a los ansiados permisos de trabajo y residencia, tarea nada fácil desde luego, se reconoce como merecedor de unos derechos básicos de carácter social, económico y educativo, aunque dejando claro que son ellos los que tienen que integrarse entre nosotros. En el segundo supuesto, se demoniza a los inmigrantes irregulares que llegan hasta España proyectando contra ellos todo tipo de males, peligros y actos delictivos. Mientras que se les condena a vivir en la marginalidad absoluta, temerosos de ser objeto de una detención policial que podría devolverles a su país con una prohibición para entrar en el espacio Schengen durante cinco años, no existen mecanismos legales que permitan su regularización (más allá de los Contingentes y de los procesos de regularización extraordinarios que cada ciertos años se convocan), por lo que se ven abocados a vivir en la economía sumergida, cuando no presos de las mafias que hacen de estos inmigrantes sin papeles una mano de obra barata, cómoda y silenciosa, dispuesta a desempeñar los trabajos más duros y con las condiciones laborales más penosas, cercanas muchas veces a la explotación.

Todo ello se ve favorecido por una legislación anacrónica, que se convierte en una auténtica maquinaria para la creación de inmigrantes sin papeles como consecuencia de la enorme dificultad para acceder a un permiso de trabajo y de residencia, y la complejidad administrativa y burocrática que conlleva. Solo a modo de ejemplo, tengamos en cuenta que en España puede llegar a haber hasta nueve tipologías legales diferentes de los inmigrantes sin papeles, cada una de ellas con una perspectiva de resolución legal completamente diferente.

Ante esta situación, se mantiene de manera más o menos permanente una bolsa superior a los 100.000 inmigrantes sin papeles con absoluta normalidad, habiéndose convertido en pilares fundamentales para algunos sectores económicos y determinadas ocupaciones, hasta el punto que en España se puede elaborar todo un mapa del empleo para inmigrantes, que desempeñan puestos que los españoles han dejado de ocupar, trabajos cada vez más descualificados, que producen una progresiva segmentación del mercado de trabajo, dirigiendo a los inmigrantes hacia nichos laborales.

Frente a ello, todo un despliegue policial y legal se encarga de impedir la integración real de estas personas, cuya lucha por salir adelante resulta verdaderamente meritoria. En este contexto, únicamente las ONG's se encargan de atender a este colectivo a través de sus programas sociales, jurídicos, educativos, laborales, sanitarios y asistenciales. El grado de hipocresía en materia de extranjería ha llegado a tal punto que las mismas administraciones que legalmente no atienden a los inmigrantes sin papeles afirmando que no pueden hacerlo, son las que subvencionan a las ONG's con sus propios recursos económicos oficiales para que sean ellas las que los atiendan y desplieguen programas y dispositivos sociales.

Este es precisamente uno de los puntos de controversia de la actual Ley de Extranjería, que el partido en el gobierno quiere modificar, al defender que deben eliminarse los derechos básicos que esta Ley reconoce a los inmigrantes sin papeles, a los que se quiere condenar a la marginalidad.

Desde esta perspectiva, todos los partidos políticos, sin matices, defienden la inmigración mientras ésta sea buena para la economía española, no perjudique las expectativas laborales de los españoles y no perturbe la paz social. Se admiten a aquellos otros que traigan dinero, capitales o bienes, con independencia de su

país de origen, sus costumbres o antecedentes. Así, se han recibido a cientos de rusos vinculados con la mafia que se han asentado en la zona Sur del Mediterráneo, a conocidos traficantes de armas saudíes que se han establecido en Marbella o a grupos de italianos buscados por las autoridades internacionales que han encontrado cobijo en la Costa Brava.

A la luz de lo anterior, se puede valorar la política española de inmigración como de muy restrictiva por el despliegue policial que ha hecho para controlar los flujos, pero escasamente eficaz en cuanto a políticas reales de integración social y enormemente discriminatoria hacia el inmigrante sin papeles, al que sitúa en una posición de una enorme vulnerabilidad legal, carente de derechos, y condenado a una muerte civil e institucional, con escasas posibilidades de regularizar su situación.

2.5. Una nueva figura de inmigrante: el inmigrante temporero

En estos momentos, y sobre el papel, ha aparecido una nueva figura de inmigrante: el temporero de menos de nueve meses; inmigrantes temporales que vienen a trabajar para campañas agrícolas concretas y que vuelven después a su país, habiéndose estimado en 300.000 el número de temporeros que cada año puede necesitar el campo español.

En esta línea se han firmado varios convenios que permiten contratar a trabajadores temporeros inmigrantes en los países de origen cuando las circunstancias de la producción lo requieran y no se vean satisfechas con la oferta de temporeros españoles o inmigrantes ya residentes en España. En estos casos, la estancia no podrá ser superior a 9 meses, con un compromiso de vuelta que asume el propio empresario bajo sus responsabilidades. Estos convenios han sido ya suscritos con Marruecos, Perú, Ecuador, y Colombia habiéndose sumado patronales agrarias, sindicatos, cooperativas agrarias y la FEMP (Federación de Municipios y Provincias). No se tiene conocimiento de que haya empezado a funcionar esta nueva forma de reclutar inmigrantes al que no se le reconoce derecho alguno de permanencia. Es por tanto un simple peón agrícola, despojado de su condición de persona y sobre el que no caben propuestas de integración, abriendo por tanto serios interrogantes sobre su funcionalidad social. Está por ver si va a solucionar problemas, o por el contrario, va a crear otros nuevos entre los inmigrantes que llegan a España.

2.6. La polémica contrarreforma de la Ley de Extranjería en España

España vive en estos precisos momentos una intensa polémica como consecuencia de la voluntad del gobierno de modificar la actual Ley 4/2000 de Extranjería, que apenas lleva unos pocos meses en vigor, situando así a todo lo que afecta a la inmigración en un universo de inseguridad e imprevisión ante el futuro.

En la pasada legislatura parlamentaria se produjo un acuerdo entre todos los partidos políticos para elaborar una Ley de Extranjería que derogara la ya antigua de 1985 y consiguiera actualizar y modernizar la política de inmigración. Así, tras un

complicado proceso de elaboración en el que participaron organizaciones sociales, sindicales y ONG's de ayuda a los inmigrantes, se consiguió terminar pocos meses antes de las elecciones generales una Ley de consenso, apoyada favorablemente por todos los partidos políticos. Pero a última hora, y cuando esta Ley estaba siendo tramitada para su aprobación final, el partido en el gobierno, el PP, se descolgó de manera sorprendente, e inició una campaña contra este proyecto de Ley para evitar su aprobación final, cosa que finalmente no consiguió, ya que todos los grupos políticos del Congreso, salvo el propio gobierno, votaron a favor de la misma.

Pero antes de su puesta en marcha desde el gobierno se inició una impresionante campaña contra esta Ley, anunciando todo tipo de males derivados de la misma, una invasión de inmigrantes a España y comprometiéndose personalmente hasta el mismo presidente del gobierno en modificar con urgencia la Ley en caso de ganar las elecciones, cosa que finalmente se produjo. Esto llevó a que desde el mismo gobierno hayan existido todo tipo de trabas, dificultades y obstáculos para la puesta en marcha de la Ley finalmente aprobada, a la que ni siquiera se le ha dado el Decreto de desarrollo al que estaba obligado el gobierno en un plazo no superior a tres meses desde su entrada en vigor.

Así, el gobierno del PP ha acelerado su reforma, en contra del resto de los partidos y del conjunto de organizaciones sociales españolas, argumentando para ello dos razones básicas, como son la exigencia europea de armonizar estas leyes, así como los malos resultados que esta Ley habría producido. Ambos argumentos son radicalmente falsos en la medida en que no hay ninguna normativa europea que obligue a esta armonización. Al mismo tiempo, no se han producido ningún tipo de problemas sociales derivados de su puesta en marcha, salvo aquellos relacionados precisamente con los obstáculos que ha venido poniendo el propio gobierno para llevar a cabo materias recogidas en la Ley como la regularización extraordinaria o el reconocimiento de determinados derechos sociales a inmigrantes. De esta forma, la contrarreforma propuesta por el PP modifica un 80% de los artículos de la Ley vigente, recortando drásticamente los derechos de los inmigrantes, sobre todo de los indocumentados y ampliando el margen de discrecionalidad de la administración para controlar el flujo de extranjeros. La polémica está abierta, siendo decisivos los próximos meses para comprobar si finalmente el PP protagoniza la mayor involución que en Europa se haya dado en materia de inmigración. Para ello se ha creado una Plataforma Estatal por la Convivencia, que agrupa a más de 60 ONG's de ámbito estatal, y que están poniendo en marcha una campaña de oposición a la modificación legislativa propuesta por el PP, al tiempo que quieren explicar a la sociedad la importancia de una ley socialmente integradora.

3.-EXCLUSIÓN SOCIOECONÓMICA DE LOS SIN PAPELES

3.1. El número y el "efecto llamada". Como se ha visto en el apartado anterior, el proceso de cambio legislativo con la entrada en vigor de la nueva Ley de Extranjería, y la regularización extraordinaria del 2000, afectarán extraordinariamente a la población en situación irregular en su volumen, cambiando radicalmente el panorama de su acceso a los servicios públicos y en consecuencia, el tipo y alcance de la exclusión socioeconómica a la que se han visto sometidos hasta el momento. Es difícil prever en qué dirección se va a mover la modificación de la ley debido a que precisamente los sin papeles y su acceso a servicios sociales básicos, se ha convertido en el centro del debate para la modificación de la Ley anunciada por el partido del gobierno, que durante la actual legislatura ostenta la mayoría absoluta en el parlamento. De hecho, la práctica respecto a los inmigrados sin papeles está contraviniendo en algunos casos la propia Ley de Extranjería del 2000 como, por ejemplo, la expulsión sin derecho ni prestar declaración de 37 inmigrantes irregulares procedentes de Marruecos, detenidos el 20 de junio de 2000 en Mijas (Málaga), y que ha generado una notable polémica.

En ese contexto estamos asistiendo a un incremento alarmante de las especulaciones sobre el número de los sin papeles que llegan a España: el argumento se resume presentando la nueva Ley de Extranjería como la causa de una avalancha de *sin papeles* que llegan a España, la mayoría de las veces como víctimas de las mafias organizadas. Antes de pasar a considerar pues, los ámbitos de exclusión socioeconómica de los sin papeles, consideramos de interés aclarar dos conceptos: el número y el propio "efecto llamada".

Una de las primeras demandas y preocupaciones sobre la población sin papeles es la estimación de su número. Sin embargo, la situación de *los sin papeles*, depende directamente de los criterios legislativos aplicados en cada momento y de sus variaciones. Sobre el número total y las características de la población inmigrada de nacionalidad extranjera sin papeles poco o casi nada se puede decir. Las estimaciones más fiables se han hecho de forma retrospectiva a partir de las diversas regularizaciones. La correspondiente a 1986 (Izquierdo, 1995), la regularización de

1991 dirigida exclusivamente a trabajadores (Aragón Bombín y Chozas, 1993; e Izquierdo, 1996), de la adscripción a la política de cupos de 1993 (Gozálvez Pérez, 1998) y, por último, a través del análisis de las solicitudes de asilo denegadas (Colectivo Ioé, 1999). Del mismo modo, los resultados de la regularización del 2000 nos darán una aproximación de la población sin papeles hasta el momento. El resto de estimaciones, necesariamente fragmentarias, corresponden a los estudios realizados por las propias ONGs o la administración pública, de los colectivos a los que han prestado servicios.

Así, en la regularización de 1986, hubo alrededor de 40.000 solicitudes, de las cuales se rechazaron un 6%, entre las aprobadas, unas 23.000 recibieron un permiso de residencia (con o sin autorización para trabajar), y los 11.000 restantes sólo accedieron a una autorización de estancia (de corto período). La mayoría de los regularizados eran de nacionalidad africana (33%) o europea (30%), seguidos por latinoamericanos (22%) y asiáticos (12%). Cabe destacar una importante presencia de mujeres.

En 1991 se estima que la mayoría de las 127.844 solicitudes de regularización presentadas correspondían a personas anteriormente en situación irregular (siendo mínimo el efecto llamada de la regularización). De esas solicitudes se concedieron 108.534 permisos a trabajadores y 7.000 a familiares, denegándose 19.306 (como es obvio, los permisos denegados pasaban de nuevo a la situación de irregularidad). Un año más tarde el 9 de julio de 1992, de los 108 mil permisos concedidos, tan sólo se renovaron 80.000.

Del mismo modo, la política de contingentes, aplicada desde 1993 en España, se convirtió en una forma de regularizar población de trabajadores sin papeles ya residentes en el país, siendo ésta de 20.600 permisos anuales hasta 1996, y reduciéndose a 15.000 en 1997. También hay que recordar dentro del marco legislativo, que en el Plan de Integración Social de los Inmigrantes de 1994, *los sin papeles* quedaban explícitamente excluidos de todas las acciones previstas.

Por último los datos provisionales hechos públicos sobre la regularización del 2000 cuyo plazo acaba de concluir, hablan de 225.000 solicitudes, de las cuales el gobierno estima que unas 50.000 serán rechazadas. Estas cifras doblan las estimaciones realizadas por el gobierno y las propias ONG's, que calculaban que unos 100.000 inmigrantes sin papeles podrían acogerse a este proceso que, no olvidemos, exige una serie de requisitos previos para poder acogerse al mismo. Precisamente por ello, se estima que todavía queda en España una importante bolsa de inmigrantes sin papeles y sin regularizar.

No está claro que las expectativas creadas por la nueva Ley de Extranjería hayan contribuido a crear el "efecto llamada", sino que los inmigrantes siguen llegando como lo han hecho en los últimos años, pero con una mayor intensidad en la medida en que las previsiones de la economía española son mucho más positivas y existe una notable demanda de mano de obra, al tiempo que los medios de comunicación prestan una mayor atención a estos temas, aunque también es cierto que podemos considerar que la polémica sobre la Ley de Extranjería, y sobre todo el anuncio anticipado de la decisión de modificarla en sentido restrictivo, es lo que ha precipitado ese efecto, del que las mafias de tráfico humano son las primeras beneficiarias y los inmigrantes extranjeros los más perjudicados. Un efecto colateral ha sido el crear una imagen del inmigrante sin papeles como si su existencia correspondiera a un único tipo de inmigrante: persona que llega al país de forma clandestina sin la documentación necesaria para regularizar esa situación. La realidad en cambio es muy distinta y es por ello que en el próximo

apartado trazamos una aproximación tipológica a la situación en la que una persona de nacionalidad extranjera puede encontrarse en situación irregular en nuestro país, es decir, sin papeles.

3.2. Una propuesta tipológica

Si, como hemos visto, la estimación de su número es siempre aproximativa, y en la mayoría de los casos retrospectiva, lo que sí se ha trazado es una aproximación tipológica a la población sin papeles, dependiendo de cómo han llegado a esa situación (Colectivo Ioé, 1999), que comprendería tres grandes grupos:

a) Los que han perdido su condición de regulares:

a.1. Los que perdieron su empleo, y por tanto su permiso de trabajo y residencia correspondiente, población significativa a partir de la recesión de 1992.

a.2. Los que no han renovado el permiso correspondiente (sea por falta de información, o porque han pasado a la economía sumergida).

a.3. Los que no se les renovó el permiso correspondiente.

a.4. Los hijos de inmigrantes acogidos al permiso de sus padres que al cumplir los 18 años de edad no consiguen un permiso propio.

2.4. Personas que llegaron con permiso de estudiante, y una vez caducado este, siguen en el país.

b) Los que nunca han tenido acceso a la documentación necesaria.

b.1. Los que nunca se han presentado para regularizar su situación (dentro de este colectivo destaca últimamente por su especificidad y por el eco en los medios de comunicación el correspondiente a menores que entraron solos y de forma clandestina en el país).

b.2. Los que fueron rechazados en los correspondientes procesos de regularización (de los que como hemos visto se parte para hacer las estimaciones)

b.3. Los familiares reagrupados de forma irregular (es decir, una persona tiene el permiso correspondiente pero no lo consiguieron o demandaron sus familiares).

b.4. Los que han visto denegada su solicitud de refugio o asilo.

b.5. Los apátridas (sin documentación del país de origen ni del país de destino).

c) Los que se encuentran en situación de ilegalidad.

c.1. Extranjeros con orden de expulsión o salida obligatoria no ejecutada, que se encuentran en libertad.

c.2. Ingresados en los seis centros de internamiento especiales para extranjeros existentes en España (con 444 plazas), a la espera de ser expulsados (colectivo que ha disminuido radicalmente con la aplicación de la nueva Ley de Extranjería).

c.3. Prófugos de la justicia.

3.3. Ámbitos de exclusión socioeconómica de los sin papeles.

Si como hemos visto, el abanico de situaciones que componen la tipología de los *sin papeles* en España es muy amplio, sus condiciones de vida y la exclusión a la que se ven sometidos en diferentes ámbitos también se ve fuertemente afectada, no ya por la legislación vigente que los define, sino por la diferente aplicación de esa legislación dependiendo de la administración pública correspondiente. En este sentido, y pese a que la administración central del Estado es la única con competencias sobre materia de extranjería, las directrices de actuación de las diferentes Administraciones Autonómicas, o de las administraciones locales, presentan fuertes variaciones, siendo también muy diferente el nivel de competencias traspasadas a unas y otras Comunidades Autónomas.

Así, se pueden destacar diversas iniciativas de la administración local en diferentes ámbitos, que por encontrarse al nivel más cercano de los problemas de la ciudadanía, han presentado en no pocas ocasiones una mayor sensibilidad hacia el problema de los *sin papeles* en aras a la cohesión social del propio municipio. Sirvan como ejemplo la implementación de diferentes medidas de integración en los ayuntamientos de Alcarràs (Lérida), el de Vic (Barcelona), el de Banyoles (Girona), Mataró (Barcelona), entre otros.

Alcarràs es un municipio de 5.000 habitantes con una inmigración temporera mayoritariamente procedente del África subsahariana, que llega al pueblo de junio a setiembre, representando más del 20% de la población del municipio durante ese periodo. Desde 1992 el consistorio se planteó una actuación decidida en materia de vivienda, construyendo una nave de acogida para los inmigrados, e incentivando la acogida en las casas particulares de los propietarios contratadores, en colaboración con los sindicatos Comisiones Obreras y Unión General de Trabajadores. Por otro lado, el sindicato agrario Unió de Pagesos, se planteó directamente la orientación y resolución de la documentación necesaria para aquellos inmigrados que aparecieran sin papeles contando para ello con subvenciones tanto del gobierno central como de la Generalitat de Catalunya, y con la figura de dos trabajadores sociales a cargo del erario municipal. El ayuntamiento de Vic, por su parte, con 30.000 habitantes y una inmigración casi exclusivamente marroquí (unas 1000 personas con permiso más los residentes sin papeles), ha destacado en una decidida política educativa, en la que en ningún caso la posesión de papeles o no, ponía en duda ni el derecho a la escolarización de los menores, ni la atención a los adultos en las Escuelas de Adultos, propugnadas por la administración en colaboración con diferentes ONGs. En este municipio se ha ensayado un principio de redistribución de los alumnos en las escuelas según su origen que ha afectado tanto a la escuela pública como a la privada, y que ha perseguido evitar la especialización de las escuelas en función del origen de los alumnos, incentivando la redistribución espacial de los inmigrantes para impedir su *guetización*. En el caso de Banyoles, un municipio de unos 14.000 habitantes con un 8% de población inmigrada, mayoritariamente de Senegal y Gambia, destaca la importancia de la formación a mujeres (casi el 50% de la población extranjera), desde el propio ayuntamiento en colaboración con ONGs, ante la convicción de que las mujeres subsaharianas inmigradas necesitaban de una acción especial en pro de su integración, mientras que se

considera que los niños son socializados en el mundo de la escuela y los hombres adultos en el del trabajo. También destacaremos la actuación en el campo de la sanidad que lleva a cabo un grupo de profesionales encuadrados en el Hospital de Mataró, que desde el inicio de la llegada de población migrante al municipio y a la comarca del Maresme, en general, han demostrado interés por prestar sus servicios sin discriminar entre los que tienen o no tienen papeles, preocupados por las dificultades de integración de éstos en el sistema sanitario de país, para ellos nuevo, y por las dificultades mutuas de comunicación médico-paciente. Se planteó así, la necesidad de aplicar en su servicio una política de discriminación positiva, esa preocupación se ha traducido en la creación de un servicio específico: el *Dispensario de atención a minorías étnicas*, que funciona desde 1984, y posteriormente el *Dispensario Pediátrico de atención a minorías étnicas*, en 1989.

Por si fuera poco, el grado de arbitrariedad en la aplicación de la Ley permite, que muchas veces, la prestación de servicios a las personas inmigradas sin papeles pueda recaer casi exclusivamente en las decisiones particulares del profesional o profesionales responsables de los diferentes servicios, siempre dentro del marco de la administración pública. De forma paradójica pues, en algunos de los ámbitos reseñados el hecho de tener o no tener papeles *de facto* no es un motivo de exclusión, dependiendo del municipio, o incluso la persona responsable de un servicio.

Como es evidente, los ámbitos socioeconómicos de exclusión, es decir, de los más importantes y de los que se ve privado el sin papeles por definición, son su inserción en el mercado de trabajo, en el acceso a la vivienda, en los servicios de salud y en el derecho a la educación. Cualquier otro ámbito derivado, o la especificidad a la exclusión que se ven sometidas las personas inmigradas sin papeles, alargaría esta lista, considerando la reagrupación familiar, las situación en los centros de internamiento, las condiciones de la deportación, las mujeres en redes de prostitución, o los menores. De entre todos estos ámbitos trataremos con más detalle las condiciones de la vivienda, de la sanidad y de la educación, ya que en el campo laboral, la exclusión total de los sin papeles les sitúa forzosamente en el segmento de la economía sumergida, acrecentando su vulnerabilidad ante la sobreexplotación, cuando no les empuja a sectores claramente marginales para conseguir su subsistencia: la mendicidad, la prostitución, el robo, o participar como último eslabón en el tráfico de drogas. En el mundo laboral, como veremos, la acción de los sindicatos ha sido ejemplar, destacando tanto los sindicatos de trabajadores como Comisiones Obreras y sus oficinas del Centro de Información a trabajadores Extranjeros (CITE), o la Unión General de Trabajadores y su homóloga AMIC, los sindicatos agrarios, en los que se encuentran afiliados trabajadores y empresarios del campo, como puede ser en el caso de Cataluña la Unió de Pagesos, con interesantes experiencias de contratación de inmigrantes extranjeros y concienciación de sus propios afiliados propietarios para que regularizaran a sus trabajadores extranjeros, como, por último, los propios sindicatos de trabajadores extranjeros, como puede ser ATIME.

3.3.1 El problema de la vivienda

*Nosotros, los Jefes de Estado y Gobierno de los países reunidos en la Conferencia de las Naciones Unidas sobre Asentamientos Humanos (Hábitat

II) celebrada en Estambul en junio de 1996, hacemos nuestros los objetivos universales de garantizar una vivienda adecuada para todos y de lograr que los asentamientos humanos sean más seguros, saludables, habitables, equitativos, sostenibles y productivos”.

Extracto de la Declaración de Estambul sobre Asentamientos Humanos, Junio de 1996

La imposibilidad de acceder a una vivienda se ha convertido, en los últimos años, en una de las principales preocupaciones para un sector de población creciente en España, hasta el punto de poderse hablar con todo fundamento del “problema de la vivienda”, que afecta especialmente a los grupos sociales más desfavorecidos, en situación más precaria y con una situación económica más débil. Tampoco podemos ignorar otros factores que determinan de manera muy especial su acceso, entre los que se encuentran la situación de desempleo, inseguridad y precariedad laboral, el desmesurado incremento de los precios del mercado inmobiliario como consecuencia del encarecimiento del suelo junto a un creciente proceso especulativo que ha encontrado en la vivienda un sector ideal para obtener importantes plusvalías, así como un conjunto de transformaciones productivas y económicas fruto de los procesos de globalidad que afectan especialmente a los sectores más desprotegidos, entre los que ocupan un lugar muy especial los inmigrantes.

El problema del alojamiento y la vivienda para el inmigrante no puede separarse del contexto general en el que se encuentra este colectivo y los numerosos problemas que tiene que solucionar (cuestiones económicas, problemas jurídicos y legales, procesos de marginalidad y rechazo, etc). Es por ello por lo que no tiene sentido un acercamiento parcial al problema sin actuar al mismo tiempo sobre otras cuestiones estrechamente vinculadas a las posibilidades específicas de acceder a una vivienda. De modo meramente enunciativo, podemos mencionar algunos de ellos, entre los que destacan los siguientes:

-
- 1) Falta de recursos propios y apoyos económicos, familiares y sociales que les permita conocer y acceder a los recursos inmobiliarios normalizados.
 - 2) Precarización laboral, contratos basura y alta temporalidad, lo que les impide avalar con su propio trabajo alquileres o compra.
 - 3) Irregularidad en su situación jurídica, falta de documentación y complejidad en los procesos de renovación, lo que supone un serio obstáculo a la hora de poder siquiera acceder a una vivienda normalizada.
 - 4) Rechazo, y discriminación por parte de muchos propietarios, lo que les lleva a tener que soportar situaciones de abuso de los propietarios.
 - 5) Xenofobia y marginación de muchos vecinos, que impide una buena integración en los barrios y acentúa aún más su segregación social.
 - 6) Ocupación de viviendas baratas, con frecuencia en mal estado y en zonas muy degradadas, lo que aumenta el grado de marginación en el que se desarrolla su vida cotidiana.
 - 7) Tendencia a la concentración étnica, como factor clave de apoyo y contacto con su grupo de pertenencia, lo que favorece también los procesos de marginación.
 - 8) Preferencia a alojarse en zonas céntricas y bien comunicadas por el transporte público y cercanas a su lugar de trabajo, lo que aumenta los procesos

de concentración espacial.

A todos estos factores habría que añadir el hecho sustancial de que prácticamente no existen programas de envergadura que traten de atender los problemas específicos de alojamiento que tienen los inmigrantes, abandonados a un mercado inmobiliario que vive una escalada de precios que han convertido a la vivienda en un elemento inalcanzable y también en refugio de la especulación económica, todo lo cual coloca a los inmigrantes en una situación obvia de indefensión.

Por ello, los inmigrantes van a tener que enfrentarse a dificultades crecientes para tener alojamiento adecuado, en la medida en que se está produciendo un proceso de renovación urbana y de encarecimiento del precio de la vivienda que les aleja de su acceso y les obliga a salir de las ciudades. No es casual que muchos de estos planes de regeneración urbana traten de "limpiar" la ciudad de forma deliberada de los sectores más precarios, excluyendo a pobres, marginados e inmigrantes a los que literalmente se les expulsa de las ciudades, sin alternativa alguna, originando no pocas tensiones sociales e incluso verdaderos dramas humanos en personas que viven en una economía enormemente precaria y débil.

En los últimos años, el Ministerio de Asuntos Sociales del que depende la política social hacia los inmigrantes en España, ha introducido en la convocatoria anual de subvenciones vinculada al porcentaje del impuesto sobre la renta de las personas físicas (IRPF) destinado a fines de interés social, el programa de apoyo a la vivienda y el alojamiento, si bien, la escasa cuantía económica de los programas aprobados por el Gobierno no dejan de tener un valor testimonial, destinándose básicamente al apoyo de profesionales que puedan apoyar, informar, acompañar y gestionar todas aquellas cuestiones relacionadas con la vivienda y el alojamiento. Así, en el año 1998 el programa de acceso a la vivienda para inmigrantes con cargo al IRPF ascendió únicamente a 219 millones de pesetas, registrando un descenso del 26% respecto al año anterior. En el caso del IMSERSO, organismo estatal que tiene atribuidas las competencias en materia de inmigración, esta cantidad es aún más exigua, siendo tan solo de 29,5 millones de pesetas para el mismo año 1998. Tengamos en cuenta que este dinero es para toda España, y también para el conjunto de ONG's, sindicatos, asociaciones de inmigrantes y entidades públicas que trabajan con inmigrantes.

3.3.2. La educación

"Toda persona tiene derecho a la educación. La educación tiene que ser gratuita, al menos en lo concerniente a la educación elemental y fundamental. La instrucción elemental será obligatoria. La instrucción técnica y profesional habrá de ser generalizada: el acceso a los estudios superiores será igual para todos, en función de los méritos respectivos.

La educación tendrá por objeto el pleno desarrollo de la personalidad humana y el fortalecimiento del respeto a los derechos humanos y a las libertades fundamentales; favorecerá la comprensión, la tolerancia y la amistad entre todas las naciones y todos los grupos étnicos o religiosos, y promoverá el desarrollo de las actividades de las Naciones Unidas para el mantenimiento de la paz.

Los padres tendrán derecho preferente a escoger el tipo de educación que habrá de darse a sus hijos."

Art. 26 de la Declaración Universal de Derechos Humanos. aprobada el 10 de diciembre de 1948 por la Asamblea General de Naciones Unidas

La normal integración así como la incorporación plena de los inmigrantes en la sociedad de acogida tiene en los menores, en los hijos de los inmigrantes, un punto de especial dificultad. La propia complejidad de las políticas hacia los inmigrantes lleva a que, con frecuencia, sus hijos queden en un segundo plano, cuando no olvidados, ignorando así que la educación es un factor esencial de integración, de conocimiento y respeto para cualquier sociedad.

Los hijos de inmigrantes acceden a un sistema educativo y a unas pautas culturales con unas normas, tradiciones y culturas que les son completamente ajenas y desconocidas, originando no pocos problemas de rechazo también con los niños de la sociedad de acogida, así como problemas también para los propios docentes.

La incorporación de mujeres y niños al proceso migratorio es una realidad que trata de satisfacer un derecho básico como es el de vivir en familia, al tiempo que supone retos y desafíos nuevos que exigen que se pongan en marcha nuevos mecanismos de incorporación y participación en la sociedad. Ese proceso es creciente entre los inmigrados de origen africano, mientras que para algunas nacionalidades latinoamericanas, el proceso de reagrupación parte de la mujer inmigrada. En este sentido, los procesos de reagrupamiento familiar ofrecen un salto muy positivo para las sociedades de acogida al tratar de facilitarse el encuentro de los hombres y mujeres con sus familias, sirviendo de apoyo cultural y personal, pero abriendo nuevos problemas por resolver. De esta forma, no es solo el adulto, como trabajador inmigrante, el que tiene que luchar por abrirse paso en una sociedad nueva y distinta, sino que tienen que hacerlo también sus hijos y suconsorte, teniendo ritmos, procesos y necesidades muy diferentes y particulares.

Desde una perspectiva legal, el art. 27 de la Constitución española establece que "todos tienen derecho a la educación". Así mismo, la Ley Orgánica Reguladora del Derecho a la Educación reconoce el derecho a los extranjeros residentes en España el derecho a la educación, si bien, el concepto "residente", puede parecer aquí claramente restrictivo. Sin embargo, en varios textos internacionales sobre derechos humanos firmados por España se proclama con claridad el derecho de todo individuo a la educación, al entenderse como un derecho básico para el pleno desarrollo de la persona humana. En esta línea estarían el art. 28 del Convenio sobre los Derechos del Niño, el art. 13 del Pacto Internacional de Derechos Económicos, Sociales y Culturales, y el art. 2 del Protocolo Adicional del Convenio Europeo de los Derechos Humanos, entre otros. También recientemente, la nueva Ley Orgánica 4/2000 de 11 de enero, sobre "Derechos y Libertades de los extranjeros en España y su integración social", incorpora en su artículo 9, el derecho a la educación, recogido en tres nuevos artículos.

En el primero equipara a todos los extranjeros menores de dieciocho años en las mismas condiciones que los españoles en lo relativo a la enseñanza básica gratuita y obligatoria, la obtención de titulación académica y el acceso al sistema público de becas y ayudas. Esto no es ni más ni menos que aplicar la Convención de los Derechos del Niño de 1989. La novedad está en el reconocimiento expreso de la obtención de la titulación académica, ya que por paradójico que pueda parecer, con anterioridad a esta Ley en los colegios públicos españoles se venían escolarizando a los menores

extranjeros, si bien, aquellos que carecían de documentación en regla, suya o sus padres, no podían después obtener el certificado académico correspondiente, lo que planteaba problemas muy serios.

El segundo artículo equipara también la enseñanza no obligatoria en las mismas condiciones para extranjeros y españoles, estableciéndolo como un derecho, incluyendo también la obtención de titulaciones y becas. Y finalmente el tercero de los artículos hace extensivo también a los extranjeros la posibilidad de acceder al desempeño de actividades docentes o científicas, pudiendo también crear y dirigir centros educativos con arreglo a las leyes en la materia.

A la vista de lo anterior, el derecho a la educación se configura en el derecho internacional y en el propio derecho español como un derecho básico de las personas, y por ello, no queda sujeto a limitaciones tales como la residencia o la estancia legal en España.

Pero una cosa es el reconocimiento de este derecho y otra muy distinta el acceso práctico al mismo, ya que es aquí donde se plantean dificultades muy serias ante las que no existen medidas estructuradas de carácter público, que afectan en mayor medida a aquellas personas procedentes de países islámicos, a los que junto a los problemas idiomáticos hay que añadir las diferencias culturales y religiosas, muchas veces ignoradas.

Los menores extranjeros presentan problemas específicos en su normal escolarización, que vienen dados, entre otros por cuestiones como:

-
- 1) Elevado absentismo escolar en edades a partir de los 13 años
 - 2) Abandono de la formación una vez acabada la educación obligatoria, afectando de manera especial a los jóvenes extranjeros
 - 3) Desconocimiento de la lengua vehicular del proceso de enseñanza y aprendizaje
 - 4) Desfase escolar significativo por su tardía incorporación al sistema educativo español o por una escolarización irregular en su país de origen
 - 5) La concentración en centros escolares con una elevada presencia de extranjeros, lo que dificulta un eficaz integración y facilita procesos de segregación social
 - 6) Desconocimiento paterno para padres y madres del funcionamiento del sistema educativo
-

La incorporación de los niños y niñas a la emigración de sus padres plantea así en muchas ciudades necesidades y retos de tipo educativo para los que la estructura escolar en España no está preparada. Bien es cierto que en algunos ayuntamientos y Comunidades Autónomas empiezan a plantearse estos temas como ejes sustanciales del trabajo en la escuela, si bien, es el Director del colegio quien pone en marcha las medidas a su alcance, con más buena voluntad que apoyo oficial y recursos. A pesar de ello, resulta urgente actuar de manera positiva para facilitar la integración de los menores extranjeros en aquellos colegios en los que tienen una presencia significativa.

Todo ello sin olvidar la necesidad de actuar también sobre los jóvenes inmigrantes, que abandonan prematuramente los programas escolares regulares, y actuando al mismo tiempo sobre los programas de acceso a la lengua y la cultura

autóctona que puedan favorecer la integración socio-cultural de las mujeres y hombres inmigrantes, pudiendo aprender nuestro idioma y costumbres, sin que por ello olviden las suyas propias, algo que en España actualmente solo realizan organizaciones no gubernamentales ante el vacío existente por parte de las instituciones públicas.

3.3.3. La atención médica y sanitaria

"Los países signatarios de la Declaración y Programa de la Cumbre de Desarrollo Social celebrada en Copenhague (Dinamarca) se comprometen a "para el año 2000 lograr un nivel de salud para todos los habitantes del mundo que les permita llevar una vida productiva en lo económico y lo social, y, con ese fin, proporcionar atención primaria de la salud para todos los habitantes del planeta".

Capítulo V. Apartado g. del Programa de Acción de la Cumbre de Desarrollo Social de Copenhague. Marzo de 1995

El derecho a la salud es un bien reconocido internacionalmente como algo inherente a todo ser humano, teniendo importancia para el propio individuo así como para la misma comunidad en la que éste vive. Desde este punto de vista, la necesidad de extender los servicios de salud para los inmigrantes no ofrece ninguna duda desde una perspectiva de derechos humanos básicos y también para la salud comunitaria.

En España, la cobertura médica a los inmigrantes en los centros pertenecientes al Servicio Nacional de Salud ha venido siendo motivo de polémica ya que, en principio, todos los extranjeros sin papeles estaban completamente fuera de los sistemas sanitarios, careciendo por tanto de atención médica, incluso en casos verdaderamente urgentes y dramáticos. En los últimos años se han dado muchos casos polémicos, que incluso saltaron a los medios de comunicación, al negarse hospitales y centros de salud a atender a inmigrantes que necesitaban atención médica de urgencia y que eran incluso rechazados antes de su admisión. Todo ello se agravaba cuando los rechazados eran menores o mujeres embarazadas. En el primer caso, suponía un incumplimiento claro de la "Convención de los Derechos del Niño" firmada por España en el año 1989, lo que llegó a motivar incluso la intervención de fiscales y del Defensor del Menor de la Comunidad de Madrid en el año 1998, exigiendo la atención sanitaria a los niños inmigrantes, cualquiera que fuera la situación documental en la que se encontraran ellos mismos o sus padres. En el caso de las mujeres embarazadas, estas no eran atendidas salvo en el momento del parto, si bien a todas ellas se les emitía con posterioridad una factura por el servicio prestado, que en no pocas ocasiones era reclamada por vía ejecutiva. Bien es cierto que la descentralización política del Estado español hacía muy diferentes los tratamientos dados en cada una de las comunidades autónomas y ayuntamientos de España, pero en general, la atención médica elemental de muchos inmigrantes pasaba por la buena voluntad de muchos profesionales de la medicina y de algunos responsables políticos. El hueco asistencial quedaba, por tanto, en manos de algunas ONG's que incluían la atención médica en el conjunto de sus programas hacia los inmigrantes, siendo muy pocas las organizaciones que contaban con este servicio dada la necesidad de contar con médicos profesionales y con un dispositivo asistencial, farmacéutico y de derivación especializado.

Toda esta situación se convertía en paradójica desde la perspectiva legal, ya que la obtención del permiso de residencia estaba vinculado a la existencia de la cobertura médica (generalmente privada), lo que planteaba serios problemas para muchos inmigrantes que carecían de recursos para contratar seguros médicos privados y que facilitó no pocas situaciones de fraude. Ciertamente la nueva Ley 4/2000 de derechos y libertades de los extranjeros en España, que entró en vigor el pasado mes de febrero, garantiza en su artículo 12 el derecho a la asistencia sanitaria, si bien sigue solicitándose disponer de esa cobertura para obtener el permiso de residencia, lo que plantea un auténtico contrasentido. Por si fuera poco, los reiterados anuncios de modificación de la actual Ley 4/2000 de derechos y libertades de los extranjeros en España, y el empeño del actual gobierno del PP de suprimir la equiparación de atenciones sociales elementales a los inmigrantes documentados y a aquellos que carecen de papeles o se encuentran en España en situación irregular, plantea numerosas incertidumbres sobre el mantenimiento de un derecho tan elemental como es la atención sanitaria básica a todas estas personas, con independencia de su situación documental.

Lo cierto es que la entrada en vigor de la nueva Ley de extranjería ha extendido esta atención a todos los extranjeros en España, con independencia de su situación documental y de regularidad, sin que ello haya producido ningún sobresalto en el sistema sanitario español. Por el contrario, el conjunto de la sociedad, y especialmente de los profesionales de la sanidad, valoran como esencial cubrir esta atención sanitaria en los inmigrantes, con mayor motivo cuando el IMSERSO, organismo estatal que tiene atribuidas las competencias en materia de inmigración, dedicó durante el año 1998 la cantidad de 10 millones de pesetas para facilitar la cobertura sanitaria de los inmigrantes en España. Sobran comentarios.

Por último queremos señalar una confusión que en el ámbito sanitario se ha detectado ante la entrada en vigor de la nueva Ley.

El artículo 12 de la nueva Ley Orgánica 4/2000 ha establecido la asistencia sanitaria en los siguientes términos:

-
- “1- Los extranjeros que se encuentren en España inscritos en el Padrón del municipio en el que residan habitualmente tienen derecho a la asistencia sanitaria en las mismas condiciones que los españoles.
 - 2- Los extranjeros que se encuentren en España tienen derecho a la asistencia sanitaria pública de urgencia ante la contracción de enfermedades graves o accidentes, cualquiera que sea su causa, y a la continuidad de dicha atención hasta el alta médica.
 - 3- Los extranjeros menores de dieciocho años que se encuentren en España tienen derecho a la asistencia sanitaria en las mismas condiciones que los españoles.
 - 4- Las extranjeras embarazadas que se encuentren en España tendrán derecho a la asistencia sanitaria durante el embarazo, parto y postparto.”
-

Sin embargo, la entrada en vigor de esta nueva Ley, el pasado mes de febrero, ha supuesto una cierta polémica en lo relativo precisamente a la aplicación de este artículo,

debido a la falta de diligencia para su puesta en marcha en algunas comunidades autónomas, lo que hizo que después de su entrada en vigor, y transcurrido un tiempo razonable, hospitales y centros de salud siguieran negándose a atender a inmigrantes que acudían a ellos, o incluso llegándoles a emitir facturas por atenciones de urgencia.

Así, a finales del pasado mes de febrero, y cuando la nueva Ley ya había entrado en vigor, Alicante Acoge trasladó a los medios de comunicación diferentes denuncias llegadas hasta esta organización de inmigrantes a las que se les había negado la atención en hospitales de la provincia, alegando que no tenían instrucciones para la atención de los mismos. En algunos casos, incluso, las quejas consistían en que antes de entrar en los hospitales se les advertía de que les iban a emitir una factura por el servicio prestado, que les sería cobrado por vía ejecutiva, tal y como denunció ante Alicante Acoge Kaltaum Yacoubi, a quien le pretendieron cobrar 131.004 pesetas por una atención de urgencia. Pero el caso más llamativo que denunció esta organización fue el de una mujer embarazada, en avanzado estado de gestación y con antecedentes médicos que acudió a urgencias al creer que podría estar de parto. Al no tener sus papeles en regla, ni cartilla sanitaria, en urgencias le advirtieron que tendría que pagar su atención médica, por lo que la mujer abandonó por su propio pie el hospital, acudiendo a Alicante Acoge a denunciar la situación. A esta situación se añadía el hecho de que los Centros de Salud de la provincia no tramitaban ningún tipo de documentos que facilitara la atención sanitaria de los inmigrantes, alegando que carecían de instrucciones al respecto, a pesar de transcurrir ya tres meses desde que la Ley fue aprobada.

Esta situación contrastaba con la que se producía en otras comunidades autónomas bajo la dependencia del INSALUD, donde con antelación suficiente se habían trasladado instrucciones facilitando incluso los nuevos impresos para poder atender a los inmigrantes con arreglo a lo dispuesto por esta Ley.

La denuncia de Alicante Acoge originó una respuesta inmediata de la Conselleria de Sanidad de la Comunidad Valenciana, a través de su Presidente, comprometiéndose a regular de inmediato el acceso de todos los inmigrantes a la atención sanitaria según lo dispuesto por la Ley, creando para ello una Tarjeta Solidaria, que incluiría también la atención farmacéutica gratuita para los mismos. Sin embargo, la puesta en marcha de esta tarjeta, y con ello, el reconocimiento de este derecho, ha sido problemático, estando rodeado de múltiples requisitos documentales que muchas veces funcionan como trabas efectivas para que inmigrantes sin papeles acudan con normalidad a los centros sanitarios.

4. LOS SERVICIOS PRESTADOS POR LAS ONGs

4.1. Contexto legal y político

Entendemos por ONG toda organización no gubernamental sin ánimo de lucro que surge de la sociedad civil. En este apartado consideraremos las Organizaciones No Gubernamentales que de forma directa o indirecta orientan sus actividades hacia las personas inmigradas de nacionalidad extranjera, y que por tanto, en un momento u otro, han debido plantearse la existencia de los "sin papeles". También consideramos las asociaciones o movimientos amplios con el mismas características descritas donde pueden agruparse o federarse diferentes ONGs.

Según sea la perspectiva que adoptemos, veremos que existen diferentes tipos de ONGs que aquí nos interesan. Así, si lo que consideramos es la actividad de la ONG, nos encontraremos con las organizaciones que se dedican de forma exclusiva a la inmigración de nacionalidad extranjera, las que abordan esta cuestión como una actividad más entre otras, o las que de algún modo, como la mayoría de las fundaciones, dan soporte a otras ONGs. Si lo que tomamos en cuenta en cambio es el tipo específico de actuación, podríamos diferenciar entre las que centran su actividad en la denuncia, las que se dedican a la prestación de servicios sociales, y las que prestan otro tipo de servicio donde no es indispensable el trabajo social, como pueden ser las asociaciones de carácter cultural. Desde la perspectiva del origen de las personas que integran esas ONGs, podríamos distinguir entre las constituidas por los propios inmigrantes, las que están integradas por personas autóctonas, y por fin, aquellas de carácter mixto. Desde el tipo de organización interna y la vinculación de sus integrantes, podríamos distinguir aquellas que se nutren principalmente del voluntariado, y las que mantienen una estructura de contratación salarial, siendo la mayoría organizaciones a este respecto de carácter mixto, donde profesionalización y voluntariado se suelen combinar. Su colaboración o no con la administración pública, y la importancia que en su financiación tienen las subvenciones recibidas de la misma, también presenta un extenso abanico que iría de aquellas que rechazan de plano la colaboración, y que por diversos motivos no reciben subvención alguna, a aquellas que la colaboración con la administración es un eje central de sus actividades y las que buena parte de su financiación corresponde a la subvención, con diferentes modalidades, por parte de las diferentes Administraciones Públicas.

Esa fragmentación y diversificación es difícil de entender sin el contexto histórico reciente. La orientación de las Organizaciones no Gubernamentales hacia los inmigrantes de nacionalidad extranjera, la creación de nuevas entidades con ese exclusivo propósito, o la aparición de las integradas por los propios inmigrantes, así como sus características y la diversificación de actuaciones que presentan, no pueden entenderse sin el contexto tanto de la propia migración internacional en España como de la legislación que de un modo u otro la regula, singularmente determinada por el proceso de integración europea. Como es obvio, sin la referencia a ese contexto sería difícilmente comprensible su intervención directa o indirecta sobre la situación de los sin papeles. De este modo observaremos cómo la legislación en materia de Extranjería, y la aplicación de medidas políticas sobre la inmigración significan hitos en la creación o reorientación del asociacionismo dirigido a la denuncia o a la prestación de servicios para los inmigrantes, o del propio asociacionismo de los inmigrantes de nacionalidad extranjera.

4.1.1. Una cronología

Consecuentemente creemos de interés dar un repaso sucinto a la evolución de la inmigración internacional en España y al marco legislativo. Así, si debiéramos periodificar la evolución de las ONGs y su actuación respecto a la inmigración de nacionalidad extranjera, deberíamos considerar cinco fechas de referencia: 1) desde 1975 a la aprobación de la Ley de extranjería; 2) a partir de la aprobación de la Ley de extranjería en 1985 hasta la regularización; 3) de la regularización de 1991 hasta el nuevo reglamento de aplicación de la Ley; 4) desde el nuevo reglamento de aplicación de la Ley en 1996 hasta la redacción de una nueva Ley de Extranjería; y 5) a partir de 1999, con la redacción y aprobación de la nueva Ley de extranjería, y la regularización del 2000, hasta estos momentos en los que se debate su modificación.

1) Desde 1975 a la aprobación de la Ley de extranjería

En España, al igual que en otros países del sur de la Unión Europea, el año 1975 puede ser considerado una de las fechas clave por lo que se refiere a la inmigración internacional. En 1975, se dejaban sentir en Europa los primeros síntomas de la crisis económica, los países del norte y centro de Europa que, desde el final de la II Guerra Mundial, se habían convertido en receptores de inmigración extranjera empiezan a adoptar políticas restrictivas, completadas con paquetes de medidas promoviendo el retorno de los inmigrantes ya instalados en el país. Aunque no en su totalidad, la mayoría de esos migrantes procedían de los países europeos mediterráneos, destacando entre éstos España. La actitud de los gobiernos de los países europeos, caracterizados hasta ahora por un desarrollo económico que contaba con la aportación de mano de obra barata procedente de la inmigración, y por la tolerancia cuando no por la apuesta incentivadora, cambió radicalmente. La inversión en el signo de los saldos migratorios españoles se debió, en buena medida, a la retención y al retorno de los propios emigrantes. Ese cambio vino facilitado también por las transformaciones políticas y económicas acaecidas en España: al desarrollo español de los años sesenta y a una crisis que aún no era tal, se le deben añadir los cambios políticos debidos al proceso de transición democrática. Paralelamente y de forma indirecta, las restricciones aplicadas en los países europeos tradicionalmente receptores de inmigración, facilitaron la llegada de inmigrantes extranjeros a España, bien como lugar de paso, bien como la última frontera en caso de expulsión.

En 1975 el volumen y el perfil sociodemográfico de los residentes extranjeros en España era muy diferente del actual. Al ya notable contingente de población extranjera procedente de países desarrollados (114.141 residentes que representaban el 69% del total) había que añadir casi unas tres cuartas partes correspondientes al colectivo latinoamericano relacionado en no pocas ocasiones con las condiciones políticas en sus países de origen, y que dará lugar a algunas de las primeras asociaciones de inmigrantes extranjeros (por ejemplo la Casa de Uruguay-Amigos del Uruguay, fundada en 1978). Muy por debajo encontrábamos el continente asiático con un 5,7%, así como un escasísimo colectivo norte africano (2%), que también por estas fechas empieza a organizarse. Si bien no nace como una asociación específicamente marroquí, hay que destacar la creación en Barcelona en 1977 de la asociación mixta de carácter cultural de Bayt Al-Thaqafa (*La casa de la cultura*), que en 1984 se registrará como *Asociación Española de Amistad con el Pueblo*

Árabe "Bayt Al-Thaqafa". Al progresivo incremento de la inmigración internacional y de la población de nacionalidad extranjera le corresponderá la adaptación de ciertas ONGs especializadas en el migrante, es decir, del español que se dirigía al extranjero, o del inmigrado español de una región a otra, al extranjero que migraba a España. Es el caso de Cáritas, que fundada a mediados de los 40, a partir de este período va orientando su actividad hacia personas inmigradas de nacionalidad extranjera, y que en 1983 crea la *Comisión Diocesana de Migración*.

2) *A partir de la aprobación de la Ley de extranjería en 1985 hasta la regularización del 91.*

En 1985, año de la aprobación de la "*Ley Orgánica 7/1985 de 1 de julio, sobre derechos y libertades de los extranjeros en España*", conocida como Ley de Extranjería, el número de residentes ascendía a 241.970, es decir, desde 1975, se había multiplicado por 1,5. Los contingentes que representaban a cada continente no habían variado su situación, incluso el peso de los ciudadanos de países desarrollados había aumentado ligeramente, pasando a representar el 72%. Por su parte, el contingente africano había aumentado, llegando al 4%, y Marruecos había doblado sus permisos (que representaban el 2,3%). A partir de 1986, una vez pasados los peores efectos de la crisis económica, y una vez ratificado el ingreso de España en la Comunidad Económica Europea, España compartirá con el resto de los países meridionales de la Unión una misma posición respecto a la inmigración internacional. Es durante este período cuando los países europeos tradicionalmente emigratorios invierten su saldo migratorio y pasan a ser inmigratorios. Proceso considerado nuevo y creciente, de origen prioritariamente africano en su crecimiento. La inserción de ésta inmigración se produce inicialmente en la economía sumergida, ocupándose en sectores económicos similares, engrosando espectacularmente el número de los inmigrados en situación irregular debido a la rigidez de la legislación y a la arbitrariedad en su aplicación.

No es de extrañar que este año represente una de las fechas clave por dos motivos: 1) la aparición de nuevas organizaciones de inmigrantes y la consolidación de las ya fundadas (por ejemplo, creación como entidad del *Casal Ilatinoamericà a Catalunya* (la CLACA) en 1987, proceso que culminará con la creación de la *Federación de Colectivos de Inmigrantes de Cataluña* (legalizada en 1991); 2) la toma de conciencia de la sociedad civil de la importancia de la inmigración extranjera y de las difíciles condiciones de vida de la población inmigrada, pudiendo destacar, por ejemplo, la creación del servicio específico del *Centro de Información para Trabajadores Extranjeros* el año 1986 (CITE) del sindicato mayoritario *Comisiones Obreras (CC.OO)*, de gran importancia al marcar la pauta de otros sindicatos, o la de SOS Racismo en 1989, haciéndose eco de la experiencia francesa.

3) *De la regularización de 1991 hasta el nuevo reglamento de aplicación de la Ley*

El principal objetivo de la regularización de 1991, fue sin lugar a dudas, hacer aflorar la inmigración clandestina, o dicho de otro modo, tomar conciencia de la importancia de la población sin papeles, obteniendo como primer fruto un ajuste más real entre las estadísticas y la población inmigrada extranjera. Pero al mismo tiempo, y como suele suceder cuando se aplican medidas que se intuyen restrictivas a medio plazo, tuvo un efecto de retención y atracción sobre la población migrante. Por un lado población

migrante que se hubiera planteado el retorno, desistió ante la duda de si pasada la regularización las condiciones para migrar volverían a endurecerse, y por el otro, ante el anuncio de la exigencia de obtener el visado desde el país de origen una vez concluida la regularización, hubo un contingente que podemos estimar importante de migrantes que adelantaron su proyecto migratorio, y de reagrupaciones familiares. Todo ello explica el notable crecimiento que se puede observar en las series estadísticas.

Las limitaciones de la regularización, actúan de acicate para la intensificación de las actividades de las ONGs dirigidas hacia la denuncia o el trabajo social con inmigrantes de nacionalidad extranjera. También, por desgracia, deberemos recordar el impacto que tuvo sobre la sociedad española el asesinato en Aravaca de Lucrecia Pérez, joven inmigrada dominicana en diciembre de 1992, un año después de la primera regularización extraordinaria, y el efecto magnificador que significó su repercusión debido a los medios de comunicación. La toma de conciencia de la xenofobia en España como realidad ligada a la inmigración extranjera quedó indeleblemente marcada por este acontecimiento. Las manifestaciones organizadas como repulsa al asesinato y a la regularización del 1991, dieron a conocer de forma mediática a SOS Racisme, que creada en 1989 como ya se ha dicho, había aglutinado un núcleo de personas preocupadas por el ascenso del racismo en España.

Desde 1991, y a raíz de la experiencia de la regularización, el Estado español toma diversas medidas que intentan regular la inmigración: el inicio de la política de cupos en 1993, y la creación de diferentes instituciones como el Plan de Integración Social de los Inmigrantes en 1994, o la creación en 1995 del Foro para la Integración de los Inmigrantes Extranjeros. Destacamos estas tres medidas por la repercusión directa que tendrán en el mundo asociativo, de un lado, y en la condición de los *sin papeles*, del otro. En efecto, la constatación del fracaso de la política de cupos como política inmigratoria, y su conversión de facto en una especie de regularización anual encubierta, pone sobre la mesa la existencia de un importante contingente de población inmigrada extranjera *sin papeles*, existencia que entra en franca contradicción por la exclusión explícita que el Plan de Integración hace de los "sin papeles". Paralelamente la creación del Foro es un reconocimiento por parte del Estado a las Organizaciones no gubernamentales, reconocimiento en forma de asesoría.

4) Desde el nuevo reglamento de aplicación de la Ley en 1996 hasta la redacción de una nueva Ley de Extranjería

Si la muerte de Lucrecia Pérez significa un antes y un después en la sensibilización de la sociedad española frente a las condiciones de vida de los inmigrantes de nacionalidad extranjera y a los actos racistas, las expulsiones de 1996 significan una acentuación sobre la situación específica de los *sin papeles* y las repercusiones claramente negativas de la legislación vigente. En efecto, el 23 de junio 103 inmigrantes procedentes del campo de refugiados en Melilla, que estaban a la espera de recibir su documentación para poder desplazarse a la Península, fueron expulsados desde Málaga en cinco aviones militares con destino a Camerún, Mali, Senegal y Guinea Bissau. Durante el viaje fueron sedados masivamente y sin prescripción médica, recibieron malos tratos a su llegada a los países de destino, e incluso 25 de ellos fueron encarcelados en Guinea Bissau por no ser originarios de este país. De esta forma, se cursaron órdenes judiciales colectivas, cuando la legislación

establece que deben ser individuales, sin respetar el derecho de asistencia jurídica de los expulsados, que fueron llevados a terceros países y no a sus países de origen como establece la legislación internacional. Y finalmente, se incumplió la normativa de asilo, que paraliza automáticamente cualquier orden de expulsión ya que la mayoría de ellos habían presentado esta solicitud con anterioridad a los hechos.

De esta forma, la intensificación del proceso de cierre de fronteras iniciado por Europa hace unos años, y el alineamiento progresivo del nuevo gobierno español con las posturas más restrictivas de la Unión Europea, acarrea un amplio consenso contrario a la Ley de Extranjería, que daría como fruto la nueva Ley. A nivel asociativo aparece la única organización que, en forma de bloque, se articula con el exclusivo propósito de denunciar la situación de los sin papeles y la responsabilidad del Estado en esa situación: *La plataforma papeles para todos* (ver entrevistas).

5) A partir de 1999, con la redacción y aprobación de la nueva Ley de extranjería y la regularización extraordinaria de 2000, hasta estos momentos en los que se debate su modificación.

En estos momentos tanto la regularización extraordinaria de 2000 vigente hasta el 31 de julio de este año, como la modificación de la Ley de Extranjería que se propone el Gobierno del Partido Popular una vez conseguida la mayoría absoluta, como el reglamento para aplicarla, han convertido la situación de los *sin papeles* en un objeto central del debate para legitimar esos cambios. Este hecho, sin lugar a dudas, va a cambiar radicalmente la situación de los *sin papeles*, pero también la orientación de las ONGs se resuelva en un sentido o en otro, es decir, en el mantenimiento de la prestación de servicios sociales y sanitarios a los *sin papeles* por parte de la Administración Pública como preveía la nueva Ley del 2000, o por el contrario, que no se les reconozcan esos derechos como en la Ley de 1985, o que se recrudezca su situación debido a la escalada de declaraciones en las que se les criminaliza (a la vez que se les victimiza). Paralelamente el aumento de menores indocumentados en las principales ciudades receptoras de inmigración que se ha constatado en los últimos años, así como la asociación mediática de la presencia de esos menores y los problemas de seguridad ciudadana, han tenido como resultado la creación de organizaciones específicas como la *Plataforma en defensa de los menores inmigrantes* de Cataluña compuesta por más de 75 ONGs y unas 95 personas a título individual, o que otras hayan dirigido su actividad en esa dirección en colaboración con la administración pública como la *Associació Catòlica Internacional de Serveis a la Joventut Femenina* (ACIS JF-In Via/Centre Roura, ver entrevista).

Así como la muerte de Lucrecia Pérez representó un antes y un después en la toma de conciencia del racismo y las condiciones de vida de los inmigrantes en general, y de los sin papeles en particular en España, los acontecimientos de El Ejido, iniciados el 6 de febrero de 2000 (ver último apartado), marcan un antes y un después en la imagen del trabajador inmigrante en España y en la escalada de racismo, que ha venido a enturbiar el debate sobre la aplicación de la Ley de extranjería.

4.1.2 Algunas actuaciones concretas

De todos los servicios prestados por las diferentes ONGs, destacaremos actuaciones específicas que se mueven en el campo del trabajo (la experiencia de Unió de Pagesos en Cataluña), la vivienda (presentando la actuación de diversas asociaciones, como Alicante Acoge, Provivienda en Madrid, y ANAFE y Santa Lucía en Pamplona, o la asociación Columbares en Murcia), y en la educación, recogiendo el programa piloto de apoyo a la integración del menor magrebi en la escuela implementado por Alicante Acoge, y la acción de diversas ONGs en Cataluña en la experiencia de escuelas de adultos, además de las actuaciones que quedan reflejadas en las diferentes entrevistas resumidas en los dos siguientes apartados, y donde se da cuenta de la situación de los menores sin papeles y de las mujeres subsaharianas que llegan al país a través de la reagrupación familiar, entre otros ámbitos más generales.

El mundo laboral: una actuación singular, la Unió de Pagesos.

Como se ha destacado a lo largo del presente informe, la actividad de los sindicatos obreros en la información, orientación y tramitación de papeles para aquellos que se encuentran en situación irregular es importantísima. En este sentido nos hemos referido a la actividad ejemplar y pionera del Centro de Información para Trabajadores Extranjeros (CITE), de Comisiones Obreras (ver entrevista).

Paralelamente y por su singularidad, queremos destacar también aquí, el trabajo realizado por la *Unió de Pagesos* (Sindicato agrario mayoritario en Cataluña), y las diversas acciones que han emprendido en el campo de la contratación de trabajadores extranjeros y la resolución por su parte de la situación de los sin papeles. A diferencia de Comisiones Obreras, la Unió de Pagesos es un sindicato que agrupa tanto los empresarios como a trabajadores del campo en Cataluña, siendo el trabajo en la agricultura intensiva mediterránea uno de los sectores relevantes de ocupación de mano de obra extranjera en España. El sindicato ha destacado tanto por la campaña de sensibilización entre sus propios empresarios afiliados para que regularicen los papeles de sus trabajadores, como por las campañas específicas de contratación que el propio sindicato ha puesto en marcha a iniciativa propia, y en tercer lugar la orientación y tramitación de papeles de trabajadores extranjeros que llegan a las zonas de cultivo. En este sentido podemos resaltar cómo ya desde principios de los años ochenta, el sindicato se destaca por ser pionero en la regularización de los *sin papeles* gracias a los contratos de sus propios afiliados, y en aparecer como un grupo de presión sobre la administración para mejorar de facto las condiciones de trabajo y la tramitación de los papeles requeridos a los inmigrados extranjeros.

Así en 1999, se inicia una campaña con un grupo de trabajadores colombianos y dos grupos africanos procedentes de Melilla, en colaboración con la Administración Pública (tanto estatal como local), otras ONGs y los sindicatos obreros. El grupo de los trabajadores, 34 colombianos, tuvo un contrato de trabajo de tres meses, en el que el sindicato se hizo cargo de la selección de los trabajadores en origen a través de una empresa colombiana, el billete de ida y vuelta, la tramitación del pasaporte y la documentación necesaria en colaboración con el Ministerio de trabajo y Asuntos Sociales, un curso de capacitación profesional sobre "Recolección y manipulación de la fruta", la asistencia médica, el alojamiento (comunitario o particulares) y la comida. En

colaboración con la Fundación "La Caixa" (fundación dependiente de una de las primeras entidades bancarias del país), se les orientó y facilitó la remesa de los ahorros, a la vez que se organizaban diversos actos culturales y festivos, también subvencionados por el Patronato de Promoción Económica de la Diputación de Lérida, entre las que destacaban las excursiones para conocer la región, y fiestas tanto catalanas como colombianas, en las que participaba la ONG Asociación de Colombia en Cataluña. El mismo año, ante la demanda de mano de obra para la vendimia en las comarcas de Tarragona, la Unió de Pagesos pone en marcha un servicio de contratación de africanos en Melilla, compuesto por dos grupos: el primero de 19 personas, y el segundo de 58, con nacionalidad de Argelia, Mali, Nigeria, Guinea-Bissau, y Conakry, para estos dos grupos el sindicato tuvo que hacerse cargo de la tramitación de los papeles de los trabajadores.

La Vivienda: diversas actuaciones (Alicante Acoge, Provivienda, Asociación Columbare, ENAFy Santa Lucía.

Respuestas a un problema desde Alicante Acoge

En la provincia de Alicante se localizan 45.000 extranjeros residentes según estadísticas del Ministerio del Interior del año 1998, a los que habría que añadir los que se han incorporado recientemente a través del proceso de Contingentes anuales, los que actualmente están accediendo al proceso extraordinario de regularización, así como la importante bolsa de inmigrantes sin papeles existente en toda la provincia. De esta forma, Alicante, con un 0,6% de la población española concentra más del 7% de todos los inmigrantes residentes en toda España, siendo la tercera provincia española en número de extranjeros.

Si bien la composición social, e incluso la motivación económica de su estancia en Alicante es muy variada, en lo que se refiere a los inmigrantes económicos y los sin papeles, las posibilidades de alojamiento se reducen básicamente a tres:

- 1- Ocupar viviendas degradadas de antigua construcción que se encuentran en las áreas centrales de los núcleos urbanos (en el caso de Alicante ocupan las viviendas y pensiones cercanas al casco antiguo, altamente deterioradas y carentes de unas mínimas condiciones higiénicas).
- 2- Instalarse en asentamientos ilegales de chabolas, infraviviendas o pisos en estado de abandono, donde las carencias sanitarias básicas y el deterioro social y urbano es muy elevado (el ejemplo más importante lo constituiría el barrio de Parque Ansaldo, en el municipio de San Juan de Alicante, que concentra a una población inmigrante cercana a las mil personas).
- 3- En los últimos años, también vienen proliferando alojamientos muy precarios cercanos a las numerosas explotaciones agrícolas de la provincia y que en no pocas ocasiones han sido cuadras o establos, casetas de labranza o antiguos almacenes de herramientas (en la fértil zona de la Vega Baja, en las explotaciones de uvas de mesa, en los invernaderos cercanos a la capital y en los pueblos frutícolas de la provincia pueden encontrarse buenos ejemplos de ello).

La precariedad de estos alojamientos, junto a la continua llegada a ellos de inmigrantes, bien sea porque son amigos o familiares de los que allí viven, bien porque entre los propios inmigrantes subarriendan habitaciones y estancias, o incluso porque los utilizan como alojamiento temporal en sus viajes a Europa o desde Europa hacia sus países de origen (como sucede durante el verano con la operación "Paso del Estrecho") impiden establecer cálculos fiables sobre el número de inmigrantes que puedan ocupar estos alojamientos.

Desde Alicante Acoge se han tratado de articular varias respuestas ante el problema del alojamiento de los inmigrantes, que tratan de cubrir diferentes espacios de intervención. Por un lado, se dispone de una vivienda tutelada para inmigrantes en la ciudad en régimen de autogestión que ofrece alojamiento y cobertura de las necesidades básicas para casos puntuales durante un periodo de estancia máximo de tres meses. La situación de cada usuario es estudiada por las trabajadoras sociales a fin de que cuenten durante la estancia en esta vivienda del apoyo técnico y profesional necesario que permita mejorar la situación personal de cada usuario y facilitar su autonomía cuando salen de la vivienda. Para ello se realiza un proyecto de intervención personalizado para cada usuario en el que intervienen educadores, traductores, trabajadoras sociales, profesores, médicos, abogadas, etc. Si bien el número de plazas es limitado, es un recurso muy ágil y de una gran utilización, ya que facilita vivienda de manera inmediata a los inmigrantes que reúnen el perfil indicado, siendo muy favorable la respuesta final de las personas que por ella pasan, y que consiguen superar en un elevado porcentaje la situación problemática que les llevó a ella. Esta vivienda se encuentra acreditada por la Consellería de Bienestar Social de la Generalitat Valenciana, lo que significa que reúne todas las exigencias sociales, espaciales y de seguridad requeridas por la administración, siendo una de las pocas que en España tiene este requisito. Es importante destacar que esta vivienda da apoyo a aquellos inmigrantes sin papeles que están en proceso de regularización o tienen perspectivas de conseguirlo a medio plazo, lo que supone una valiosa ayuda para este colectivo de inmigrantes.

Al mismo tiempo, desde Alicante Acoge se mantiene un programa de información para el apoyo y el alojamiento de inmigrantes, interviniendo básicamente en tres ámbitos: la información, asesoramiento y derivación jurídica y social; una labor de intermediación con inmobiliarias para obtener alojamientos en alquiler, así como apoyos puntuales en alquileres, pagos de recibos o trámites legales. Finalmente, también se ha venido trabajando en la realización de un Convenio de Colaboración con el Patronato Municipal de la Vivienda de Alicante para la creación de una bolsa de alquileres para inmigrantes, y que actualmente está pendiente de su firma final. También se está trabajando con la Compañía de Jesús en Alicante para poner en marcha un programa de ayudas para la búsqueda y contratación de viviendas para inmigrantes en la ciudad.

El trabajo de la asociación Provivienda

Provivienda nace en Madrid en 1993 para gestionar un programa específico de realojo de familias inmigrantes chabolistas en Peña Grande (Madrid). En el año 1997 este servicio se extiende a toda la población con dificultades en el acceso a una vivienda en régimen de alquiler y de forma autónoma (beneficiándose principalmente la

población gitana).

El realojo de la población inmigrante de Peña Grande se inicia en el año 1994, y hasta la fecha han sido realojadas en viviendas en régimen de alquiler 645 personas en un total de 137 viviendas. Posteriormente se han añadido otros procesos de realojo, como el poblado chabolista de Boadilla del Monte, que se inició en 1998. Las características de esta intervención ha sido muy diferente al de Peña Grande, ya que mientras que aquí los núcleos mayoritarios a realojar eran grupos familiares de origen magrebí empleados fundamentalmente en el servicio doméstico, la construcción y la hostelería, en Boadilla del Monte son hombres solos con hijos a su cargo o varones jóvenes, lo que ha exigido un proceso de reagrupación entre ellos mismos para que puedan hacer frente al pago de las rentas.

Uno de los datos más relevantes del trabajo de la bolsa de vivienda puesta en marcha por Provivienda es atender a todos aquellos miembros que puedan acreditarse, con independencia de su situación regular en nuestro país. Al mismo tiempo, la organización ha establecido un sistema progresivo de subsidiación de las rentas y de avales que ha funcionado de manera muy satisfactoria. Los problemas más relevantes han surgido con los vecinos de las viviendas, que han tratado de presionar a los propietarios para que no alquilaran sus casas a los inmigrantes, lo que ha requerido un trabajo complementario con ellos.

Actuaciones integradas en Pamplona sobre Chabolismo e Infravivienda

La originalidad de esta intervención radica en el intento de llevar a cabo una actuación integrada sobre colectivos como los inmigrantes, ofreciendo respuestas sociales globalizadas en la vivienda, pero también en el empleo, las necesidades económicas, la salud, la educación, los problemas psicosociales y familiares, las propias relaciones con la comunidad, y siempre desde objetivos a largo plazo que permitan aportar una salida viable para las personas implicadas.

Las dos organizaciones de atención a inmigrantes que llevan a cabo sus programas en Pamplona son ANAFE y Santa Lucía. Ambas organizaciones dispusieron de un presupuesto total de 101 millones de pesetas en el año 1999, consiguiendo actuar sobre 25 núcleos de viviendas para inmigrantes. A lo largo del año 2000, y de un total de 147 viviendas sobre las que se va a trabajar, 51 serán para población inmigrante, entre las que hay subsaharianos, centroeuropeos, latinoamericanos y magrebíes, así como un núcleo de familias tramontano-portuguesas.

Las líneas principales de actuación llevadas a cabo fueron:

-Diseño de actuaciones desde la perspectiva de globalidad que contemplaran actuaciones integradas y coordinadas sobre todas las materias sobre las que se trabajaría. Se pasaba así de la visión puntual (el acceso a una vivienda) a una rehabilitación social más amplia.

- La dispersión de las familias exigía esta coordinación en la intervención para evitar planteamientos homogéneos.

- Dispersión territorial y coordinación de las actuaciones para evitar la creación de guetos, marginaciones, rechazos de la población autóctona y fracasos de los procesos de intervención, lo que obligaba a la intervención de concejos y barrios de Pamplona para evitar procesos de degradación social y urbana.
- Concepción preventiva para anticiparse a las situaciones de pobreza y marginalidad que repercutirán en sus condiciones de vida.
- Planteamientos comunitarios para facilitar la integración en la comunidad, en los barrios y bloques, con los vecinos.
- Controlar y evitar los asentamiento ilegales incontrolados, exigiendo unos periodos mínimos de residencia en la comarca para evitar el efecto llamada.
- Visión de proceso, no inmediato, respetando el derecho a la diferencia y reciprocidad.
- Participación activa de los afectados en la creación y desarrollo de iniciativas sociales, culturales, lúdicas y recreativas.

Todo ello negociado con los propios destinatarios del programa y con las administraciones e instituciones participantes en el proyecto.

Programa de mejora de alojamientos de los inmigrantes en Murcia

Este programa viene siendo realizado por la Asociación Columbares, especializada en la intervención con inmigrantes en este campo, interviniendo desde criterios específicos. Uno de ellos es el respeto a todas las culturas, mediante actuaciones integradas en otros campos sociales, explicando a la sociedad de acogida las medidas de discriminación positiva emprendidas en cada momento, abriendo incluso a la población autóctona los servicios de información y asesoramiento. De esta forma, las actuaciones en el campo de la mejora del alojamiento para los inmigrantes se realiza paralelamente a la participación de formación, cursos de lengua y cultura española, hábitos para la convivencia, formación para el empleo, integración en programas educativos, etc, todo ello dirigido tanto a personas adultas como a niños, mujeres y población autóctona.

Las actuaciones de acondicionamiento y rehabilitación no se centran exclusivamente sobre un punto o pedanía, para evitar efectos llamada y la creación de guetos, sino que se interviene con criterios de dispersión social. Al mismo tiempo, cabe destacar la labor de coordinación, tanto con las instituciones y organizaciones de atención a inmigrantes locales, como con otras entidades de ámbito estatal. De hecho, este proyecto de rehabilitación promovido por la asociación Columbares está financiado por el Ministerio de Trabajo y Asuntos Sociales a través de la Dirección General de Acción Social, Familia y Menor; la Comunidad Autónoma de Murcia y los ayuntamientos de Murcia y Fuente Álamo. Para garantizar la correcta utilización de los fondos públicos destinados a rehabilitación o equipamiento de viviendas, se solicita, en

el caso de rehabilitación, un documento de cesión por cinco años a la propia Asociación, mientras que para los equipamientos, el compromiso escrito del propietario de mantener el coste del alquiler sin incremento en función de las mejoras y continuar alquilando la vivienda a los inmigrantes.

Las viviendas facilitadas a los inmigrantes lo son en régimen de alquiler, pero por debajo del precio de mercado. En ningún caso se facilita la gratuidad, por los perjudiciales efectos que tiene, ni tampoco la cultura del subsidio. Al mismo tiempo, la asociación Columbares ha puesto en marcha diferentes recursos para este proyecto, entre los que están:

- 1) La confección de un inventario de viviendas de uso para los inmigrantes en Murcia y Fuente el Alamo, conteniendo datos tipológicos y sociales muy completos. Todo ello se utiliza como soporte de información para detectar cesiones para la rehabilitación y seleccionar aquellas viviendas en mejores condiciones para los inmigrantes.
- 2) La apertura de centros de información y asesoramiento sobre vivienda a inmigrantes y a la población autóctona en Murcia, Torre Pacheco, Fuente Alamo, Beniel y otras pedanías de Cartagena, donde se prestan servicios muy variados.
- 3) Se está llevando a cabo el condicionamiento higiénico y sanitario de emergencia en aquellas viviendas que no han sido cedidas a la asociación y trabajando con la población inmigrante para su mejor integración social y convivencia, educándolos en hábitos de higiene y uso de la vivienda.
- 4) Se está trabajando con las viviendas cedidas a la asociación por cinco años, rehabilitándolas y equipándolas.
- 5) Se ha elaborado un banco de datos de las viviendas ocupadas, tanto del estado de la misma como de sus ocupantes.
- 6) Se ha implicado a muchos inmigrantes en las labores propias de rehabilitación de estas viviendas.
- 7) Se ha realizado una campaña de sensibilización a la población de acogida.
- 8) Se han adquirido también viviendas rurales y en el campo, en el marco de una red de alojamientos para inmigrantes, incluyendo la cesión de antiguas dependencias oficiales (cuarteles abandonados, colegios sin uso, casetas forestales o de peones camineros, antiguas estaciones de tren, etc).
- 9) También se han elaborado propuestas para el establecimiento de servicios básicos situados en estos centros rurales de la región y que tengan servicios higiénicos y sanitarios básicos para permitir alojamientos en diferentes lugares.

Todas estas iniciativas y experiencias no dejan de ser, a pesar de todo, medidas de alcance muy limitado a la luz de la magnitud que ha alcanzado el problema de la vivienda en los últimos años, especialmente en aquellas localidades y núcleos en los que se concentran un gran número de inmigrantes.

La Educación

Un programa piloto de apoyo a la integración del menor magrebi en la escuela para la provincia de Alicante

Alicante Acoge viene realizando un programa piloto de apoyo a la escolarización del menor magrebi en los colegios de la provincia. El programa parte del trabajo de apoyo a la integración de los menores magrebíes que se venía realizando desde hacía dos años en diferentes colegios de Alicante, y su extraordinaria acogida, tanto por los profesores, como por las propias familias, que encontraron una ayuda importante para un mejor desenvolvimiento escolar y del que hasta entonces carecían. De esta forma, se trató de articular esta innovadora experiencia, haciéndola extensiva al resto de los colegios de la provincia, de una manera especial hacia aquellos en los que existe una presencia importante de menores magrebíes. Al mismo tiempo, el proyecto se presentó ante el programa de iniciativas sociales de la Fundación La Caixa, mereciendo su apoyo por su carácter pionero e innovador durante el año 2000.

El proyecto pretende facilitar a los menores magrebies su acceso pleno e integración al sistema educativo normalizado a través de acciones compensatorias específicamente diseñadas para ellos, facilitando el acercamiento a las familias de la realidad escolar e impulsando su participación plena y responsable en el proceso educativo de sus hijos. Todo ello desde una colaboración activa con los colegios públicos sobre los que se trabajará, y en estrecha coordinación con los mismos. Desde esta perspectiva, el proyecto pretende:

- 1.- Facilitar a los menores magrebies una mejor preparación para un mejor acceso e integración en el sistema educativo normalizado
- 2.- Ofrecer acciones compensatorias, de apoyo y refuerzo extraescolar para los menores magrebíes que posibiliten su mejor inserción en la escuela y en la cultura española, así como unas mejores relaciones interpersonales y cooperativas para la convivencia intercultural
- 3.- Acercar a las familias del menor la realidad escolar, promoviendo su participación en el seguimiento educativo de sus hijos
- 4.- Fortalecer los cauces de coordinación con los colegios públicos en los que asisten magrebies, facilitándoles apoyo para estos menores y sus familias
- 5.- Realizar un seguimiento y prevención del absentismo educativo en los menores magrebies

Por lo tanto, el proyecto pretende ser multifuncional, trabajando sobre varios objetivos mediante actividades distintas pero interconectadas. Para ello, se trabajó sobre los siguientes ámbitos:

- Apoyo extraescolar
- Aula puente
- Club social para adolescentes
- Coordinación con los colegios públicos

- Escuela de padres de menores magrebíes
- Taller de cultura árabe

Así, y desde que se ha empezado a intervenir en los colegios, se han detectado importantes lagunas que antes estaban sin cubrir, y que afectaban negativamente a muchas familias y a sus hijos, generándose demandas nuevas de atención y apoyo, que van desde el asesoramiento en la cumplimentación de documentos, pasando por la traducción de escritos e impresos, la intervención ante problemas de agresividad con menores, la educación para paliar problemas de higiene e incluso la derivación médica al detectarse afecciones de vista y oído. Muchos de estos problemas tenían mucho que ver con miedos de los padres, problemas de comunicación, nerviosismo, falta de medios económicos e incluso excesivas preocupaciones y ocupaciones de estos, lo que ha hecho necesaria la intervención de educadores y mediadores árabes especializados. Pero también se programan reuniones periódicas con los padres para conocer mejor el seguimiento de sus hijos e implicarles en los órganos de participación de los colegios, para lo cual se programan visitas periódicas a las casas de los padres; se traducen y publican materiales bilingües sobre diferentes temas, junto a la preparación de cursos específicos de alfabetización y cultura árabe abierto a todos los alumnos (recordemos que algunos niños árabes no suelen aprender a leer y escribir en su propia lengua).

Finalmente, todo este trabajo se complementa con la realización de un mapa escolar que aporte información sobre el número y composición de los niños extranjeros escolarizados en los colegios de la ciudad, a fin de conocer su evolución y las necesidades que ello plantea.

Experiencias de educación de adultos en Cataluña: Samba Kubally.

Cuando los inmigrantes llegan a las escuelas de adultos, la demanda de formación inmediata se centra prioritariamente en el campo lingüístico y en la adquisición de recursos funcional-lingüísticos que permiten en una primera etapa de adaptación, iniciar la comunicación con la sociedad receptora, facilitar la búsqueda de empleo, el aprendizaje y la autonomía en los desplazamientos, el conocimiento de los recursos disponibles, sus canales de acceso y el establecimiento de las relaciones con los distintos servicios sociales, sanitarios y educativos. Es decir, que uno de los primeros servicios que frecuenta la población migrante es aquel que le permite aprender, controlar y regular sus intercambios sociales en un entorno que le es ajeno y desconocido, tenga o no tenga papeles.

En el caso de España, la persona inmigrada se encuentra con la realidad plurilingüística de las diferentes comunidades autónomas (castellano, catalán, gallego y euskera) la mayoría de las veces desconocida por ellos en el momento de la migración, y que plantea situaciones y actuaciones específicas, tanto en la educación de los menores como en la de adultos. En el caso que vamos a ejemplificar, en Cataluña (ver entrevista a Cáritas), y concretamente en la provincia de Girona (una de las que cuenta con mayor peso relativo de población extranjera), el catalán es como el castellano, un idioma de primera socialización para los recién llegados. Esta es la razón por la cual en aquellos municipios donde la población extranjera es notable, se han creado Escuelas de Adultos atendiendo a la necesidad de la educación, primero lingüística, para extenderse luego, como veremos, a otros ámbitos.

Desde las diferentes ONGs las Escuelas de Adultos han sido un pilar fundamental

que surgen para brindar cobertura a estas necesidades, y a las cuales se ha dado respuesta de acuerdo a las demandas y realidades concretas de los distintos colectivos. Una experiencia pionera en este campo es la creación en 1988 en el municipio de Santa Coloma de Farners (provincia de Girona) de la primera escuela de adultos para inmigrantes africanos en España *Samba Kubally*, con el apoyo del GRAMC (*Grup de Recerca amb minories Culturals*), que desde el principio incorporó dos monitores inmigrados (senegalesa y gambiano), y a la que se le ha reconocido pública e institucionalmente su labor con diferentes galardones. En general, debemos tener en cuenta, por ejemplo, que entre la población marroquí y senegambiana el nivel de escolarización formal es bajo y que al aprendizaje de la lengua le sigue un proceso de lecto-escritura nuevo. Si bien es cierto que muchas personas han acudido a la escuela coránica, y por lo tanto están escolarizadas en idioma árabe, el desconocimiento de alguna lengua "colonial" como el español, el francés o el inglés, hacen que los tiempos de aprendizaje se prolonguen en los dos últimos casos y se planteen nuevas metodologías y didácticas pedagógicas aplicadas a estas realidades. Las clases para estas nacionalidades están divididas por razón de sexo, y la asistencia de estas mujeres africanas depende en gran medida del establecimiento de unos horarios compatibles con el de sus hijos en la escuela y de la prestación de un servicio de guardería para los más pequeños.

A medida que las personas se van familiarizando con la lengua del país receptor, la oferta se va extendiendo hacia los cursos de formación y capacitación profesional, que facilitará una inserción laboral, promovida desde las propias ONGs. Aquí sí que debemos destacar el hecho diferencial y discriminatorio de aquellos cursos ocupacionales que están subvencionados por las distintas administraciones públicas, que sólo van dirigidos a los inmigrantes que tienen su situación jurídica regularizada, mientras que los sin papeles no tienen acceso en la medida en que "no existen".

Así mismo, debemos mencionar la colaboración entre algunas ONG's y algunas instituciones públicas, como los servicios sociales de ayuntamientos y centros de salud, que han dado como resultado la incorporación de temas prioritarios de interés sanitario, en su vertiente pública y comunitaria, como la salud materno-infantil, las vacunaciones, la planificación familiar, la alimentación, o la sensibilización e información para la prevención de enfermedades contagiosas, como las de transmisión sexual, SIDA o tuberculosis, en los contenidos de la programación de las escuelas de adultos. Fruto de estas experiencias, son la identificación y conocimiento de actitudes, creencias y prácticas de la población migrante hacia estos temas, la elaboración conjunta de materiales de difusión sobre distintos aspectos sanitarios en sus lenguas vernáculas, y la formación como agentes de salud de algunos de los estudiantes. El interés suscitado por el tratamiento de esta problemática ha estimulado y promovido el acceso de estos agentes informales, multiplicadores de información, a una formación nueva, más específica, como es la mediación intercultural, y por ende, se ha posibilitado la creación de nuevas salidas en otros campos laborales.

4.2. Tipología de las ONGs

Este capítulo sobre las ONGs no pretende ser exhaustivo, en consecuencia, las Organizaciones No Gubernamentales citadas en el presente trabajo, así como las doce seleccionadas para las entrevistas que a continuación presentamos, son tan sólo unas pocas de las muchas que de forma directa o indirecta presentan actuaciones con inmigrantes sin papeles en España en estos momentos. Del mismo modo, la referencia territorial de las organizaciones citadas está forzosamente sobrerrepresentando la propia ubicación de las instituciones que han participado en este informe, el Centre d'Estudis Demogràfics y Alicante Acoge, sin embargo, hay que tener en cuenta, que indudablemente las entrevistas realizadas cuentan con algunas de aquellas organizaciones que, como se ha explicado en la aproximación cronológica, son de las más veteranas y de las que más extendidas están en todo el territorio español, o que, de no ser este el caso, realizan un trabajo específico que por su interés nos ha decidido a incluirlas, en detrimento de muchas otras.

En el siguiente cuadro, hemos distinguido una clasificación de las once organizaciones no gubernamentales consideradas, según el área de intervención, el año en que fue fundada o en el que dirigió su actividad de forma específica hacia la población inmigrada, su ámbito territorial, y el principal colectivo al que se dirige. En el área de intervención distinguimos a *grosso modo* entre aquellas organizaciones que centran su atención en la denuncia, las que lo hacen en la prestación de servicios sociales y las que se dedican a otro tipo de prestaciones, si bien, en la práctica, algunas de ellas presentan un carácter mixto.

En el ámbito de la denuncia consideramos tanto aquellas organizaciones que centran su intervención en las acciones reivindicativas y de sensibilización, combinada a veces con la propia representación política y la asesoría a las Administraciones Públicas, como por ejemplo la *Plataforma papeles para todos*, la *Federació de*

Collectius d'Immigrants a Catalunya, SOSRacisme, y el Centre d'Informació de Treballadors Estrangers. En un segundo caso encontramos las ONGs que orientan su actividad principalmente a la prestación de servicios, contemplando ésta desde la asesoría jurídica (de la mera información a la tramitación de la documentación necesaria como CITE, *Cáritas*, *Alicante Acoge* o el *Servei Solidari i Missioner*, SSIM), a los propios servicios sociales, como la acogida, la sanidad, la vivienda, la laboral, la educación, la formación de adultos (cursos de lengua, capacitación profesional, etc...) como por ejemplo *Cáritas*, *Alicante Acoge*, *Pro-vivienda*, *el SSIM*, *la Associació Catòlica Internacional de Serveis a la Joventut Femenina* (ACIS JF-In Via/Centre Roura, y la mediación intercultural *Asociación Alcantara*. Por último, consideramos aquellas asociaciones que prestan servicios no considerados específicamente como servicios sociales, como pueden ser la promoción del asociacionismo, los servicios religiosos como el SSIM, o *Cáritas*, o las necesidades específicas en el ámbito cultural de cada colectivo, como *Musu Kafo*.

En la implantación territorial se considera el lugar donde se fundó y donde hay implantación territorial por el momento, de todos modos deberá tenerse en cuenta que el carácter federativo de algunas de estas organizaciones y la autonomía de cada delegación territorial, implica que no sea infrecuente que las acciones y orientaciones de una delegación autonómica no tengan porque coincidir con la de las demás.

Por último, hemos consignado el colectivo al que explícitamente dicen orientar su actividad, como podrá observarse el abanico de posibilidades es amplísimo: desde aquellas ONGs que tienen como propósito el conjunto de la sociedad sin distinciones de ninguna clase hasta los que se dedican tan sólo a las personas sin papeles de una determinada nacionalidad.

4.3. Descripción detallada de las ONGs entrevistadas

Nombre: CARITAS, Programa de Inmigración

Dirección: C/Princesa, 16, 1º. 08003-Barcelona.

Tf.: 93-268-79-10.

Personas entrevistadas y Responsabilidad en la ONG: Natalia González, coordinadora de los programas de formación del programa de Inmigración, y Juana Martín, referente territorial del programa de inmigración.

CARITAS es una ONG de la Iglesia católica que nace en 1946, dependiendo de las Diócesis correspondientes al territorio en el que actúan. Desde sus inicios ha brindado ayuda a los emigrantes españoles que partían rumbo a Latinoamérica por razones económicas pero también buscando refugio político. Hacia los años '60 inician su trabajo con quienes comienzan a migrar hacia el norte de Europa, y no es hasta los años '70 en que empiezan a aparecer los primeros expedientes de extranjeros marroquíes, que se ven engrosados por un proceso de acogida de personas procedentes de las dictaduras de América Latina (Chile, Argentina, Uruguay principalmente). En 1983 se crea la *Comisión Diocesana de Migración*, con lo que se constituye en el primer servicio específicamente organizado para tal fin, facilitando la tramitación de la documentación, reagrupación familiar, dando cobertura asistencial, cursos de alfabetización y de lengua, e incluso fomentando el asociacionismo, y orientando jurídicamente en la elaboración de los Estatutos a aquellos colectivos de personas que deseaban constituirse en asociación, como por ejemplo *Jama Kafo*. Se convierten en interlocutores entre el gobierno del Estado y las personas inmigradas, participando activamente en la elaboración de la primera Ley de Extranjería en 1985, que supuestamente vendría a poner fin a los abusos y arbitrariedades que hasta el momento se estaban produciendo. Sin embargo, Juana Martín, una de las pioneras de la ONG en este campo, lamenta que la promulgación del Reglamento empeorase la situación de muchos inmigrantes y que los resultados de su aplicación fueran adversos.

En 1992 el Obispado toma la decisión de incorporar a la macroestructura de **CARITAS** este servicio específico, creando el actual *Programa de Inmigración*, que cuenta con 15 profesionales en la Diócesis de Barcelona, y unos 100 voluntarios. Mantiene relaciones con todas las ONG que trabajan en temas de migración (CITE, Cruz Roja, Plataforma "Papeles para todos", asociaciones de inmigrantes, etc.), y con las distintas administraciones, locales, autonómicas y estatales.

Desde el *Programa de Inmigración* se trabaja sobre dos ejes fundamentales: la documentación y la formación, mientras que desde el territorio, las trabajadoras sociales sirven de apoyo en temas relativos a la vivienda, la asistencia social y la sanidad. Los usuarios del servicio llegan generalmente derivados por los distintos ayuntamientos o por otras ONG, pero también por iniciativa propia, a través de la referencia de otros compatriotas. Tanto Juana Martín como Natalia González, coordinadora de los cursos de lengua, insisten en que hay que estar alerta con aquellas personas que están en una situación de precariedad y desprotección más acuciante, que son los recién llegados. Durante la entrevista hacen un repaso a las distintas "oleadas" migratorias, manifestando la continuidad en la llegada de migrantes procedentes de Marruecos, y del

África Subsahariana (actualmente en patera), América Latina, y el espectacular aumento de la población china, de origen rural (principalmente de la región de Zhejiang), pakistaníes y ciudadanos de Europa del Este (Rumanía, Bulgaria, Armenia, Georgia, Ucrania y otros estados de la ex Unión Soviética y Yugoslavia). Afirman que el caso de la población china es distinta a la del resto de colectivos de inmigrantes, ya que si bien la mayoría entra de forma irregular, en poco tiempo consiguen la documentación por la vía de los cupos al estar contratados por los restaurantes chinos que, efectivamente, han ido proliferando en los últimos años. Aquellas personas procedentes de Europa del Este traen una cualificación profesional media (fresadores, mecánicos), incluso universitaria, y aunque también llegan sin papeles, su regularización se agiliza en un plazo más o menos breve (1-2 años) por la vía de los contingentes. Afirman que estos inmigrantes son "implícitamente" prioritarios para la Unión Europea, que muchos de ellos han pasado previamente por Italia o bien han venido en un viaje de turismo organizado desde sus países de origen, que no han regresado, y que nuestra sociedad tiene un gran desconocimiento de sus culturas de origen.

Los cursos de lengua se estructuran en función de las demandas existentes y de acuerdo a los niveles distinguidos entre alfabetizados (en su propia lengua) y no alfabetizados. Así tenemos que en la actualidad están funcionando cursos específicos para chinos, ciudadanos europeos orientales, mujeres marroquíes (distinguiendo dos niveles), cursos de refuerzo extraescolar para los niños, y cursos de formación ocupacional dirigido a la población femenina. La cobertura territorial es extensa, ya que su propia infraestructura está enmarcada en las parroquias de la mayoría de municipios.

En el capítulo de subvenciones remarcan que la Unión Europea tiene recursos suficientes para distribuir, a propuesta de los Estados, y que sólo las ONG de envergadura, con socios europeos potentes, tienen posibilidades de acceder a ellas, como por ejemplo la propia **CARITAS**. Sostienen que las entidades pequeñas con poca infraestructura siempre quedan fuera de estos programas, como por ejemplo las distintas asociaciones de inmigrantes, que sólo aspiran a "migajas", si las tienen, de los recursos locales y autonómicos.

Respecto al actual proceso de regularización entienden que a diferencia del de 1991, está planteado con claridad y apertura, aunque mucha gente quedará fuera, aquellos que han llegado a partir del verano pasado. Denuncian que existe poca actividad en la inspección laboral que permite la explotación de los trabajadores sin papeles, remarcando la asiduidad con la que los responsables políticos de los distintos ministerios que tienen competencias en el tema se refieren a la inmigración en términos problemáticos, y si bien consideran que la actual Ley de Extranjería es más amplia y progresista, el control de la entrada no ha cambiado, y las deportaciones y expulsiones siguen produciéndose con pocas garantías de respeto a los derechos humanos. Creen que la política de la Unión Europea está fraccionada en temas de extranjería, y que pareciera que solamente está coordinada a nivel policial.

Nombre: MUSU KAFO

Dirección: C/Fortuny 39 bajos. 08301-Mataró (Barcelona)

tf.: 93-755-01-98.

Persona entrevistada: Adama Cham

Responsabilidad en la ONG: Presidenta (Kafotió-madrina).

La Asociación de mujeres africanas **Musu Kafo** (en mandinga “grupo de mujeres”) se fundó en 1985 y fue legalizada en 1987 en la ciudad de Mataró (Barcelona), por seis mujeres gambianas con el propósito de crear un espacio de encuentro, a las cuales se han ido sumando mujeres de otras nacionalidades como las senegalesas, nigerianas y ghanesas. Su implantación territorial en la actualidad abarca toda Cataluña, y cuentan con 132 miembros, todas voluntarias. Reproduce la estructura de los “kafos” en la sociedad de origen, que básicamente son grupos con funciones específicas dentro del conjunto social dependiendo de la edad y del sexo. De este modo se debe entender la presencia de una presidenta y de una “kafotió” (figura específica de la sociedad de origen que podríamos traducir como “madrina”) a la que se reconoce una especial autoridad por la edad, el tiempo de residencia en España, y encargada de velar por el mantenimiento de las tradiciones.

Dirigen su intervención exclusivamente a mujeres subsaharianas, brindando acogida a las recién llegadas, y acompañamiento en los procesos migratorios, iniciando a las mujeres más jóvenes en la sociedad de destino al tiempo que preservan su propia cultura. En ese sentido las reuniones del grupo buscan crear un espacio de encuentro en libertad donde las mujeres pueden compartir sus señas de identidad propias así como sus experiencias en la migración (dirigidos tanto a las mujeres como a los niños). Actúan como una asociación de ayuda a la mujer africana inmigrada, en sus problemáticas específicas: desde las que puedan surgir en el propio seno de la pareja, como las que se deriven de su situación en el país.

La asociación no enfoca su actividad específicamente hacia las sin papeles, aunque como veremos en el transcurso de la entrevista, la cuestión de la especial indefensión de las mujeres llegadas a través de la reagrupación familiar, pone de relieve una vez más la cuestión de la dependencia jurídica de estas mujeres.

Musu Kafo colabora habitualmente con otras ONGs, con la asociación de trabajadores africanos *Jama Kafo*, con la que comparte el origen, aunque esta asociación en los últimos tiempos ha incorporado ciudadanos marroquíes, la colaboración se centra principalmente en el soporte extraescolar a los menores. Por otra parte, mantiene colaboración con otros grupos de inmigrados, estando encuadrada dentro de la F.C.I.C., cuya presidencia ostenta Adama Cham, madrina también de Musu Kafo. En tercer lugar mantiene relaciones con grupos de mujeres autóctonas, destacando la estrecha colaboración establecida con la Asociación de Mujeres de Carrera Jurídica. Por último, derivan los casos de racismo a Sos Racisme de Mataró. También colaboran con la administración pública, especialmente con el ayuntamiento de Mataró. Se financian exclusivamente con las aportaciones de las socias. De la extensa entrevista destacaremos aquellos dos puntos que directamente tienen que ver con la especificidad de las mujeres subsaharianas y su situación legal en el país: 1) la denuncia de la dependencia jurídica de las mujeres respecto a los hombres; y 2) La necesidad de incentivar la entrada en el mercado de trabajo de las mismas.

En el primer punto, la denuncia sobre la dependencia jurídica, hay que tener en cuenta que la mayoría de mujeres subsaharianas llegan al país a través de un proceso de reagrupación familiar. En España, este tipo de permiso está necesariamente ligado a la situación legal de la persona reagrupante (habitualmente el marido), y que el mismo excluye el permiso de trabajo para las mujeres (en general para las personas reagrupadas). De este modo si el titular del permiso de trabajo y residencia correspondiente (marido) pierde el estatuto legal, automáticamente también lo pierden los miembros dependientes de éste (la mujer), hasta la nueva Ley de extranjería. También en caso de conflicto familiar entre los cónyuges y cuando estos se traducen en separaciones, la mujer suele caer en un estado de indefensión jurídica, a merced de la voluntad de los maridos, que utilizan su dependencia como amenaza de presión, ya sea retornando a sus mujeres a África, contrayendo matrimonio con otra esposa y utilizando la documentación de la previa, o jugando con la ventaja de que si ella se separa pierde su situación regular.

En el segundo punto, la necesidad de incentivar la entrada de las mujeres en el mercado de trabajo, nos volvemos a encontrar con el mismo impedimento legal: hasta el momento, las mujeres con permiso por reagrupación (mayoritarias en este colectivo) que trabajaran incurrieran en una irregularidad, que podía acarrear la pérdida del permiso correspondiente, confinándolas de facto a la concurrencia en la economía sumergida (sobre todo textil y servicio doméstico). Así es interesante reseñar su demanda de subvenciones y créditos blandos por parte de la administración pública para organizar cooperativas de mujeres africanas, en dos sentidos: por una parte, dichas cooperativas servirían para la autocontratación dentro del colectivo (solventando el caso de mujeres sin papeles por carecer de la documentación necesaria para acreditar su trabajo) y, por la otra, como garantía individual de la propia mujer, de alcanzar autonomía económica y jurídica respecto al marido (garantía apuntada también hacia el horizonte de la vejez).

A nivel europeo, se denuncia el olvido de las mujeres inmigrantes y se observa con pesimismo su situación futura, recalcando una vez más los obstáculos para su integración en el mundo laboral.

Nombre: Centre d'Informació de Treballadors Estrangers (C.I.T.E.)
Dirección: C/ Via Laietana 16, 4a Planta. 08003-Barcelona
Tf. 93-481-27-20.
Persona entrevistada: Maria Helena Bedoya Muriel
Responsabilidad en la ONG: Asesora jurídica de la Red de Oficinas (24 oficinas de información en Cataluña).

El **Centre d'Informació de Treballadors Estrangers (C.I.T.E.)** se funda en 1986 en Barcelona, coincidiendo con el momento en que entra en vigor la Ley de Extranjería, con el apoyo de tres sindicalistas extranjeros (marroquí, francés y gambiano), en el seno del sindicato Comisiones Obreras (CCOO). La labor del CITE, actualmente dirigido por un ciudadano de origen libanés, se encaminó desde el principio tanto a los trabajadores extranjeros como a la propia organización sindical, trabajando en pro de una toma de conciencia de los trabajadores autóctonos del papel que debía jugar su organización frente a los trabajadores extranjeros, definiéndose actualmente CCOO como un sindicato pluriétnico. Junto con Cáritas es una de las organizaciones veteranas en el trabajo dirigido a inmigrantes extranjeros, pero a diferencia de ésta, se desvincula de los servicios sociales y asistenciales, centrandose en la orientación jurídica, sociolaboral, sindical y de formación. El CITE, que se organiza de forma jerárquica y confederal, tiene una implantación territorial que se inicia en la Comunidad Autónoma de Cataluña, extendiéndose en la actualidad a todo el territorio del Estado español (en todas las Comunidades Autónomas, en 42 de las 52 provincias, con un total de 130 oficinas, 24 de las cuales corresponden a Cataluña).

El trabajo del CITE se dirige principalmente a la información jurídica y laboral de los trabajadores extranjeros, y a la denuncia en casos de discriminación laboral dentro de las empresas, no contemplando un trabajo específico para los sin papeles. En este sentido, en la entrevista se insiste en explicar la opción de hablar de trabajadores extranjeros y no de inmigrantes, argumentada por no ser el término inmigrante de carácter jurídico (como el de extranjero), así como por la creciente confusión al identificar el inmigrante con sectores marginales o especialmente sobreexplotados.

En la actualidad el CITE de Cataluña cuenta con 18 personas dedicadas a la asesoría jurídica en las 24 oficinas, de las cuales la mayoría son de origen extranjero (1 director, 1 coordinador, 3 administrativos, y 13 asesores laborales). Como ya se ha señalado no prestan servicios exclusivos a los sin papeles, pero es de destacar que en el caso de éstos les ayudan a tramitar la documentación necesaria para que cambien su situación. Mantienen colaboración con otras ONGs, siendo a la vez receptores y emisores de derivación, dependiendo de la situación específica de cada individuo. Se cita explícitamente la colaboración con Cáritas en el ámbito asistencial, con la Associació Catalana de Solidaritat i Ajut als Refugiats (ACSAR) o Cruz Roja para temas de asilo y refugio, y el Servei d'Atenció Psico-Patològica a Immigrants i Refugiats (SAPPiR), para casos de tratamiento de trastornos psico-patológicos. En el estricto campo sindical, explicitan sus relaciones con la Unión General de Trabajadores (UGT) en España (el otro gran sindicato mayoritario), y con otras organizaciones sindicales europeas (principalmente italianas y francesas).

El reconocimiento de la administración a CITE, pasa tanto por su veteranía como por el

número de personas a las que presta sus servicios (en la entrevista se estima que en Cataluña uno de cada tres trabajadores extranjeros pasa por sus oficinas), y la extensión territorial que abarcan sus oficinas. Su colaboración con la administración pública contempla tanto la administración central, como la autonómica o la local (Ayuntamientos y Diputaciones), subrayando la garantía de anonimato de los datos referente a las personas que utilizan sus servicios (compromiso tácito tanto por parte del sindicato como de las administraciones aludidas).

El CITE se financia en primer lugar con los fondos del propio sindicato, si bien cabe señalar que las oficinas de información están subvencionadas por los ayuntamientos correspondientes, y que se beneficia de relevantes ayudas de la administración central (Ministerio de Trabajo y Asuntos Sociales) y de la Unión Europea (Proyecto FORJA, Proyecto INTEGRA entre otros).

En el transcurso de la entrevista, María Helena Bedoya Muriel, asesora jurídica de la red de oficinas de CITE en Cataluña, incide en el fracaso ya apuntado sobre la ley de cupos como regularización encubierta. Destaca el papel fundamental del empadronamiento, a partir del reconocimiento por parte de la administración del derecho a empadronarse de los inmigrantes extranjeros independientemente de su situación legal, y permitiendo que se convierta en un documento acreditativo para la regularización. Respecto a la regularización del 2000 y a la nueva Ley de extranjería muestra cierto escepticismo sobre el número de personas que pueden beneficiarse de tales disposiciones, que contrasta con la generalización de las expectativas optimistas que estas despertaron en un inicio.

En la situación de los sin papeles se distinguen diferentes categorías respecto a la actual regularización: 1) aquellos que disponen de una red familiar en el país de destino; 2) aquellos que están en una situación de clandestinidad absoluta sin recursos familiares; 3) los que califica como de situación relativa, dado que pueden tener papeles en regla en relación a la fiscalidad y a la Seguridad Social, pero que han perdido el permiso de trabajo; 4) los sin papeles "con posibilidades", que serían aquellos que habiéndose presentado a los cupos en años anteriores, han quedado como excedente y que cuentan con el papel de la denegación, que les servirá para acreditar su estancia en el país y su probada intención de trabajar; y 5) los apátridas, a los que se señala como los "verdaderos" sin papeles al considerar que son indocumentados tanto para el país de origen como el de destino (con especial mención de los ciudadanos de los países del Este), habitualmente olvidados. Establece la diferencia entre el actual proceso de regularización y la política migratoria de los Estados Unidos, donde se habla de amnistía, en el sentido de no pedir ningún documento para acceder a la regularización, bastando la sola presencia física de la persona inmigrada.

Nombre: S.O.S. Racisme

Dirección: Passeig de la Pau, 10 bis, Entresol Segona, 08002-Barcelona.

Tf. 93-412-00-34

E-mail : sosracisme@troc.es

Fax: 93-301-01-47

Persona entrevistada: Núria Vives

Responsabilidad en la ONG: Miembro del Consell General de SOS Racisme y presidenta de la fundación *Etnópolis*.

S.O.S. Racisme de Cataluña se funda en Barcelona en 1989, bajo los auspicios de la experiencia francesa. Su labor principal es la defensa de los derechos humanos, centrándose en la lucha contra el racismo y la xenofobia, en este sentido puede ser definida como una organización no gubernamental que tiene como principal objetivo la denuncia y la sensibilización. A partir del núcleo de personas sensibilizadas por la lucha antirracista relacionadas con C.I.T.E. empieza a tomar fuerza desde 1992, coincidiendo con las manifestaciones contra la Regularización Extraordinaria de 1991 y la de la muerte del asesinato de la inmigrada dominicana Lucrecia, convirtiéndose en una de las asociaciones más conocidas a nivel mediático a partir de 1993, con la organización de la fiesta de la Diversidad . En la actualidad se encuentra federada con otras organizaciones afines del resto del estado, contando desde 1994 con una coordinadora estatal, al mismo tiempo que mantiene contactos con los diferentes grupos de S.O.S. Racismo que han ido apareciendo en diferentes países europeos, o con asociaciones similares, si bien la estructuración europea se plantea como uno de los retos de la organización en el futuro próximo.

En estos momentos cuenta aproximadamente con 1.100 socios en Cataluña , con 7 profesionales con distinta dedicación horaria que asumen la gerencia, la oficina de denuncias, el área de pedagogía y la Fiesta de la diversidad, y entre 70 y 80 personas voluntarias como miembros activos distribuidas en distintos grupos de trabajo. A nivel organizativo consta de una Comisión permanente y el Consejo general.

La labor de S.O.S. Racisme se dirige a la sensibilización de toda la ciudadanía, y por lo tanto no puede considerarse una organización que trabaje específicamente con los sin papeles. Entre sus principales realizaciones se destaca : 1) la oficina de información y de denuncias; 2) el área pedagógica; 3) el centro de documentación, con la publicación de un informe anual desde 1995, y 4) las diferentes campañas iniciadas, con la organización desde 1993 de la fiesta de la diversidad.

La oficina de información y denuncias, se aplica a la atención de las personas que vienen a denunciar cualquier caso de discriminación o de agresión. Cuenta con un equipo jurídico y personas con experiencia en el campo de la mediación, habiéndose pasado del apoyo a la denuncia individual, a la presencia activa como denunciante de la organización cuando se tiene noticia de una situación de racismo, o a la intervención directa. La labor de denuncia es recogida en el informe publicado anualmente, de ámbito estatal. Dicho informe es distribuido a la administración y a los medios de comunicación como herramienta de sensibilización. En el área pedagógica se destaca el trabajo de colaboración con los centros educativos, que ha evolucionado desde el trabajo sobre la interculturalidad a la educación antirracista, ante la constatación de la

extensión de actitudes racista en los centros educativos; para ello se cuenta actualmente con una red de corresponsales entre los docentes de institutos. Por último, se destacan las campañas, dedicadas cada año a un objetivo concreto, siendo en el presente año 2000 el derecho a voto de las personas de nacionalidad extranjera, en el contexto del derecho de ciudadanía. En este sentido se apunta la importancia de la Fiesta de la Diversidad, que en su octava edición, se presenta como un escaparate de la diversidad y la igualdad, de carácter reivindicativo, que permite extender las campañas de sensibilización, habiéndose consolidado como una actividad festiva más de la ciudad de Barcelona.

Aunque como se ha señalado no se realiza una actividad específica con los sin papeles, se destaca la importancia de la campaña de información y difusión de empadronamiento en la nueva Ley de Extranjería, la denuncia de la propia situación de los sin papeles que convierte al extranjero en carne de cañón de la discriminación laboral, de la indefensión ante las agresiones, en el ámbito de la vivienda o el de la sanidad, principalmente. En este sentido se valora la Ley de Extranjería como positiva comparada con la anterior legislación, pero claramente insuficiente, y se insiste que la actual Ley se ha idealizado, silenciando muchas veces las críticas en pro de un consenso, pero que sigue creando población sin papeles, aunque por lo menos lo reconoce, vinculando sus derechos al empadronamiento. Al mismo tiempo se apunta que la regularización del 2000 depende de su aplicación.

Núria Vives, denuncia la creación de una imagen por parte del actual gobierno del PP de la asimilación entre irregular y fraudulento, por un lado presentando a los sin papeles como víctimas de las mafias, mientras que por el otro se los presenta como aprovechados al margen de la ley. La separación entre regulares e irregulares se ha convertido en un tema recurrente, para justificar la modificación restrictiva de la propia Ley, intentando enfrenar unos a otros, obviando que es la propia ley la que crea la situación de irregularidad. En este sentido el sistema restrictivo de control de flujos que se apunta acrecentará el número de sin papeles, al tiempo que la previsible modificación de la Ley y el reglamento de aplicación imposibilitarán el mecanismo de regularización permanente contemplado por la nueva Ley, señalado como una de las aportaciones positivas de ésta.

Nombre: Federación de Colectivos de Inmigrantes de Cataluña (F.C.I.C.)

Dirección: C/ Salvador 22, Bajos. Barcelona, 08001

tf.: 93-381-54-49

Persona entrevistada: Irene Yamba

Responsabilidad en la ONG: Ex-presidenta de F.C.I.C., y representante de la misma en el Consell Assessor de la Immigració de la Generalitat de Catalunya.

La **Federación de Colectivos de Inmigrantes de Cataluña (F.C.I.C.)**, se funda en el año 1991, siendo registrada legalmente en 1993, con la idea de formar una asociación afro-catalana de apoyo a las personas inmigradas. Los primeros colectivos que la integraban eran de nacionalidad marroquí, guineana, sene-gambiana, y nigeriana, aunque progresivamente se fueron federando otras asociaciones de inmigrantes de diferentes orígenes, fundamentalmente latinoamericanas y el Centro Filipino. Su implantación territorial corresponde a la de la Comunidad Autónoma de Cataluña. Actualmente forman parte de la Federación unos 25 colectivos de inmigrantes, agrupados tanto por criterios de sexo, como de nacionalidad o etnia (por ejemplo: *Musu Kafo*, como asociación de mujeres subsaharianas, la *Asociación de mujeres filipinas*, *Ewaiso Ipola* de mujeres guineanas; *Rieba Pua* que agrupa al colectivo bubi o *Bia Fang*, colectivo fang, ambos de Guinea Ecuatorial; *La Claca* (Casal Latinoamericano de Cataluña), donde se asociaban sudamericanos de diferente nacionalidad, o el *Colectivo tripartito*, compuesto por personas de nacionalidades angoleña, congoleña y mozambiqueña.

La federación cuenta exclusivamente con el voluntariado de sus miembros (no existen profesionales de la organización asalariados). La Federación dirige su actividad a defender los intereses de los colectivos integrados ante la administración y la población autóctona en general. En este sentido sus áreas de intervención prioritarias son las acciones reivindicativas y la representación política en diversos foros sobre la inmigración, como por ejemplo la representación en el *Foro de la Inmigración* de la Dirección General Migraciones del Ministerio de Trabajo y Asuntos Sociales (Gobierno Central), el *Consell Assessor de la Immigració de la Generalitat de Catalunya* (Gobierno Autonómico), el *Consell de Benestar Social* en la Comisión de Inmigrantes y refugiados, del Ayuntamiento de Barcelona (Administración local), y fuera del ámbito estatal, forma parte del *Foro europeo de la inmigración*. Junto con su actividad de representación política, también se dedica prioritariamente a la sensibilización (en general dirigida a la población autóctona, destacando específicamente su presencia en las escuelas), información (dirigida a los propios colectivos miembros), y formación (destacando su colaboración con la *Escuela de Policía de Cataluña*).

Si bien la F.C.I.C. no contempla un trabajo exclusivo para los sin papeles (sus acciones son indistintas), hay que destacar que fue miembro fundador e impulsor de la *Plataforma papeles para todos*. Como otras organizaciones no gubernamentales las problemáticas específicas de los inmigrantes sin papeles son derivadas a otras ONGs, ya sean los propios colectivos que forman parte de la Federación, ya sean otras ONGs de carácter más específico, como por ejemplo el C.I.T.E. (de CCOO) o AMIC (de la UGT) en cuestiones laborales y jurídicas, Cáritas en diversos ámbitos asistenciales, o SOS Racisme, en casos de racismo.

Como ya se ha citado anteriormente, la Federación mantiene representación y contacto con diversas administraciones públicas, sirviendo de interlocutor en las demandas de los inmigrantes de los diferentes colectivos. Pese a ello las subvenciones son poco significativas (prestación del local de reuniones por parte del Ayuntamiento de Barcelona, o de fundaciones privadas sin ánimo de lucro como la Fundació Jaume Bofill), subvencionándose principalmente de las aportaciones voluntarias de los distintos colectivos-socios.

En el transcurso de la entrevista de entre todos los ámbitos y necesidades de los "sin papeles", se destaca desde la propia Ley al trato policial, pasando por el acceso diferencial a los recursos, o el problema de las mafias.

En el trato policial se denuncia la criminalización del inmigrado, con o sin papeles, y el subsiguiente trato represivo que estos sufren, mientras que desde su perspectiva los diferentes cuerpos de policía deberían tener un papel de servicio al inmigrado (como un ciudadano más) y no actuar como un cuerpo represor. Como ejemplo se cita la práctica de la policía local (guardia urbana) de pedir papeles, mientras que esa atribución sólo corresponde a la policía nacional. Al mismo tiempo se espera que la nueva Ley de extranjería modifique dicha práctica, señalando al respecto la colaboración establecida con la Escuela de Policía de Cataluña, donde se incorpora personal de la misma Federación en un módulo específico sobre inmigración e interculturalidad (fruto de esa colaboración es la publicación sobre *Policia catalana y multiculturalidad*). Como resultado del papel negativo de las fuerzas de seguridad, las personas sin papeles suelen inhibirse de hacer denuncias (robos y agresiones racistas principalmente), poniendo de manifiesto su indefensión.

Se destaca también, la situación crítica de los detenidos en los Centros de Internamiento, tanto en su concepto como tales como en las condiciones en las que se encuentran retenidos (desde la atención personal, calificada de vejatoria, la desatención sanitaria, y las condiciones de hacinamiento, a la difícil comunicación con el exterior). La Federación fue consultora de la ponencia específica del parlamento español encargada de la elaboración de la nueva Ley de Extranjería. Coincide con la mayoría de ONGs entrevistadas en estimar de forma pesimista la evolución de la Ley, tanto por lo que se refiere a las posibles modificaciones que esta sufra, como al reglamento de aplicación final. Denuncia la manipulación por parte de los grupos políticos, principalmente el que en estos momentos está en el gobierno ostentando la mayoría absoluta, de las informaciones sobre la inmigración, con el fin de crear una opinión favorable entre la población para legitimar su modificación restrictiva, citando explícitamente los supuestos problemas para la atención sanitaria de los sin papeles. A este respecto se incide en la visión instrumental de la inmigración, ligada o percibida tan solo desde la perspectiva de los costos y beneficios en el mercado de trabajo y en la Seguridad social, siendo la perspectiva más de solventar "un problema" de la sociedad española que la de una sensibilidad dirigida a dar solución a la situación de las personas inmigradas.

En el capítulo de sugerencias, se apunta primero a la necesidad de regular de forma más abierta la extranjería para eliminar la situación de los sin papeles, para acabar con la vulnerabilidad que los expone al riesgo manifiesto de sobreexplotación (mafias y laboral), el de marginalización (donde se subraya la posible caída en el ámbito de la delincuencia en algunos casos, la prostitución, o la propia segregación espacial, cuando

esta es políticamente intencionada, entiéndase acceso restringido al espacio como en el caso de El Ejido).

Se incide en la recepción de los inmigrados, con un seguimiento desde el mismo punto de llegada al país, que pudiera informar y orientar a estas personas, con una mención explícita de “oficinas de bienvenida”. En este sentido implícitamente se está proponiendo una reorientación legislativa y práctica hacia una política de inmigración. Se denuncia el paternalismo y el clientalismo de ciertas ONGs en el trato con los inmigrados, y el olvido de algunos colectivos específicos como es el caso de las prostitutas.

Al mismo tiempo se insinúa la contraposición de intereses de las diferentes ONGs, tanto por motivaciones ideológicas como de estrategia de cual debe ser el tipo de intervención concreta en algunos casos.

Nombre: Servei Solidari i Missioner Caputxins de Catalunya i Balears (SSIM)
Dirección: Avda. Diagonal, 450, 08006-Barcelona.
Tf.: 93-416-09-86
Persona entrevistada: Padre Joan Cañellas
Responsabilidad en la ONG: Director.

El **Servei Solidari i Missioner. Caputxins de Catalunya i Balears (SSIM)**, fue fundada por la Orden de los Capuchinos en 1991, y se legalizó en 1993 cuando abren su centro de acogida en Barcelona, con una cobertura territorial que abarca Cataluña y Baleares. En la actualidad consta de 173 voluntarios fijos y 100 satélites, entre los cuales figuran inmigrantes, voluntariado autóctono que comprende personas cercanas a la Iglesia católica y profesionales, y monjes de la Orden. 25 de estos voluntarios son estudiantes colombianos en su mayoría becados por la propia organización para realizar estudios de tercer ciclo en Barcelona. Hay que destacar que esta es una de las pocas ONGs que trabaja al mismo tiempo en el país de origen y el país de destino, circunscribiendo su intervención a Colombia y Costa Rica, entre los países de origen y a Cataluña y Baleares en el de destino. Ese esfuerzo bipolar explica que su atención vaya específicamente dirigida a la población de nacionalidad colombiana, peruana, ecuatoriana, y paraguaya, habiéndose convertido en un centro de referencia para los inmigrantes colombianos.

También es de señalar que la actuación del SSIM, en estos momentos se dirige exclusivamente a los sin papeles, tanto los inmigrantes que llegan sin la documentación requerida, aquellos que la han perdido, o la población reclusa (con unos 1000 colombianos en las cárceles en Cataluña). La participación de los inmigrantes en la infraestructura de la organización es mayoritaria. El área de intervención es muy diversificada: va desde la acogida (con dos apartamentos de acogida temporal), asistencia social, sanidad, la asesoría jurídica, las citadas becas de estudio, la distribución de alimentos y servicio de ropero, y los servicios religiosos (celebración dominical de la "misa latina").

El SSIM colabora con otras ONGs, en especial se cita a *Cruz Roja* que les facilita veinte toneladas de alimento al año, que ellos se encargan de distribuir a unas 1300 personas al mes, y con *Salud y Familia*, una ONG que trabaja esencialmente en el ámbito de la salud reproductiva, cuyos integrantes son en su mayoría profesionales sanitarios autóctonos, si bien cuentan con la colaboración de mediadores interculturales de diferentes orígenes (marroquíes, subsaharianas, y latinoamericanas principalmente). Su colaboración con la administración pública se circunscribe sobre todo al campo de la sanidad, manteniendo un acuerdo con el Centro de Atención Primaria de "Drassanes", derivando a este centro la atención que requiere seguimientos más especializados. Reciben tan sólo una reducida subvención del Ayuntamiento de Barcelona para la *La Revista*, publicación semestral para España y Latinoamérica.

A continuación presentamos con más detalle las actuaciones del SSIM con los sin papeles siguiendo los puntos destacados por su director Joan Cañellas:

En primer lugar se quiere dejar constancia de que los servicios y bienes prestados nunca lo son en forma monetaria (se trate de comida, medicamentos, alojamiento o impagados de vivienda).

En el ámbito de la sanidad: cuentan con 18 médicos generalistas voluntarios que

trabajan de forma rotativa cubriendo una atención diaria, con horarios adaptados al trabajo de los inmigrantes (de 17 a 22 horas). Recientemente se ha incorporado la figura de un psicólogo que trabaja específicamente con los menores. También se hacen cargo de la cobertura farmacológica y del seguimiento de los tratamientos.

En el campo de los servicios sociales se agrupan las becas de comedor, sostenimiento de las familias, impagos de viviendas, gestiones administrativas (desde la matriculación de los hijos en las escuelas a la tramitación de los subsidios de pobreza, o de los propios papeles necesarios para regularizar su situación). Se señala que han conseguido legalizar a buena parte de estos inmigrantes gracias a la colaboración voluntaria de personas religiosas con los medios económicos suficientes para contratarlas y formalizar legalmente ese contrato, siendo las mismas que facilitan el suministro de ropa.

Como en otras entrevistas, se llama la atención sobre el problema de la prostitución, aunque en este caso se indica que algunas de las mujeres se dedican a la prostitución como opción ventajosa frente al trabajo en el servicio doméstico (independientemente de la formación de las mujeres inmigradas).

En el futuro inmediato se planea construir un albergue que complemente los dos apartamentos de acogida temporal con los que actualmente dispone la organización. En la medida en la que van llegando familias con hijos, se prevé la necesidad de disponer de una guardería.

Nombre: Plataforma "Papeles para todos".

**Dirección: Local de la Federación de Asociaciones de Vecinos de Barcelona,
C/Obradors 8, 08002-Barcelona.**

Tf.: 93-412-55-44 (FAVB).

Personas entrevistadas: Norma Falcone y Elsa López.

Responsabilidad en la ONG: miembros de la asamblea.

La Plataforma "Papeles para todos" se crea en Barcelona en 1996. Surge a iniciativa de la F.C.I.C. y de la Federación de Asociaciones de Vecinos de Barcelona (F.A.V.B.) como respuesta a las medidas represivas adoptadas por el reciente gobierno del Estado, con la expulsión de 108 inmigrantes africanos en condiciones deplorables. En estos momentos funciona como agrupación asamblearia con una cobertura territorial que comprende Cataluña, manteniendo en la actualidad estrechos vínculos con grupos que comparten una misma perspectiva en otras Comunidades Autónomas (País Vasco, Madrid, Valencia, Valladolid y Almería). Participan unas cuarenta asociaciones de carácter cívico, desde las propias asociaciones de inmigrantes (la F.C.I.C.), colectivos de carácter alternativo (Movimiento Okupa, Coordinadora antifascista y antirracista del Maresme y Terrassa), de carácter asistencial (Cáritas y Sodepau) y otras de carácter vecinal (como la propia FAVB) o sindical como "Portes Obertes" de la CGT. El movimiento asambleario tiene como objetivo principal la autorganización y autogestión de los propios afectados, distanciándose expresamente de la política oficial. Ese posicionamiento ideológico radical explica las discrepancias entre los diferentes colectivos que en un principio apoyaron la creación de la Plataforma, y el abandono de algunos de ellos del bloque de acción (como CITE, AMIC de UGT, o SOS Racisme, entre otras). En estos momentos constituye la organización no gubernamental con carácter de denuncia centrada en la situación de los "sin papeles" más importante, cuyo trabajo específico consiste en la reivindicación y denuncia frente al acoso policial, a la situación en la que se encuentran los detenidos en los Centros de Internamiento (reclamando su cierre inmediato), y la estigmatización del inmigrante como delincuente. La denuncia se complementa con campañas de desobediencia civil y de sensibilización sobre el contenido de la Ley.

Desde su discurso, la existencia de la Ley es la única y principal responsable de la existencia de "sin papeles" y de las condiciones de vida en las que se encuentran. Por ello reclaman la derogación de cualquier ley y rechazan la participación en movimientos políticos o su contacto con la administración pública, en tanto en cuanto éstos, aceptan la necesidad de una Ley de extranjería o de inmigración. De modo paralelo insisten en la responsabilidad del racismo institucional, y en la connivencia de la prensa en la extensión de estereotipos que en estos momentos se centran en la percepción alarmista del fenómeno migratorio, con la apelación al "efecto llamada", y a "la invasión". La defensa de los derechos de los sin papeles a nivel individual, les lleva a adoptar como estrategia de la organización el rechazo de su propia inscripción legal, resultando de tal opción la imposibilidad de recibir ningún tipo de ayuda o subvención por parte de la administración pública, que a su vez se niega a reconocer ningún tipo de organización sin registro legal. De esta forma su financiación se limita a la propia aportación de los

diferentes colectivos que la integran.

Del mismo modo quieren hacer constar su fatiga e irritación ante la instrumentalización por parte de los especialistas que estudian el tema y que contactan con ellos para obtener información: se sienten utilizados como “conejillos de Indias”, afirman que nunca revierte ese trabajo ni en su información ni aparentemente en una mejora de las condiciones de vida de los inmigrantes, y por lo tanto subrayan la necesidad de una reciprocidad en el contacto entre estudiosos y el movimiento organizativo. Expresan su preocupación por el descenso del asociacionismo en la ciudad de Barcelona, denunciando la falta de ayudas al mismo, y la carencia de recursos materiales resultante. En concreto ante la presente situación del cambio legislativo señalan por una parte su oposición a cualquier tipo de Ley, y por la otra la desinformación sobre el problema de las mafias. En este punto, atribuyen su aparición y crecimiento a la propia legislación, afirmando que si hubiera una política de “puertas abiertas” no se daría pie al tráfico humano. La ilegalidad, desde esta perspectiva, acaba justificando el sostenimiento de una precariedad que interesa mantener para explotar. Se castiga a las ONGs y no a las mafias. En resumen, no se trataría de controlar los flujos sino de acortar las desigualdades que producen los mismos.

Se acusa de ambigüedad al discurso de la Comisión Europea, que por un lado se queja de falta de mano de obra y por el otro pone trabas a la inmigración, que al mismo tiempo contribuye a la explotación en los países de origen que provocan el fenómeno migratorio y quiere refrenarlo. Insisten en que la situación de legalidad de la población inmigrada extranjera es una lotería, así como el mantenimiento de esta frágil legalidad.

Nombre: Associació Catòlica Internacional de Serveis a la Joventut Femenina (ACISJF-In Via).
Direcció: C/València 273 Entresol 2ª
Tf. 93-215 56 16
Fax: 93-487 32 17
Email: acisjf@suport.org
Personas entrevistadas y responsabilidad en la ONG:
Mecè Porrera Directora general de la asociación, y Núria Carlas, subdirectora general y responsable del programa de urgencias.

La **Associació Catòlica Internacional de Serveis a la Joventut Femenina (ACISJF-In Via)** se funda en 1897 en Friburgo (Suiza), con la finalidad de dar respuesta a las necesidades con las que se encontraban las mujeres jóvenes migrantes, que abandonaban sus hogares en busca de trabajo. Es miembro fundador de la Confederación de Organizaciones Católicas, y actualmente cuenta con representación en 34 países, cada organización regional ha seguido diversificando sus objetivos generales de forma específica. Se introduce en España en 1953, la representación en Barcelona, a mediados de los ochenta empieza a tratar cada vez más con mujeres jóvenes procedentes del Magreb y Latinoamérica, y a mediados de los noventa, empieza su actividad específica con menores de ambos sexos, mayoritariamente magrebis, y generalmente sin papeles.

En la actualidad, la ACIS JF cuenta aproximadamente con 100 personas, de las cuales 63 son socios, unos 45 profesionales contratados, y unos 23 voluntarios. Es fundamentalmente una ONG de servicios, orientados a las mujeres, con cuatro actuaciones principales: 1) Residencias (acogimiento de urgencia) que incluye acción educativa; 2) Acogida Orientación-información; 3) Formación ocupacional e inserción laboral; y 4) Programas de urgencias, donde se incluye el "Centre Roure" de acogimiento de emergencias para menores de 3 a 17 años en los horarios en los que las dependencias de la Direcció General d'Atenció a la Infància de la Generalitat de Catalunya permanecen cerrados (de 7 de la tarde a 9 de la mañana), y al que en esta presentación daremos más importancia.

En la presente entrevista se contó con la información de la directora general, la Sra. Mercè Porrera, para la información general de la organización, y con la presencia de la Sra. Núria Carles como subdirectora general y responsable del programa de urgencias. El programa de urgencias, cuenta con cinco servicios principales: 1) el teléfono de Infancia y Adolescencia; 2) la orientación-mediación familiar; 3) el servicio de atención transitoria; 4) los traslados de menores durante las noches y festivos (acompañamiento).

A diferencia de otras ONGs que tratan específicamente la situación de los menores, esta se caracteriza porque los menores que llegan al **Centre Roura**, llegan con una orden de ingreso sea del Juzgado de Guardia, de la Dirección General de Atención a la Infancia o de la Fiscalía de menores, es decir, no existe captación en la calle, y su ingreso no es voluntario. El servicio cuenta con un equipo educativo que está formado por una directora, cinco educadores hombres, tres educadoras mujeres, un supervisor y educadores suplentes. Desde abril de 1999 atiende preferentemente a

niños de 3 a 12 años, y niñas de 12 a 18 años. Durante el año 1999 fueron atendidos 451 menores (el 22% sin papeles), se efectuaron 1.283 ingresos y 1.610 estadias (hay importante reincidencia en ingresos y estadias); 193 de esos menores eran de origen magrebi. Desde el mes de abril 4 de las 10 plazas fijas con las que cuenta el centro se destinan al programa de Servei d'Atenció i Acol·liment Especialitzat per a Menors Immigrants (SAAEMI), Donde se realiza una labor de inserción laboral con una estancia de un mes y medio de cada menor, para evaluar, trabajar y profundizar en su capacidad de autonomía. Este seguimiento se realiza conjuntamente con los educadores de calle que velan por la regularización de su situación legal y la formación e inserción laboral del menor.

El servicio de Atención Transitoria, cuenta con un equipo formado por una directora y coordinadora, dos educadoras mujeres, un educador hombre, y un mediador intercultural. En 1999 fueron atendidos 1.740 menores, discriminando entre las urgencias y la ludoteca. Las urgencias atienden a menores en riesgo o en situación de desamparo mientras la Direcció General d'Atenció a la Infància, realiza un estudio-valoración de su posterior derivación: retorno al hogar familiar, centro de acogida, etc... La estadia puede reducirse a un único día, durante el cual, se pretende desangustiar al menor, observar su comportamiento. La ludoteca, funciona como servicio de guardería puntual.

Durante la extensa entrevista se señala la necesidad de coordinar las actuaciones a nivel europeo, tanto en la legislación y problemática del menor, como en la difusión del trabajo realizado por ONGs similares, y la coordinación de sus actuaciones. También se apuntan las dificultades específicas de la situación de los menores sin papeles, que han sido recogidas en otros apartados del presente informe.

Nombre: Asociación de Mediadores y Mediadoras Interculturales de Cataluña: Alcántara.
Dirección: Vía Laietana, 54, 4º 3ª. 08003-Barcelona.
Tf.: 93-268-04-77.
Personas entrevistadas y Responsabilidad en la ONG: Sidi-Ahmed Baba (presidente) y Genisa Prat (Directora del Proyecto de formación Alcántara)

La Asociación de Mediadoras y Mediadores Interculturales de Cataluña, ALCÁNTARA nace en 1999 como una iniciativa de aquellas personas que fueron formadas en la mediación intercultural por AEP Desenvolupament Comunitari (DC), en el marco del programa Leonardo Da Vinci y el INTEGRA de la Comisión Europea y del proyecto Alcántara. La asociación está formada por unas 20 personas, todas ellas inmigrantes de distintas culturas, con una amplia trayectoria de trabajo con sus propias comunidades de origen, cuya implantación territorial se circunscribe a la Comunidad Autónoma de Cataluña. En estos momentos y dada su reciente creación, cuentan con dos personas, contratadas a través de DC, para desarrollar las tareas de gestión, dinamización y promoción.

La Mediación Intercultural es definida por la propia asociación como un recurso puente que favorece la comunicación y promueve un cambio constructivo en las relaciones entre personas culturalmente diversas. Los mediadores se presentan como profesionales que colaboran en la atención a las necesidades sociales de las comunidades inmigradas y orientan su acción a la prevención y resolución de los conflictos individuales, familiares, o grupales que se dan en los ámbitos de la salud, la educación, el bienestar social, y la convivencia comunitaria. Toda esta tarea con el objetivo principal de promover una comprensión recíproca sobre las diferentes maneras de vivir y entender la realidad. En este marco, la mediación intercultural propicia: 1) el reconocimiento del otro en su singularidad; 2) el acercamiento y búsqueda de códigos comunes entre personas diversas; 3) la comunicación y comprensión mutuas; 4) el aprendizaje y el desarrollo de la convivencia; 5) la búsqueda de estrategias alternativas para la resolución de conflictos; y 6) la participación comunitaria. Hay que destacar el papel pionero de esta asociación en la formación integral de la figura profesional del mediador intercultural, y la promoción de su inserción laboral.

El mediador encarna por si mismo las contradicciones y los beneficios de la relación intercultural, actuando en la práctica como agentes pedagógicos en la propia administración pública para la que trabajan. Los diferentes profesionales tienen que salvar en la práctica, muchas veces, el recelo de ambas comunidades. Por parte de la población inmigrada, la sospecha de que actúan como agentes de control al servicio de la administración, mientras que por parte de la administración, la tendencia a reducir su intervención al simple papel de traductores.

Los profesionales de la asociación son todos de origen extranjero, siendo la mayoría de las nacionalidades correspondientes a la demanda real de la población inmigrada (magrebies, subsaharianos, y latinoamericanos). La asociación Alcántara no contempla un trabajo específico con los sin papeles, ya que sus acciones son indistintas. De todos modos, a nivel profesional, sus actuaciones son requeridas en diferentes ámbitos, en algunos de ellos el hecho de no tener papeles puede llegar a ser mayoritario, como por

ejemplo en el caso de los menores. En este sentido, parte de la entrevista efectuada a los representantes de dicha asociación ha profundizado sobre su experiencia profesional en el trato de los menores magrebíes sin papeles.

La Asociación mantiene relaciones con diferentes ONGs, pero a diferencia de lo que generalmente ocurre con otras ONGs, la relación no está centrada en la deriva sino en la oferta de sus servicios: la formación y la intervención. En el primer punto destacaríamos su colaboración con la red *Acoge*, y con la F.C.I.C. La colaboración con las administraciones públicas, locales y autonómicas pasa por la figura profesional y por la contratación directa de sus servicios. La asociación se financia básicamente a través de las aportaciones de los propios miembros, y actualmente cuenta con una ayuda económica para su consolidación y desarrollo a través de *Desenvolupament Comunitari*, subvencionada con este propósito a su vez por la *Fundació "la Caixa"*.

Específicamente, en el rol que diversos miembros de la asociación tienen en la acogida de menores sin papeles se destaca: 1) dar prioridad a la oferta de un espacio de acogimiento y a la regularización de los menores; 2) una vez solventado el problema de la documentación, el trato con menores exige de un seguimiento y unos objetivos a largo plazo. A diferencia de los adultos, la problemática de los menores no se circunscribe principalmente a la documentación. En caso contrario el menor, aun con papeles puede quedar desprotegido convirtiéndose en víctima propiciatoria para la prostitución, el tráfico de drogas y la delincuencia.

La tipología de los menores atendidos sin papeles, también presenta diferencias no excluyentes: por un lado podemos encontrar aquellos que provienen de familias desestructuradas en origen, o de grupos de menores que ya vivían en la calle en el país de origen, mientras que otros pueden haber llegado con sus familias, y haber abandonado el hogar en el que residían ante una problemática específica en el seno de la familia, y por último, aquellos que una vez en el país se encuentran con una falta manifiesta de acogimiento, sea por desatención del familiar que debía hacerse cargo, sea por falta de recursos materiales para llevar a cabo ese acogimiento. Aunque las causas sean diferentes, y que alguno de ellos pueda incluso tener papeles, la situación que encuentran los menores en la calle es la misma.

En la línea del trabajo de la mediación intercultural, se señala el esfuerzo por combatir prejuicios desde las dos partes en contacto: los menores magrebíes y las instituciones y profesionales que les atienden más o menos directamente, o los propios medios de comunicación que contribuyen a conformar su percepción. En el primer caso, el mediador se ve enfrentado a la difícil tarea de hacer comprender al menor que las expectativas que le impulsaron a la migración o a seguir viviendo en la calle no corresponden a la realidad, que las instituciones tienen el deber de acogerles, no siendo su función el encierro sino la tutela, o disuadirles de la convicción de que todos los profesionales persiguen tan solo la represión en términos de control policial. Por otra parte, en el segundo caso, se advierte que la imagen del menor en concreto, y del inmigrante en general, se ve dañada con la generalización estereotipada por parte de las instituciones: una imagen que incide de forma negativa en la práctica profesional y en la opinión pública. El menor como intratable, peligroso, o falso, en definitiva, en el que no se puede confiar. Esa crítica se extiende al propio colectivo de inmigrantes o la comunidad establecida cuando se despreocupa de la situación del menor.

El presidente de la Asociación Sidi Ahmed Baba insiste en señalar la necesidad de una

acción pedagógica orientada al cambio de mentalidad del menor inmigrado, comprometiéndolo a asumir responsabilidades, es decir, que por la parte del menor también existen deberes, y no sólo derechos, exigiendo contrapartidas de formación y educación, del mismo nivel que las exigidas por parte de la sociedad receptora a los menores autóctonos.

Se denuncia la utilización del menor como moneda de cambio en las relaciones bilaterales, explícitamente entre el gobierno marroquí y el español, y se plantea la necesidad de una corresponsabilización por parte de la Unión Europea de la intervención tanto en el país de origen como en el de destino.

Nombre: Fundación Alicante Acoge

Dirección: C/ Aguila, 35, 3º. 03006 Alicante. ESPAÑA. Tfno: (96 511 5285) Fax: (96 511 5282). E-mail:alicanteacoge@ctv.es

Personas entrevistadas y Responsabilidad en la ONG: Carlos Gómez Gil (Director Técnico), Cristina Gándara (Educadora).

La **Fundación ALICANTE ACOGE** es una Fundación Privada Benéfica de Asistencia Social, de ámbito provincial, sin fines de lucro y de carácter indefinido, constituida legalmente según Ley 30/1994 de 24 de noviembre de *Fundaciones y de Incentivos a la Participación Privada en Actividades de Interés General*, e inscrita en el Registro de Fundaciones de la Comunidad Valenciana, con el número 94 (A). Sus actividades, iniciadas en el año 1991 entonces en forma de asociación, tienen como finalidad primordial la acogida, ayuda, asistencia y promoción social de las personas inmigrantes y extranjeras de cara a su plena integración en nuestra sociedad, así como la sensibilización social, el estudio y la investigación de sus problemáticas, primordialmente de los procedentes de los llamados países del Tercer Mundo, colaborando en la resolución de los problemas de emergencia social que puedan presentárseles en el ámbito de actuación de la Fundación.

Alicante Acoge pertenece a la **FAIN** (Federación de Asociaciones pro Inmigrantes), de ámbito estatal, desempeñando su Vicepresidencia. Al mismo tiempo está registrada en el Registro de Entidades, Centros y Servicios Sociales de la Dirección General de Servicios Sociales de la Generalitat Valenciana, con el número de Registro 06.03-958, en fecha 9 de septiembre de 1997, contando también con acreditación y registro en su vivienda tutelada para inmigrantes en el Registro de Entidades, Centros y Servicios Sociales de la Comunidad Valenciana con el número 04.03.1291.2004-958, estando inscrita en el Registro de entidades de interés municipal del Ayuntamiento de Alicante, en fecha 8 de julio de 1994, y disponiendo de un Informe de Acreditación realizado por el Concejal - Delegado de Asuntos Sociales del mismo Ayuntamiento.

Para el desarrollo de sus fines tiene suscrito un Convenio de Colaboración con el Ayuntamiento de Alicante, a través de su Concejalía de Acción Social, para el desarrollo de actuaciones conjuntas, habiendo firmado también un acuerdo marco de colaboración con la Universidad de Alicante y con la Compañía de Jesús para el desarrollo de actividades conjuntas en el ámbito de la inmigración.

La Fundación Alicante Acoge ha recibido el Premio del diario "La Verdad", en junio de 1996, y el Premio del diario "La Información de Alicante", en agosto del mismo año, recibiendo también una Mención del Ministerio de Asuntos Sociales dentro de sus Premios Nacionales, en la edición de 1997. Así mismo, esta organización ha sido premiada por su labor en el campo de las ONG's en Alicante por el Casal Jaume I de Alicante, en febrero de 2000.

Alicante Acoge viene realizando un buen número de proyectos, trabajos y actividades conjuntamente con diferentes instituciones públicas y privadas de la ciudad de Alicante y de otros ámbitos del país. Entre estas instituciones pueden mencionarse el Ayuntamiento de Alicante, con quien tiene establecido un convenio de colaboración a través de su Concejalía de Acción Social; el Ministerio de Asuntos Sociales; la Consellería de Bienestar Social, la Dirección General de Servicios Sociales de la

Conselleria de Trabajo y Asuntos Sociales, la Conselleria de Trabajo, Industria y Comercio, y la Dirección General de Ordenación e Innovación Educativa i Política Lingüística de la Generalitat Valenciana; el Instituto de Migraciones y Servicios Sociales del Ministerio de Trabajo y Asuntos Sociales; la Fundación La Caixa; la Comisión Europea, la Dirección General de Empleo y Asuntos Sociales y la unidad de Integración Social de la Unión Europea; la Universidad de Alicante; la Federación de Asociaciones pro Inmigrantes (FAIN); la Diputación de Alicante, el Ilustre Colegio de Abogados de Alicante, la Fundación Santa María, la Fundación Bancaja, la Caja de Ahorros del Mediterráneo, el Colegio Oficial de Aparejadores y Arquitectos Técnicos de Alicante, la Sindicatura de Agravios. Al mismo tiempo, trabaja de manera muy estrecha con organizaciones preocupadas por los inmigrantes, como el Secretariado Diocesano de Migraciones, que interviene de manera expresa en el desarrollo de actividades en las áreas de sensibilización social y de voluntariado, además de formar parte del Patronato de la Fundación, así como con otras organizaciones de carácter social, entre las que pueden destacarse a Cáritas Diocesana de Alicante y Proyecto Lázaro.

La labor de Alicante Acoge se desarrolla mediante áreas organizativas que tratan de dar respuesta a las distintas necesidades y/o problemáticas que presenta la población inmigrante, procurando así incidir en las diferentes esferas de bienestar social que afectan y determinan la realidad bio-psico-social de las personas que atiende la Fundación. Así, sus diferentes áreas de trabajo engloban los diversos programas, proyectos, actividades y servicios destinados a dar respuesta a las necesidades y problemas llevadas a cargo por cada área. De este modo, el funcionamiento interno de Alicante Acoge se estructura a través de los Servicios de Acogida (incluyendo la información de recursos, orientación y asesoramiento, así como la derivación interna o externa), el Servicio Jurídico, así como las las Areas de Intervención social, entre las que destacan las de Vivienda, Empleo, Educación y Formación, el Servicio Médico, y la de atención a la mujer. También se cuenta con una área de sensibilización social, otro de voluntariado, así como un programa de actuación especial en un barrio con una presencia mayoritaria de inmigrantes.

Respecto al trabajo que se lleva a cabo, el volumen total de atenciones ha experimentado un crecimiento global del 20% en los usuarios atendidos, acercándose a los 10.000 inmigrantes atendidos en todo el año 1999, un incremento que se ha elevado hasta el 26% en el Servicio Jurídico, un área que ha obtenido el reconocimiento como Punto de Red Nacional de Información, Orientación y Apoyo Jurídico para Inmigrantes del Ministerio de Asuntos Sociales. Se ha consolidado un programa de Intervención Social con Mujeres inmigrantes, que ha realizado actuaciones de una enorme importancia hacia mujeres con problemas de explotación o malos tratos, llevándose a cabo la 4ª edición del Curso de Ayuda a Domicilio para mujeres. Se ha obtenido la acreditación y registro de la Vivienda Tutelada para inmigrantes por parte de la Conselleria de Bienestar Social, una vivienda por la que han pasado treinta y seis personas a lo largo del pasado año, posibilitando así prevenir situaciones de riesgo y facilitar su autonomía futura. El Servicio Médico ha llegado a atender 505 visitas de pacientes inmigrantes que de otra forma no habrían tenido atención médica a sus problemas, al tiempo que ha experimentado una profunda reorganización, contando con un equipo de seis profesionales. Desde el Servicio de Empleo se han gestionado 234

empleos, consiguiendo gestionar empleos para 93 inmigrantes. Desde el área de Educación y Formación se han mantenido las clases de acceso al conocimiento de la lengua y la cultura española, así como las clases de lengua y apoyo escolar a segundas generaciones. También desde el área de Sensibilización se ha desarrollado un año más una Campaña de Sensibilización dirigida a centros de enseñanza secundaria sobre cuestiones de inmigración, para prevenir actitudes racistas y xenófobas, participando cerca de mil alumnos, al tiempo que se han publicado tres números de la revista "Solidari...Qué". Al mismo tiempo, el Programa de Garantía Social de Operario de Viveros y Jardines ha llevado a cabo un curso más, dirigido a jóvenes a los que se les ha formado en un oficio que ha permitido a buena parte de ellos desempeñar un trabajo al finalizar el curso. Todo ello sin olvidar las miles de atenciones personales que han sido llevadas a cabo por las trabajadoras sociales y el resto de profesionales de Alicante Acoge, y que han permitido proporcionar ayudas básicas a numerosos inmigrantes.

Nombre: Asociación PROVIVIENDA

Dirección: C/Rafael Salazar Alonso, 17 (local 19-22). 28007 MADRID. Tfno: 91 557 0130 / Fax: 91 400 8250 / e-mail: provivienda@provivienda.org

Personas entrevistadas y Responsabilidad en la ONG: Manuel Montero López (Presidente), Begoña Martínez (Técnico)

PROVIVIENDA es una Asociación sin ánimo de lucro que desde 1989 ha fomentado y promovido programas de alojamiento de carácter social para colectivos con problemas de acceso a la vivienda. Su actuación primordial ha tenido como destinatarios prioritarios los jóvenes y los inmigrantes, mediante programas de apoyo al alojamiento para estos colectivos que son financiados total o parcialmente por las diferentes administraciones, central, autonómica o local.

Cada uno de los programas de alojamiento ofrece a los propietarios de viviendas, sin coste para los usuarios, un seguro multirriesgo, garantía de pago de rentas así como todas las gestiones derivadas del alquiler de la vivienda.

La actuación de PROVIVIENDA con los inmigrantes se ha centrado en la intervención en barrios y zonas marginales de grandes ciudades, donde existían grandes asentamientos chabolistas. Así, esta organización interviene en 1993 en el barrio de Peña Grande, uno de los mayores focos de infraviviendas de Madrid, donde residían unas 1.300 personas, en su mayoría inmigrantes y gitanos. El realojo en este barrio se inicia en el año 1994 contando con financiación pública para el mismo, lo que sirvió de experiencia para que PROVIVIENDA haya podido extender estas iniciativas a otras zonas con alta concentración de inmigrantes, como es Boadilla del Monte (Madrid), donde toda la población atendida han sido inmigrantes de origen magrebí, en su mayor parte hombres solos.

La actuación de PROVIVIENDA ha demostrado la capacidad de implicar a las administraciones en la solución de un problema tan grave como el de la vivienda, reuniendo financiación de procedencia muy diversa. Al mismo tiempo, ha puesto de manifiesto cómo se puede atender también a los inmigrantes sin papeles que cuentan con arraigo y perspectivas de regularización, lo que facilita aún más su identificación con la ciudad en la que viven y permite un trabajo más estable con estos inmigrantes. La labor de mediación que PROVIVIENDA realiza básicamente con viviendas en alquiler, permite el acceso a los inmigrantes a un mercado al que tienen muy difícil acceso por problemas de recelos, desconfianzas y discriminaciones hacia estos colectivos.

En estos momentos, PROVIVIENDA está tratando de llevar a cabo otros convenios de colaboración con otras ciudades y organizaciones que trabajan con inmigrantes. Así, se ha puesto en marcha un Programa de Apoyo a la integración a través de la vivienda para inmigrantes-refugiados, que cuenta con la financiación del Ministerio de Asuntos Sociales y la Comunidad de Madrid, habiéndose redactado también un Convenio de colaboración en materia de vivienda con Alicante Acoge y el Ayuntamiento de esta ciudad que tratará de abrir una bolsa de viviendas en alquiler para inmigrantes en Alicante. En la actualidad el Convenio está pendiente de firma y de aprobación por parte del Ayuntamiento. PROVIVIENDA forma parte también del programa europeo IGLOO (Integración Global a través del Alojamiento y el Empleo), financiado por la D.G. V de la Comisión Europea en el ámbito de la Comunidad de Madrid.

Nombre: Asociación COLUMBARES

Dirección: C/ Adrián Viudes, 9 / Beniaján (MURCIA). Tfno: 96 5882 4241 Fax: 96 882 0320. E-mail:columbares@distrito.com

Personas entrevistadas y Responsabilidad en la ONG: Pablo Jaquero Milán (Técnico)

La **Asociación COLUMBARES** es una entidad privada sin ánimo de lucro, con más de once años de presencia activa en la región de Murcia, sureste de España, contando con una amplia experiencia en la promoción, apoyo y desarrollo de proyectos de interés socio-laboral, educativo, cultural y asistencial en diferentes ámbitos de actuación y dirigidos a diferentes colectivos sociales.

Entre los principales objetivos de su trabajo se encuentran la promoción, apoyo y desarrollo de proyectos de carácter socio-laboral, educativo, cultural y asistencial para sectores desfavorecidos, entre los que se encuentran de manera preferente los inmigrantes. De esta forma llevan a cabo varios proyectos específicos para los mismos, como es el de formación, el de mejora de las condiciones de alojamiento de los inmigrantes en Murcia, así como otro de formación e inserción sociolaboral de los inmigrantes. Al mismo tiempo, COLUMBARES participa en proyectos de carácter europeo, como es el ALFA, HORIZON y VITALIA.

En el campo concreto del trabajo con los inmigrantes, COLUMBARES trata de favorecer una adecuada inserción social, laboral y cultural del colectivo de inmigrantes en la región de Murcia, pudiendo favorecer al mismo tiempo la incorporación de los inmigrantes con la sociedad de acogida en todos aquellos servicios normalizados, tanto públicos como privados, existentes en la región. Para ello, tratan de potenciar la articulación de servicios específicos para este colectivo como un instrumento de discriminación positiva.

COLUMBARES cuenta con dos centros de acogida de inmigrantes en Murcia en los municipios de Beniel y Fuente Álamo, habiendo puesto en marcha varios programas de apoyo al alojamiento para inmigrantes en la región de Murcia, financiados por esta Comunidad Autónoma, así como con otros ayuntamientos.

Bien es cierto que el elevado número de inmigrantes que tiene la región de Murcia, especialmente de aquellos en situación irregular, junto a la enorme dispersión de los mismos, extendidos a lo largo de numerosos núcleos rurales, pedanías y aldeas plantea unas demandas muy elevadas de viviendas para inmigrantes que trabajan en explotaciones agrícolas de la provincia, pero la puesta en marcha de estas experiencias ha demostrado la posibilidad y necesidad de estas iniciativas, si bien se necesita también implicar en ellas a los propios empresarios o agricultores con los que trabajan los inmigrantes.

COLUMBARES trabaja intensamente también en actividades educativas y formativas para segundas y terceras generaciones de inmigrantes, ya que consideran que tienen un papel clave en su integración activa en la sociedad, siendo muy importante el grado de integración que estos menores tengan en la sociedad de acogida, así como su relación con los países y sociedades de donde proceden, y que con frecuencia rechazan. En la medida en que los programas de trabajo hacia menores inmigrantes son prácticamente

inexistentes, esta asociación ha decidido ocupar un hueco muy importante en el panorama social de Murcia.

Nombre: Asociación de Mediadores y Mediadoras Interculturales de Cataluña: Alcántara.
Dirección: Vía Laietana, 54, 4º 3ª. 08003-Barcelona.
Tf.: 93-268-04-77.
Personas entrevistadas y Responsabilidad en la ONG: Sidi-Ahmed Baba (presidente) y Genisa Prat (Directora del Proyecto de formación Alcántara)

La Asociación de Mediadoras y Mediadores Interculturales de Cataluña, ALCÁNTARA nace en 1999 como una iniciativa de aquellas personas que fueron formadas en la mediación intercultural por AEP Desenvolupament Comunitari (DC), en el marco del programa Leonardo Da Vinci y el INTEGRA de la Comisión Europea y del proyecto Alcántara. La asociación está formada por unas 20 personas, todas ellas inmigrantes de distintas culturas, con una amplia trayectoria de trabajo con sus propias comunidades de origen, cuya implantación territorial se circunscribe a la Comunidad Autónoma de Cataluña. En estos momentos y dada su reciente creación, cuentan con dos personas, contratadas a través de DC, para desarrollar las tareas de gestión, dinamización y promoción.

La Mediación Intercultural es definida por la propia asociación como un recurso puente que favorece la comunicación y promueve un cambio constructivo en las relaciones entre personas culturalmente diversas. Los mediadores se presentan como profesionales que colaboran en la atención a las necesidades sociales de las comunidades inmigradas y orientan su acción a la prevención y resolución de los conflictos individuales, familiares, o grupales que se dan en los ámbitos de la salud, la educación, el bienestar social, y la convivencia comunitaria. Toda esta tarea con el objetivo principal de promover una comprensión recíproca sobre las diferentes maneras de vivir y entender la realidad. En este marco, la mediación intercultural propicia: 1) el reconocimiento del otro en su singularidad; 2) el acercamiento y búsqueda de códigos comunes entre personas diversas; 3) la comunicación y comprensión mutuas; 4) el aprendizaje y el desarrollo de la convivencia; 5) la búsqueda de estrategias alternativas para la resolución de conflictos; y 6) la participación comunitaria. Hay que destacar el papel pionero de esta asociación en la formación integral de la figura profesional del mediador intercultural, y la promoción de su inserción laboral.

El mediador encarna por si mismo las contradicciones y los beneficios de la relación intercultural, actuando en la práctica como agentes pedagógicos en la propia administración pública para la que trabajan. Los diferentes profesionales tienen que salvar en la práctica, muchas veces, el recelo de ambas comunidades. Por parte de la población inmigrada, la sospecha de que actúan como agentes de control al servicio de la administración, mientras que por parte de la administración, la tendencia a reducir su intervención al simple papel de traductores.

Los profesionales de la asociación son todos de origen extranjero, siendo la mayoría de las nacionalidades correspondientes a la demanda real de la población inmigrada (magrebies, subsaharianos, y latinoamericanos). La asociación Alcántara no contempla un trabajo específico con los sin papeles, ya que sus acciones son indistintas. De todos

modos, a nivel profesional, sus actuaciones son requeridas en diferentes ámbitos, en algunos de ellos el hecho de no tener papeles puede llegar a ser mayoritario, como por ejemplo en el caso de los menores. En este sentido, parte de la entrevista efectuada a los representantes de dicha asociación ha profundizado sobre su experiencia profesional en el trato de los menores magrebíes sin papeles.

La Asociación mantiene relaciones con diferentes ONGs, pero a diferencia de lo que generalmente ocurre con otras ONGs, la relación no está centrada en la deriva sino en la oferta de sus servicios: la formación y la intervención. En el primer punto destacaríamos su colaboración con la red *Acoge*, y con la F.C.I.C. La colaboración con las administraciones públicas, locales y autonómicas pasa por la figura profesional y por la contratación directa de sus servicios. La asociación se financia básicamente a través de las aportaciones de los propios miembros, y actualmente cuenta con una ayuda económica para su consolidación y desarrollo a través de *Desenvolupament Comunitari*, subvencionada con este propósito a su vez por la *Fundació "la Caixa"*.

Específicamente, en el rol que diversos miembros de la asociación tienen en la acogida de menores sin papeles se destaca: 1) dar prioridad a la oferta de un espacio de acogimiento y a la regularización de los menores; 2) una vez solventado el problema de la documentación, el trato con menores exige de un seguimiento y unos objetivos a largo plazo. A diferencia de los adultos, la problemática de los menores no se circunscribe principalmente a la documentación. En caso contrario el menor, aun con papeles puede quedar desprotegido convirtiéndose en víctima propiciatoria para la prostitución, el tráfico de drogas y la delincuencia.

La tipología de los menores atendidos sin papeles, también presenta diferencias no excluyentes: por un lado podemos encontrar aquellos que provienen de familias desestructuradas en origen, o de grupos de menores que ya vivían en la calle en el país de origen; mientras que otros pueden haber llegado con sus familias, y haber abandonado el hogar en el que residían ante una problemática específica en el seno de la familia, y por último, aquellos que una vez en el país se encuentran con una falta manifiesta de acogimiento, sea por desatención del familiar que debía hacerse cargo, sea por falta de recursos materiales para llevar a cabo ese acogimiento. Aunque las causas sean diferentes, y que alguno de ellos pueda incluso tener papeles, la situación que encuentran los menores en la calle es la misma.

En la línea del trabajo de la mediación intercultural, se señala el esfuerzo por combatir prejuicios desde las dos partes en contacto: los menores magrebíes y las instituciones y profesionales que les atienden más o menos directamente, o los propios medios de comunicación que contribuyen a conformar su percepción. En el primer caso, el mediador se ve enfrentado a la difícil tarea de hacer comprender al menor que las expectativas que le impulsaron a la migración o a seguir viviendo en la calle no corresponden a la realidad, que las instituciones tienen el deber de acogerles, no siendo su función el encierro sino la tutela, o disuadirles de la convicción de que todos los profesionales persiguen tan solo la represión en términos de control policial. Por otra parte, en el segundo caso, se advierte que la imagen del menor en concreto, y del inmigrante en general, se ve dañada con la generalización estereotipada por parte de las instituciones: una imagen que incide de forma negativa en la práctica profesional y en la opinión pública. El menor como intratable, peligroso, o falso, en definitiva, en el que no se puede confiar. Esa crítica se extiende al propio colectivo de inmigrantes o la

comunidad establecida cuando se despreocupa de la situación del menor.

El presidente de la Asociación Sidi Ahmed Baba insiste en señalar la necesidad de una acción pedagógica orientada al cambio de mentalidad del menor inmigrado, comprometiéndolo a asumir responsabilidades, es decir, que por la parte del menor también existen deberes, y no sólo derechos, exigiendo contrapartidas de formación y educación, del mismo nivel que las exigidas por parte de la sociedad receptora a los menores autóctonos.

Se denuncia la utilización del menor como moneda de cambio en las relaciones bilaterales, explícitamente entre el gobierno marroquí y el español, y se plantea la necesidad de una corresponsabilización por parte de la Unión Europea de la intervención tanto en el país de origen como en el de destino.

Nombre: Asociación Almería Acoge

Dirección: C/ Padre Luque, 11, 1º 04001 ALMERÍA. Teléfono: 950 27 15 75 Fax: 950 27 06 70. e-mail: almeacoge@larural.es. Centros de Acogida en Roquetas de Mar, El Ejido y Almería.

Personas entrevistadas y Responsabilidad en la ONG: Antonio Puertas García (Presidente)

La Asociación Almería Acoge recoge entre sus fines, según se recoge en el artículo 2 de sus estatutos del año 1997, agrupar tanto a inmigrantes procedentes de los países llamados tercermundistas como a cuantos están interesados en la problemática que plantea la "migración" en nuestro país.

En el artículo 4 de los actuales estatutos del año 1998 se establecen como objetivos y principios que la acción de Almería Acoge se fundamenta en los principios básicos de la solidaridad internacional y la búsqueda de la justicia, en aras de la promoción de los derechos de los inmigrantes. Tiene por tanto esta asociación, como objetivo principal, promover la integración con los inmigrantes y sus familias, de forma que puedan llegar a ser unos componentes más de la sociedad y que, en este proceso, con respeto a la identidad de cada cual, ambas partes se conozcan y enriquezcan mutuamente. Es desde estos presupuestos desde los que se establece la labor de trabajo con los inmigrantes que en Almería viene realizando Almería Acoge, en una de las provincias españolas con una mayor presencia de inmigrantes en situación de precariedad.

Almería Acoge lleva trece años trabajando por llevar adelante iniciativas que hagan posible una convivencia fructífera, convencidos de que para ello es necesario que se reconozca a cada inmigrante como un ciudadano/a de pleno derecho. Desde esta organización se trabaja en construir una sociedad en la que más allá de las particularidades de cada cual, todo el mundo tenga la posibilidad de vivir con dignidad. Por ello, y desde el convencimiento de que su presencia nos enriquece en todos los sentidos, desde Almería Acoge partimos de una solidaridad activa con su situación, asociándonos en libertad, sin ligarnos a ninguna opción política o confesión religiosa, y sin más ánimo que el tender una mano a quienes queremos sean compañeros de camino para la construcción de una sociedad más justa. Para ello ha puesto en marcha diferentes programas sociales, jurídicos y asistenciales de acogida y apoyo.

De esta forma, Almería Acoge pretende acompañar la plena incorporación a nuestra sociedad de familias inmigrantes que viven entre nosotros, facilitando que sus hijo/as puedan comunicarse y relacionarse en esta nueva cultura sin perder las raíces que le dan identidad, ofreciendo a los hombres y mujeres inmigrantes posibilidades de relación, de organización, de promoción cultural y laboral, trabajando también por superar juntos las barreras sociales y legales como las que se dan en el acceso a la vivienda, su normalización documental, etc, que les dificultan vivir como ciudadanos de pleno derecho. Se pretende que Almería Acoge sea un espacio de participación, una plataforma de trabajo por la justicia, un lugar de aprendizaje y contacto con otras culturas, con otros mundos, desde el trabajo voluntario. En definitiva, una ventana a la solidaridad.

5. UN CASO DE RACISMO: EL EJIDO, por ALMERIA ACOGE

Antonio Puertas García, Presidente de la asociación Almería Acoge

La presente comunicación tiene por finalidad, más que narrar los hechos ocurridos durante los primeros días del mes de febrero del año 2.000 en el municipio de El Ejido (Almería), ya conocidos por todos, exponer los antecedentes que los originaron; se concibe como un breve estudio sociológico sobre los colectivos humanos que fueron los sujetos intervinientes. Para situarnos en el problema se hace una breve exposición acerca del marco geográfico, pues es determinante en los sucesos.

I.- Espacio físico:

El municipio de El Ejido se halla situado en el poniente almeriense que junto al de Roquetas de Mar, son los dos más representativos de esta Comarca. Como tal municipio se creó, en el año 1.982 al segregarse del Ayuntamiento de Dalías, hasta entonces no era sino una *barriada* más del total (10) que componían el originario. Su extensión es de 223 Km/2 y actualmente la población total asciende a 55.000 - habitantes aproximadamente.

Algunos datos económicos de este municipio a modo de ejemplo son: número de teléfonos: 16.097, (3'0 teléfonos por habitante); vehículos censados: 30.694.-; oficinas bancarias: 63.-; restaurantes y bares: 384. El crecimiento poblacional de esta comarca ha sido espectacular como se refleja en los siguientes datos:

Población en 1.960: 10.000 - habitantes.

<u>1.970: 17.500.-</u>	<u>“</u>
<u>1.980: 29.500.-</u>	<u>“</u>
<u>1.985: 36.300.-</u>	<u>“</u>
<u>1.990: 41.400.-</u>	<u>“</u>
<u>1.994: 45.300.-</u>	<u>“</u>
<u>1.999: 52.900.-</u>	<u>“</u>

No hay que olvidar que el 97% de su actual población procede de otros municipios. Constituye uno de los casos donde el crecimiento porcentual de la población es de los mayores de toda España.

En cuanto a los tramos por edades, para no alargar esta introducción podemos afirmar que es eminentemente una población joven: menores 16 años representa el 16% y mayores de 55 el porcentaje es del 7%, del total. Los hombres representan el 53 % y las mujeres el 47%. Es decir el crecimiento vegetativo que se ha caracterizado por altas tasas de natalidad lo cual determina una estructura de población muy joven, con tasas de envejecimiento de las más bajas del país, con alta tasa de actividad y una importantísima dedicación al sector primario.

Su microclima es especial: 3.000 horas de sol al año y temperatura constante hacen que se den tres floraciones al año en lo referente a cosechas hortofrutícolas una vez que se proveyó del agua, con diversos planes llevados a cabo por el extinguido IRYDA. En un

primer momento, allá por los años 60 se trabajaba sobre sistema de enarenados y posteriormente se construyen los invernaderos, todos estos elementos junto con el trabajo de los nativos de toda la Comarca y con la llegada de los primeros emigrantes nacionales, da lugar al milagro económico de Almería sustentado en la agricultura intensiva.

La superficie cultivada en el Ayuntamiento ejidense, mediante el sistema de invernaderos, ocupa 12.000-13.000 Has. Con una producción de 700.000 toneladas de productos.

Alrededor de esta fuente primaria de riqueza, van apareciendo otras actividades económicas secundarias o derivadas: la construcción, no sólo de viviendas y grandes almacenes donde se comercializan los productos agrícolas sino también y muy importante la de los invernaderos; las industrias subsidiarias: plásticos, embalajes de diferentes materiales, etc. y todos relacionados con la agricultura, alambres, maquinaria, los semilleros, etc. etc.; la comercialización o manipulado del producto agrícola que se lleva a cabo en grandes espacios construidos y mecanizados al máximo, donde la mano de obra, femenina principalmente, es insustituible; el transporte de mercancías; en el sector servicios: cabe destacar en la zona: el turismo y el comercio en general.

En la agricultura intensiva que se lleva a cabo en diversas comarcas de la provincia de Almería lo que existe, antes y ahora, es una superexplotación en diferentes frentes: primero en el trabajo humano, sufrida por los agricultores autóctonos, mediante el sistema de trabajo familiar, ¡ todos los miembros al invernadero!, se trabaja sin descanso, a límite; también se da aquella superexplotación en la mano de obra aportada por los inmigrantes los que llegaron y siguen llegando, ésta representa una liberalización de miembros de la familia en el trabajo duro, como es este. Segundo se da con los acuíferos: la escasez de agua, mal endémico de esta provincia y de ahí que se inventara y extendiera rapidísimamente el sistema del "riego por goteo" y junto a otros sistemas. Y por último ésta explotación se lleva hasta a la misma planta, si antes producía dos o cuatro kilos de fruto, ahora con los avances genéticos de las semillas por laboratorios internacionales que tienen copado esta parcela, se intenta que genere ocho kilos o más.

La ecología ambiental no existe, está ausente; no existen plantas de reciclaje para eliminar los plásticos, los residuos naturales, los productos químicos usados, el uso de los plaguicidas, etc. Como consecuencia de todo lo anterior podemos afirmar que existe un tensión ambiental, económica y personal. Las medidas de seguridad e higiene, se dan, aunque, con todo, ha costado un largo periodo de tiempo el implantarlas.

Para poder entender algo de lo que posteriormente se comenta hay que seguir exponiendo algunos antecedentes históricos de cómo se ha llegado a formar este municipio.

Los primeros emigrantes nacionales en un primer momento provenían de las comarcas naturales: La Alpujarra y Contraviesa granadinas, llegaron como trabajadores eventuales, prosperaron y se constituyeron en medianeros, posteriormente en propietarios de un trozo de tierra más o menos grande, según su visión de futuro, se prepararon sus parcelas enarenadas y posteriormente construyeron su invernaderos, aprovechando la estructura tradicional del parral almeriense equipándola de una cubierta de plástico. La mano de obra que proporcionaba la familia aún era insuficiente para atender la necesidad del invernadero, y de ahí se generó la necesidad de mano de obra foránea, es cuando aparece el fenómeno migratorio con destino hacia el poniente almeriense en general, y no en concreto de El Ejido, aunque se ha convertido este Municipio en el más representativo.

Este ha sido el proceso de formación de este emporio de riqueza en Almería.

Población y desarrollo agrícola, creció y se desarrolló de forma desproporcionada, descontrolada y acelerada, sin que los propios empresarios estuvieran preparados para ello, los cuales tuvieron que aprender sobre la marcha todo el sistema de comercialización, de financiación, redes de distribución a nivel nacional e internacional, y así interviene la banca, arriban las grandes multinacionales del sector agrícola de centro Europa, como por ejemplo: Holanda y Bélgica, Economía generadora de gran riqueza y de dinero ganado con esfuerzo, pero culturalmente no tuvo un desarrollo paralelo, de ahí que recuerde algunas frases periodísticas referidas a la comarca de El Ejido: “El pueblo de España con más oficinas bancarias”. “El municipio con más coches de lujo”; también leímos aquella “el pueblo con el índice más alto de suicidios”, etc. etc. Aquí ocurrió en parte aquello que reflejó la película: “La leyenda de la ciudad sin nombre”.

II.- Actores que intervienen.

Después de esta larga introducción algo genérica y como tal extrapolable a toda la economía intensiva en la agricultura almeriense, entro ya en el análisis de los sucesos que tuvieron lugar en el Municipio de El Ejido en los primeros días del mes de febrero de este año.

Quiero hacer una aclaración previa, voy a exponer generalidades y por lo tanto me refiero a la población en general, con lo que quiero salvar honrosas excepciones concretas y personales de las afirmaciones que a continuación se van a exponer.

II.1.- Población autóctona:

No conozco que se haya realizado un estudio con base científica sobre la emigración en el municipio de Dalías, del que se segregó El Ejido, como se dijo anteriormente. Si ello se llevase a cabo, aparecería de forma clara, cuántos y quienes de los actuales habitantes que constituyen este Ayuntamiento son oriundos y nativos del mismo.

He afirmado anteriormente que los primeros en llegar fueron los alpujarreños, gente fuerte, dura sin temor al trabajo que venían de una comarca pobre que para poder sacarle algo a la agricultura en su comarca de origen necesitaban de gran esfuerzo.

Hay que reconocerlo, que la primera generación, que llegó al poniente almeriense, eran culturalmente muy primarios. Ahí están las estadísticas del municipio: 22.000 sin estudios; 29.000 no terminaron la E.G.B.; 3.500 con formación profesional; 1.000 diplomados universitarios y unos 600 licenciados.

La segunda generación, es decir los hijos que vinieron con los padres o los que nacieron en la zona, como emigrantes y en situación de necesidad, no se preocuparon, en general, de escolarizar a los hijos, eran necesarios en la parcela o en el invernadero. Como ellos dicen y es verdad, “Sólo sabemos trabajar”. Y al final tenemos una gran parte de la población de la Comarca que son ricos con pies de barro.

Este análisis elemental y algo superficial se puede mantener hablando de la primera y segunda generación, no ocurre así con las generaciones actuales cuya formación está perfectamente atendida culturalmente, bastaría contar el número de centros de enseñanza existentes en la comarca así como el número de jóvenes de ambos sexos que pasan a

estudios superiores universitarios. ¿Por qué? porque hay otros emigrantes exteriores que han ocupado esa mano de obra familiar necesaria para la explotación agrícola, de la que hablaba anteriormente, y los miembros de la familia propietarios de los invernaderos ya no tienen que ir a trabajar con sus padres a la parcela. . . . efectivamente llegaron los magrebíes y de otras nacionalidades.

Así fue como empezaron a llegar inmigrantes a la Comarca, los primeros magrebíes que llegaron se asentaron en El Ejido, sirvieron como “lanzadera” para otros compatriotas suyos. Entre la población almeriense nadie pone en duda esta afirmación: sin la llegada de mano de obra de los inmigrantes al campo almeriense el “milagro económico” de esta provincia no hubiera sido posible.

A esto unimos que los trabajadores-eventuales nativos seleccionan el trabajo, no quieren el invernadero, y encuentran otras ocupaciones que hoy por hoy cerradas a los inmigrantes, a éstos no les queda otra solución que trabajar en el invernadero, aunque bien es verdad que ya empieza a aparecer la provincia la figura del inmigrante-medianero con patrón español. El trabajo en el invernadero es en ocasiones como cuidar de un jardín, pero en otras etapas es muy duro y en algunas épocas del año durísimo, recuérdese a qué temperaturas se trabaja, se alcanzan los 40º grados o más.

II.2.- Población inmigrante:

Antes de iniciar este apartado quiero precisar que no vamos a hablar de extranjeros en Almería sino de inmigrantes económicos. No son equiparables las situaciones de los ciudadanos europeos que han fijado su residencia en esta provincia, como lugar de vacaciones o de retiro, con la de quienes han llegado en busca de un trabajo; como tampoco es comparable el status legal de quienes proceden de países comunitarios: alemanes, ingleses, belgas, holandeses, etc. con aquellos que son ciudadanos de terceros países, al igual que tampoco lo es la actitud de la población autóctona hacia unos y hacia otros.

Por tanto nos ocuparemos de los extranjeros no comunitarios que viven y/o trabajan en nuestra provincia y que como es conocido son ciudadanos fundamentalmente procedentes del continente africano y cada vez más de Latinoamérica y del este europeo.

Según publicación de la oficina de extranjería de la Subdelegación del Gobierno en Almería, aquí residen personas de 112 nacionalidades diferentes, a 31 de diciembre de 1.999.

Algunas notas sobre la población que compone el grupo de inmigrantes económicos residentes en esta provincia:

Origen africano:	Marruecos:	13.028.-
	Senegal	995.-
	G. Bissau	787.-
	Argelia	694.-
	Mauritania	378.-
	Mali	345.-
	Gambia	278.-
	Ghana	227.-
	Otros (27 países)	739.-

Total	17.471.-
De América Latina:	
Argentina	617.-
R. Dominicana	155.-
Colombia	151.-
Cuba	101.-
Ecuador	99.-
Otros (16 países)	372.-
Total	1.495.-

Países del Este y Balcanes:

Rumania	99.-
Rusia	43.-
Otros (15 países)	125.-
Total	267

Cuando redacto estas notas, estas cifras en seis meses transcurridos del año 2.000 van quedando desfasadas con movimiento al alza.

El perfil del inmigrante económico afincado en Almería, y en especial del marroquí, y nos fijamos en este colectivo por ser el más numeroso: son varones en un 88% y mujeres en 12%; es una población joven: están comprendidos entre 21 y 40 años de edad que representan el 78%; la mayoría de ellos carecen de una cualificación profesional: estudiantes de primaria, y en menor grado de bachiller, el resto son agricultores, jornaleros del campo, marineros, los hay que son carpinteros, electricistas, mecánicos, otros proceden de la construcción, también aparecen sorpresas como la de universitarios en posesión del correspondiente título de letras, ciencias o técnicas que están desarrollando su trabajo en la agricultura intensiva bajo el plástico. Entre la mujeres el mayor porcentaje corresponde a las que se declaran no tener profesión.

La actividad que desarrollan los inmigrantes, sin distinción sobre su situación respecto a la legalidad, podemos enumerar las siguientes ocupaciones con el orden de mayor a menor del número encuadrados en éstas: agricultura, (90%), construcción, venta ambulante, hostelería, servicio doméstico y también, aunque parezca una contradicción, como beneficiarios de las prestaciones por desempleo.

La entrada de casi todos en su lugar de origen se lleva sin control, y en estos días ya estamos viendo como actúan las mafias a ambas orillas del Estrecho. Es un flujo constante sin control en su número, en su instalación espacial y en su rotación laboral. Resumiendo es una población, en general, de un bajo nivel cultural, especialmente los magrebies vienen en una situación personal y ambiental de necesidad, buscando medios económicos para salir de su estado indigente, buscando trabajo rentable, que en sus países de origen no encuentran, y de entre los procedentes de países subsaharianos se dan estos mismos condicionantes junto con otros por motivos políticos. Todo esto hace que los inmigrantes, hasta hace poco hayan sido tratados como una mercancía. Se sienten unos extranjeros excluidos económica, social y políticamente respecto de los autóctonos. Hasta hace bien poco los inmigrantes carecían de los más elementales derecho sociales que puede ofrecer un municipio de cuarenta o cincuenta mil habitantes. Poco tiempo ha transcurrido cuando eran frecuentes ver avisos en algunos locales públicos de algunos núcleos de población: "moros no".

Otra reflexión es sobre la vivienda, por llamarlo de alguna manera, que ocuparon y aún hoy ocupan. Tres son los grupos de viviendas en las que están ubicadas las personas de origen inmigrante que viven en nuestra provincia, si bien unos son más frecuentes que otros.

- Casa o piso en barrios y núcleos de población en condiciones normalizadas compartidas con el resto de las personas autóctonas.
- Casa-cortijo, en condiciones buenas o aceptables, pero situados en diseminados, generalmente unida a la propiedad de la tierra en la que trabaja el mismo inmigrante, fuera de la convivencia.
- Infravivienda, es decir cualquier tipo de construcción que está siendo habitada y que presenta importantes carencias en su estructura: (techos, paredes, suelos, ausencia de ventanas o puertas, etc. y todos estos elementos seriamente deteriorados. No disponen de los mínimos de habitabilidad, como ocurre en almacenes, cobertizos e incluso chabolas. Entre las más frecuentes encontramos:
 - Cortijos abandonados y en muchos casos semiderruidos.
 - Almacenes agrícolas anexos a los invernaderos.
 - Antiguas casetas de transformadores eléctricos.

Por condiciones mínimas de habitabilidad, entendemos aquellas viviendas que cuentan al menos con un cuarto de baño o aseo, con luz eléctrica, agua corriente, cocina y una habitación dormitorio por cada dos personas y que presenten un buen estado en su estructura de muros, cubiertas y fachadas. Por último está el chabolismo o vivienda bajo plástico en donde la suciedad y porquerías junto a las alimañas es lo habitual, y que hoy día han crecido y constituyen verdaderos ghettos.

Como es lógico resaltamos este dato acerca de la vivienda por la importancia que lleva aparejada como factor de integración.

En cuanto a otros campos de acción social como es la medicina y la educación, hay que decir claramente, que en estos campos se ha avanzado de una forma muy positiva, impulsados desde la misma administración autonómica, aunque siempre se puede hacer algo más.

La inmensa mayoría de los inmigrantes vinieron y aún llegan a esta Comarca buscando trabajo y ocupación que en su país de origen no encontraron, con buena voluntad y buenos deseos, pero faltaría a la verdad y no reflejaría la realidad, si no reconociera que dentro del numerosísimo grupo de inmigrantes a la vez tan heterogéneo, (no olvidemos que a nivel provincial son de 112 países) la existencia o presencia de grupos de personas, sin poder cuantificar, que llegaron a esta Comarca sin el ánimo de trabajar y viven y se comportan incívicamente, como en cualquier grupo humano numeroso, recordemos el tema de actualidad como son las mafias que está aflorando en la provincia de Almería con varios campos de actuación: las que traen, las que trafican con personas humanas con diferentes fines, las extorsiones a que someten sus víctimas, todo esto, lo uno y lo otro, queda para el trabajo de los cuerpos de seguridad del Estado. La existencia de altercados, robos o pequeños delitos, frecuentes y continuados, de los que son autores estos inmigrantes indeseables hace que la culpabilidad recaiga sobre toda la colectividad de mismos, y de esta forma dañan la imagen de todo el colectivo, cosa que no es cierta.

Todos estos datos entre los dos grupos humanos descritos, junto a los que a continuación se reflejan, han colaborado a que se forme un lastre de distanciamiento y rechazo mutuo a través de los años, no muchos, y ha ido quedando latente, difuso, el rechazo mutuo, a lo que también ha colaborado el no haber sabido aceptar la existencia de las formas culturales del otro, por ambos lados, y que en los sucesos del pasado mes de febrero, y otros anteriores, ha tenido su máxima manifestación.

II. 3.- Empresarios.

Hay que partir de unas verdades irrefutables al hablar de este grupo humano ejidense: se han hecho a sí mismos, con mucho riesgo, con mucho trabajo personal y familiar, sin descanso, jornaleros en su lugar de origen y aquí ahora son verdaderos artífices del milagro económico almeriense.

Constituyen otro elemento a analizar en este contexto de la inmigración en el Poniente de la provincia de Almería y concretamente del municipio de El Ejido.

Hay que distinguir dos grupos de empresarios basados en la extensión de la tierra que cultivan: empresa de economía familiar y empresarios agrícolas.

El primer grupo trabajan o cultivan una hectárea o hectárea y media, pero no más, la mano de obra empleada en el invernadero está compuesta por los miembros de la misma familia, y en diferentes etapas de la campaña recurren a trabajadores eventuales, pero no en cantidad sino una o dos personas; ahora bien como este grupo de empresarios es muy numeroso, el colectivo de eventuales también crece.

El segundo grupo, de empresarios, está constituido por los que cultivan una extensión de terreno muy superior al anterior, llegando a veces a que las explotaciones alcanzan 5 ó 6 hectáreas, y precisan mano de obra ajena y fija y donde se aplica con más rigor el convenio colectivo del campo.

En los pequeños propietarios es donde se dan los mayores abusos, o por decirlo de otra forma, donde se origina la mayor explotación de la mano de obra inmigrante indocumentada. Estos precisan trabajar, están inhabilitados para firmar un contrato, etc. pero tienen que comer, trabajan por lo que sea, y aceptan las condiciones que se les ofrecen: salario inferior al establecido por el convenio colectivo para el campo para la provincia, horas de trabajo, (extraordinarias) el empresario abusa del inmigrante, el cual se ve amenazado o coaccionado, por el jefe - como le llaman ellos- porque se hallan atados al dueño de la explotación por la comida, por el trabajo, por la vivienda-almacén, por la firma en los futuros papeles que precisará el inmigrante presentar en el próximo contingente para normalizar su situación en territorio nacional, etc

Remito al lector al artículo que Juan Goytisolo publicó el diario EL PAIS de fecha 19 de marzo de 2000, en el suplemento "El Domingo", Pág. 14, en el que con calor refleja crudamente la verdadera realidad humana, económica y social que el colectivo inmigrante, y en concreto el magrebie, está viviendo en esta Comarca almeriense y que suscribo totalmente.

Los empresarios a su vez se quejan y manifiestan en reuniones, que se sienten extorsionados y reciben amenazas por los mismos trabajadores inmigrantes. Como alguien ha afirmado en algún medio de comunicación, las provincias de Almería y Murcia, son en las que se encuentra la mayor explotación humana por parte de los empresarios agrícolas frente al colectivo de inmigrantes, especialmente con los

indocumentados, pues mientras en otras comarcas españolas los empresarios tienen claro el no contratarlos, aquí se actúa con otros criterios.

Podemos afirmar que existe un movimiento uniforme dentro de las diversas asociaciones de empresarios agrícolas existentes en la ésta provincia que están trabajando en buena línea, pues se están llevando a cabo estudios objetivos acerca de la verdadera necesidad de la mano de obra foránea, contemplando la solución de algunos problemas sociales que afectan a los trabajadores, especialmente a los temporeros, y de estos inicios ya ha dado cuenta a la Administración.

Esta nueva línea de actuación que está surgiendo en estas mismas fechas cuando redacto estas notas, entiendo que puede estar motivada en parte por el ejemplo que han visto en otras partes de España, también por estar cansados de oír las promesas tantas veces incumplidas por las diversas administraciones y de los políticos de turno, y también por cierto grado de egoísmo, por lo que les va para la buena marcha de "su" economía, y el duro revés que sentiría ésta con la fuga de la mano de obra foránea.

II. 4.- Políticos.

Antes de analizar brevemente los diversos niveles de responsabilidad, partimos de esta afirmación: la falta de una política de inmigración a nivel de Estado, Autonómica y Local ha sido la nota clara y nitida durante un largo período de tiempo.

Como es habitual en la Administración española se ha ido improvisando, "parcheando", se ha caminado muy por detrás de la realidad, y desde antes de la anterior Ley 7/1985, que nació con premura, por la inexistencia de una "norma marco" española, ante la inminente entrada en la Comunidad Económica Europea; era una exigencia o imposición, España se iba a constituir en la "frontera sur", . . . y ha pervivido con los diferentes gobiernos de diferente signo político, hasta que entró en vigor la actual Ley Orgánica 4/2000 de 11 enero, amenazada por miembros de Gobierno y portavoces parlamentarios del partido que gobierna de ser reformada, ya el mismo día que se aprobó en el Congreso de los Diputados.

A cerca de la actual Ley no voy a hacer comentarios, son abundantes y suficientes los duros ataques que ha recibido el Gobierno por su empecinamiento en "reformularla", desde que ganó las últimas elecciones generales celebradas en marzo pasado; en esta línea baste señalar el que ha tenido lugar en estos días, el mismo Consejo General del Poder Judicial ha hecho pública una nota en la que manifiesta su desacuerdo frente a estas pretensiones manifestadas por el Ejecutivo. Cómo no, un recuerdo al ex ministro de Trabajo y Asuntos Sociales, D. Manuel Pimentel, y todo el equipo del Ministerio sensibilizado con este tema y que fue el promotor de la actual Ley de extranjería y que fue coherente, el Sr. Pimentel y otros, con los caminos que iba a seguir la Ley que desde su Departamento su impulsó y defendió.

También hay que expresar que los sucesos que tuvieron lugar en la primera semana de febrero y su actitud frente a los mismos y sus consecuencias inmediatas hubieran sido otras de no haber estado en pre-campaña electoral para las elecciones generales que tuvieron lugar un mes después.

Además de la falta de una política de inmigración, como se señaló anteriormente, las distintas administraciones carecen de una voluntad decidida de

acometer el difícil problema que tienen, no sólo España sino también toda Europa, pues se pasan el tiempo discutiendo de quién es tal o cual competencia, quién es el obligado a acometer tal o cual solución, quién es el que tiene la obligación de aportar recursos de toda índole, suelo para viviendas, proyectos, etc. etc. no hay, o por lo menos no se ve ni se nota movimiento o deseos en las cuestiones básicas: vivienda, control de flujos humanos, ...

A nivel municipal y en concreto sobre el Ayuntamiento de El Ejido, no olvidemos que esta comunicación versa sobre los sucesos allí ocurridos, la política que se ha venido practicando desde el propio Ayuntamiento casi me atrevo a resumirla, por ser más que significativa, con la expresión manifestada por su Alcalde con ocasión de unas declaraciones en torno a la nueva Ley de extranjería, quién además de manifestar su desacuerdo con el texto de la misma, cosa que se admite, dijo que ésta traería "*más sinvergüenzas*" a su municipio. (Diario EL PAIS 08-febrero 2000, pág. 8).

Toda política social debe abarcar variados campos: familia, íntimamente unida a ésta, la vivienda, educación, sanidad, religión, etc. y pensando en que la inmensa mayoría de la población foránea de El Ejido es de religión islámica, atención a La Mezquita, como centro que aglutina en su Cultura todo o casi todo: es espacio sagrado, escuela, biblioteca, centro de acogida y humanitario, centro cultural, centro social, etc.

En este Ayuntamiento se identifica la delincuencia y criminalidad con los inmigrantes. La política social brilla por su ausencia, por más que se empeñe en demostrar y convencer que está en la línea de integración. ¿Qué se hace en materia de vivienda? Torpedear cualquier intento de colaboración con las demás administraciones; no se ve una actitud en donde los inmigrantes se consideren "ciudadanos", todo lo contrario, la que se lleva a cabo es diseminar ésta población extra muros, fuera de la ciudad, que vivan junto los puestos de trabajo, los invernaderos, como gráficamente alguien describió a los trabajadores inmigrantes: "durante el día esclavos y por la noche perros guardianes de la finca del jefe". No se ha visto ni se ve una acción decidida a apoyar y fomentar entre el resto de los vecinos los alquileres de viviendas existentes en el casco urbano a los inmigrantes, sí hay empeño en que vivan en las casas-cortijos abandonados por estar semiderruidos por el término municipal. En tiempos no muy lejanos se ha dificultado el empadronamiento a los inmigrantes que lo solicitaban.

La actitud del Municipio es clara y manifiesta con la mera observación y atención que presta a este colectivo y el que le dedica a los inmigrantes (turistas) en la zona de Almerimar, centro turístico importante a nivel provincial; el Ayuntamiento debe y es su obligación desarrollar todas sus posibilidades, y ésta del turismo es una de ellas, pero sin olvidar otras parcelas humanas, como la que nos ocupa en esta larga reflexión, de los inmigrantes al parecer la única preocupación municipal es la segregación permanente. ¡Qué diferente sería el comportamiento a nivel de los ayuntamientos respecto a los colectivos menos favorecidos si éstos tuviesen la posibilidad de poder participar en las elecciones municipales.

III. Conclusiones finales.

1.- El resultado de todo lo expuesto ha sido la explosión de xenofobia, de persecución hacia el inmigrante, en especial del magrebie en el municipio de El Ejido y que tuvo su detonante con los tres homicidios ocurridos a finales de enero y primeros días de febrero del presente año.

2.- Si antes de estos luctuosos acontecimientos ya existía una difícil convivencia, después de lo ocurrido ha quedado de forma manifiesta una gran fractura social entre los dos grupos de población que conviven en el Municipio y que después de cinco meses, aún se vive en un “frágil equilibrio”.

3.- Fueron miles los inmigrantes, entre ellos familias enteras, que a raíz del trato recibido abandonaron la población de El Ejido por miedo a las represalias.

4.- Aunque no tenga su origen exclusivamente en los acontecimientos mencionados, otra reflexión que me hago, es que este grupo ha tomado conciencia de pueblo, y al mismo tiempo de la “fuerza” con peso específico que como tal grupo humano representan para la economía de la región, en la que participan, y además “necesaria”, de ahí que los inmigrantes también quieran participar de los beneficios que generan como parte de la cadena de producción porque son testigos de excepción.

5.- A los políticos les piden, les pedimos más atención a sus problemas personales y familiares de diversa índole, no ya sólo por razones humanitarias apoyados en la Declaración Universal de los Derechos Humanos, sino también razones mercantilistas.

6.- Mucho y duro tendremos que trabajar todos para recomponer la convivencia en toda la Comarca del Poniente almeriense y esto se hace extensivo también en todo el territorio nacional.

7.- Por último, un deseo, ojalá las ONG –todas- dejaran de existir, sería una inequívoca señal de que los organismos nacionales e internacionales, cada uno en su ámbito de acción, habrían puesto los medios humanos necesarios para llevar acabo las funciones que éstas realizan.

Almería 31 de julio de 2000

CONCLUSIONES

En el actual debate generado en torno a la aprobación de la nueva Ley de Extranjería y la pretensión del actual gobierno de su profunda modificación, la situación legal y social de los sin papeles constituye un tema central, resultando extremadamente interesante para este informe. Consideramos que este debate en España es paradigmático de lo que ocurre en Europa. Lo que se discute es el papel del Estado en la actuación política frente a los trabajadores migrantes extranjeros. Por ello, la propuesta de modificación de la Ley de Extranjería de 2000 implica un retroceso en los derechos reconocidos a la población de nacionalidad extranjera, independientemente de su situación de regularidad administrativa. La citada Ley equipara los derechos básicos de los extranjeros a los de los españoles, ampliando sustancialmente los derechos de los sin papeles y sus posibilidades de integración social, sobre todo en materia de educación (universal), sanidad (empadronados, todos los menores de 18 años y mujeres embarazadas), vivienda (empadronados), así como los derechos de asociación, reunión y manifestación, libertad sindical y huelga. La modificación de la Ley pues, pretende reducir y discriminar el acceso a derechos básicos partiendo de la situación legal del extranjero en el país: aquellos que se encuentran en situación irregular volverían a la situación de absoluta indefensión legal en la que se encontraban con la Ley de 1985, y con ello a la marginación y la exclusión social.

No se trata sólo de un retroceso legal en cuanto a derechos fundamentales, sino que el debate intencionadamente ha creado una imagen negativa y culpabilizadora del inmigrante sin papeles, de la mano de unos mensajes institucionales irresponsables, cargados de racismo y xenofobia. Si hasta la actualidad, el sin papeles era generalmente visto como un inmigrante sometido a la arbitrariedad legislativa y a la explotación laboral, a partir de este debate se ha difundido una visión de estos como responsables de su propia situación y potencialmente peligrosos. Los medios de comunicación han propiciado la construcción del estereotipo en nombre de la lucha contra las mafias, aunque el inmigrante apareciera en este caso como víctima. Las falsas informaciones sobre las expectativas generadas por la nueva Ley han corrido a un lado y otro de la frontera. Entre los potenciales migrantes, se ha propagado la falsa noticia de que si llegaban a España antes de concluirse el proceso de regularización serían sistemáticamente admitidos, cosa que tampoco se ajustaba a la realidad. También se ha generalizado la idea de que si se trataba de mujeres que dieran a luz en España, no serían expulsadas, debido a la concesión automática de la nacionalidad española al recién nacido, cosa que tampoco es cierta y que además explica la creciente presencia de inmigración clandestina de mujeres, sobre todo subsaharianas, en avanzado estado de gestación. Como ya advertimos, el propio anuncio de la modificación restrictiva de la Ley ha puesto de manifiesto el mantenimiento de absurdas fisuras y reiteradas irregularidades en su aplicación durante los siete meses posteriores a su accidentada aprobación, sin que el gobierno haya desarrollado su decreto legislativo, habiendo ofrecido numerosos obstáculos para su puesta en marcha.

Una atención específica a los sin papeles más allá de la denuncia del marco legislativo y político que posibilita su existencia, determina sus condiciones de vida y mediatizando su percepción, pudiendo también resultar contraproducente, ya que tendería a unificar un colectivo que de hecho se encuentra en situaciones y con necesidades muy

diferentes, contribuyendo a legitimar su marginalización. Por otro lado, la fragmentación en situaciones específicas dificulta, cuando no pone en duda, la correcta atención al sector considerado. La contradicción obvia es que la primera atención a las personas sin papeles debe centrarse en su extinción legal como tales, es decir, a regularizarlos mediante mecanismos específicos y ágiles, todo un desafío no solo para España, sino también para otros muchos países europeos. De ahí que la atención de las ONGs sea en este campo lógicamente limitada, ya que el Estado es el único que puede acabar con esa situación de irregularidad más allá de la simple expulsión del inmigrante.

Hasta el momento, la atención a las personas sin papeles, como en general, a todos los inmigrados de nacionalidad extranjera, se ha caracterizado por lo que algunos autores llaman el sistema de deriva mutua (Solana, en prensa), donde los servicios sociales derivaban a otros centros públicos o a las organizaciones privadas parte de sus actuaciones, mientras que las ONGs, hacían lo propio. Esa derivación especialista por parte de los servicios públicos se justificaba por tres razones: 1) que el servicio específico a inmigrantes de nacionalidad extranjera despierta el recelo de la población autóctona, provocando el incremento de reacciones xenófobas o racistas; 2) que los servicios generales eran mucho más asumibles económicamente que los servicios específicos; y 3) en el caso de los sin papeles quedaban excluidos por definición de los servicios públicos (tómese en cuenta la exclusión explícita del Plan de Integración Social de los Inmigrantes de 1994, por ejemplo).

Este singular proceso regido por un principio de solidaridad más que por un principio de igualdad ha ido acompañado de una creciente especialización del servicio ofertado a los inmigrados por parte de las ONGs, no siendo hasta fecha muy reciente que aparecen organizaciones que de forma exclusiva dirijan sus actuaciones a los sin papeles. Centrándose éstas en la denuncia de la situación de indefensión en la que se encuentran y en la autorganización reivindicativa, como por ejemplo la *Plataforma papeles para todos* fundada en Cataluña en 1996, derivando a su vez a la persona inmigrada sin papeles en función de sus necesidades específicas a otras ONGs, cuando su caso concreto no encuentra solución entre los individuos o colectivos que integran la propia Plataforma. La mayoría de Organizaciones ha basado su especialización en el tipo de ámbito considerado (laboral, asistencial, de sanidad o vivienda, por ejemplo), o en un sector específico de la población inmigrada (menores, mujeres, cierta nacionalidad o etnia), más que en la situación legal del inmigrado (no distinguiendo entre los que se encuentran con o sin papeles). Sin embargo algunas de las acciones concretas, como la denuncia de los Centros de internamiento, coinciden con situaciones específicas por parte de la población sin papeles, o donde la mayoría del personal atendido pueda carecer de la documentación requerida para residir legalmente en el país, como es el caso de las ONGs dedicadas a la atención del menor. En este sentido, deberíamos señalar como la especialización primero en la atención a inmigrados de nacionalidad extranjera, y luego, a los que no tenían papeles, se ha dado muchas veces por simple sustitución de la población atendida o por el creciente número de población extranjera sin papeles que la componía. Este ha sido el proceso de muchas de las ONGs de carácter asistencial ligadas a la iglesia católica, como el caso paradigmático podría ser el de *Cáritas*, donde la labor asistencial dirigida a la pobreza se ha ido especializando parcialmente en la atención a la inmigración de nacionalidad extranjera por un lado porque esta no encontraba respuestas en la administración pública, y por el otro porque la población extranjera y en especial la sin papeles ha pasado a ser un componente importante de la población en situación de pobreza. Un caso similar y extremo lo

representaría el *Servei Solidari i Missioner* (ver entrevistas), que planteando su trabajo en los países de origen y destino, en este último caso ha acabado dirigiendo sus prestaciones casi exclusivamente a la población sin papeles latinoamericana. Del mismo modo, aunque con una lógica muy distinta, podríamos considerar la toma de conciencia por parte de los sindicatos de las necesidades de los trabajadores extranjeros: a medida que éstos eran cada vez más importantes, el sindicato se especializaba en su atención específica, orientación jurídica y denuncia de los casos de racismo y xenofobia en las empresas, donde deberíamos señalar el ejemplo pionero de Comisiones Obreras (CCOO), y la creación en su seno del *Centre d'Informació per a Treballadors Extranjeros* (CITE) en 1986 en Cataluña.

La atomización de servicios corresponde de forma paralela a la atomización de las características y situaciones de la población sin papeles que ya hemos señalado anteriormente, pero también a una importante fragmentación territorial de las diversas organizaciones, y a la muy diversa orientación ideológica entre unas y otras, algo que también se corresponde con la propia complejidad social, política y económica que existe en España.

Lo específico del proceso de deriva de los sin papeles es su unidireccionalidad: por definición la deriva va de la administración pública a las ONGs, o de una ONG a otra ONG, siendo hasta el momento excepcional, y casi siempre a título personal que la deriva se dirija de una ONG al sector de la administración pública. En general, este tipo de proceso de derivación y especialización, no ha estado exento de críticas a las ONGs, entre las que destacaremos: 1) Que es un modo de adelgazar los sistemas públicos de bienestar social, 2) Que fomentan el paternalismo en la construcción social de la imagen del inmigrado, integrándolo dentro de un discurso asistencialista, crítica en la que abundan las organizaciones conformadas por los propios inmigrantes (véase, por ejemplo, la entrevista con la *Federación de Colectivos de Inmigrantes de Cataluña*); 3) Que han fomentado indirectamente un cierto patrimonialismo de dichas organizaciones, donde cada una compete con las demás por "sus" inmigrantes, al haber pasado a depender de un sistema de subvenciones gubernamental (situación patente en el fuego cruzado de acusaciones de unas ONGs a otras, si bien intenta mantenerse de modo latente); 4) Que se ha iniciado un proceso de burocratización de las ONGs, debido al hecho de pasar a depender de forma muy importante de las subvenciones asignadas por la administración pública, es decir, alimentándose gubernamentalmente; y 5) por último, como consecuencia de ese proceso de burocratización, algunas de ellas han perdido su labor de denuncia, matizándola en función de la ayuda económica que se espera del gobierno.

Hay que señalar como contradictorio un discurso que de un lado tiende a hablar de la necesidad de mano de obra extranjera y que por el otro mantiene severas restricciones a la inmigración. Desde la el anuncio el 6 de enero de 2000 del estudio de la División de Población de Naciones Unidas "*Replacement migration: is it a solution to declining and ageing populations?*" se tiende a justificar una apertura a la inmigración de trabajadores en nombre del mantenimiento del sistema de pensiones en los países de la Unión Europea, aquejados por el envejecimiento de la población. Esta lectura es completamente errónea. o por lo menos lo es desde la perspectiva demográfica (Domingo y Broncós, en prensa). La urgencia de trabajadores extranjeros se da ahora, en una actualidad marcada por el crecimiento económico y en la no declarada meta de mantener la contención salarial. Que esa necesidad de inmigración pueda conjugarse con decisiones restrictivas en la legislación que regula a los trabajadores extranjeros y en los derechos de los sin papeles, podría hacer

pensar en que a costa de las condiciones de vida del propio trabajador se garantiza la reserva de mano de obra barata con una mínima capacidad organizativa. Ese estrecho punto de mira, olvida las consecuencias fatales que para la propia cohesión social europea implica a medio y largo plazo. Al mismo tiempo, olvida que los inmigrantes son, ante todo, personas, con un proyecto de vida propio.

A este respecto es de señalar como todas las organizaciones entrevistadas destacan la inexistencia de una política de inmigración europea, cuando no una legislación que favorece la creación continua y mantenimiento de población sin papeles, evidentemente a excepción de aquellas que lo que reivindican es la inexistencia de cualquier ley. Del mismo modo, dichas organizaciones llaman la atención sobre la necesidad también de coordinar los esfuerzos de las diferentes ONGs europeas, tanto en la denuncia como en la aplicación de acciones específicas.

No cabe ninguna duda de que en España, como también en Europa, la política de inmigración va a ser uno de los ejes prioritarios de su futuro, y de la forma en que se aborde va a depender, en buena medida, no solo la cohesión y estabilidad social, sino también la propia calidad de nuestra convivencia democrática.

Referencias bibliográficas

AJA, Eliseo, CARBONELL, Francesc. COLECTIVO IOÉ (C. PEREDA, W. ACTIS i M.A. DE PRADA). FUNES, Jaume y VILA, Ignasi (1999) *La immigració estrangera a Espanya. Els reptes educatius*. Barcelona: Fundació "La Caixa".

ALICANTE ACOGE (1999) *Memoria de Trabajo y Actividades de la Fundación Alicante Acoge del año 1999*.

ARACIL RODRÍGUEZ, Encarnación y JARIEGO, José (2000) "Menores extranjeros en situación de riesgo en la Comunidad de Madrid". Comunicación presentada en el VII Congreso de la Población Española *Juventud, la edad de las opciones*. Madrid, organizado por la Asociación de Geógrafos Españoles del Grupo de Población y la Universidad Complutense de Madrid, Departamento de Geografía Humana, 30 de marzo a 1 de abril, de 2000. Mimeo.

ARAGÓN BOMBÍN, R. y CHOZAS, J. (1993) *La regularización de inmigrantes durante 1991-1992*. Madrid: Ministerio de Trabajo y Seguridad Social.

BEL ADELL (1994) "La integración social de los inmigrantes y las organizaciones no gubernamentales (ONGs)". *Papeles de Geografía*, núm. 20, pp. 119-132.

CABRÉ, Anna (1992) "El futur de les migracions estrangeres a Catalunya: apunts per a una perspectiva escolar". En *Perspectiva Escolar*, núm. 147, pp. 23-27.

CARRASCO CARPIO, Concepción (1999). *Mercados de trabajo: los inmigrantes económicos*. Madrid: Instituto de migraciones y servicios sociales. Serie OPI.

CC.OO. (1998) "Documento para el debate". Conferencia del Consejo Confederal de CC.OO. sobre migraciones, Madrid. Secretaría Confederal de Migraciones.

CERVANTES, Cristóbal (2000) "El Ejido: Informe en vivo". En *La factoría*, núm. 11, pp. 77-94.

Colectivo IOE (1990) "Les "sans papiers" en Espagne" En *L'Événement Européen*, 11, París: Seuil.

Colectivo IOE (1999) *Inmigrantes, trabajadores, ciudadanos. Una visión de las migraciones desde España*. Valencia: Universitat de València-Patronat Sud-Nord. Col·lecció Oberta. 49.

COLECTIVO IOE (1999), "Perspectivas y desafíos de las migraciones en el año 2000". *Entre Culturas*. Cáritas, número 37-38.

CONGRESO DE LOS DIPUTADOS (1998). "Informe de la Subcomisión para estudiar la situación de los españoles que viven fuera, así como la de los inmigrantes y refugiados que han llegado a nuestro país, conocer a fondo sus necesidades y reivindicaciones prioritarias: proponer las medidas legales y sociales que sea conveniente adoptar para conseguir solucionar los problemas existentes". Boletín Oficial de las Cortes Generales. VI Legislatura, serie D, núm. 248, 27 de febrero de 1998.

CONTRERAS, Jesús (1994). *Los retos de la inmigración: racismo y pluriculturalidad*. Madrid: Editorial Talasa.

COSQUEIRO, Javier (2000) "Mayor alca que han recibido ayuda 40.000 inmigrantes". *El País*, 15 de junio de 2000.

CRESPO, Rafael (1997) "Associacionisme immigrant" i "La resposta de la societat civil: les organitzacions no governamentals (ONG)". En MALUQUER, Elisabeth (1997) *El informe sobre immigració i treball social*. Barcelona: Diputació de Barcelona. Àrea de Serveis Socials.

DOMINGO, Andreu i BRANCIS, Inés (en prensa) *Entre el flujo y el stock: el análisis demográfico de las migraciones internacionales y de la población de nacionalidad extranjera en España*

El País, sábado 19 de febrero de 2000. "Alicante Acoge denuncia trabas de sanidad para la atención de inmigrantes embarazadas".

Foro para la Integración Social de los Inmigrantes. "Informe sobre la inmigración y el asilo en España". Madrid, 22 de octubre de 1997.

FUNDACIÓN PAULINO TORRAS DOMÈNECH (2000) *Nueva normativa sobre extranjería Ley Orgánica 4/2000 y textos para su puesta en práctica*. Barcelona: Fundación Paulino Torras Domènech.

GOMEZ GIL, Carlos (2000). "La inmigración como nuevo exponente de la globalización". *Viento Sur*, número 49, mayo.

GOZALVEZ PÉREZ, Vicente (1998) "Política de inmigración y presencia africana en la agricultura mediterránea de España". En CHECA, Fco. (Ed.) *Africanos en la otra orilla. Trabajo, cultura e integración en la España Mediterránea*. Barcelona: Icaria & Antrazyt, pp. 19-59.

IZQUIERDO, Antonio (1995) *La inmigración en España 1980-1990*. Madrid: Ministerio de Trabajo y Seguridad Social.

IZQUIERDO, Antonio, (1996) *La inmigración inesperada. La población extranjera en España (1991-1995)*. Madrid: Editorial Trotta.

IZQUIERDO, Antonio (1997) "La población extranjera en España". En PUYOL, Rafael (Ed.) *Dinámica de la población en España. Cambios demográficos en el último cuarto de siglo XX*. Madrid: Editorial Síntesis, pp. 217-264.

KAPLAN, Adriana (2000) "Consequences of a Global Adult Education Strategy: The case of rural african migrant woman in Spain" En *Papers de Demografia* (en prensa).

LAPARRA, Miguel (1998). *Vivienda social y trabajo social*. Editorial Popular, Madrid, 1998

MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES. Secretaría General de Asuntos Sociales. Instituto de

Migración y Servicios Sociales (1997). Censo y caracterización de las infraviviendas usadas por inmigrantes en la región de Murcia: 1996. Observatorio Permanente de la Inmigración. Madrid.

MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES (1994) *Plan nacional para la integración social de los inmigrantes*. Madrid: Ministerio de Trabajo y Asuntos Sociales.

MARTÍNEZ, M. FCO., GARCÍA, M., MAYA, I., RODRÍGUEZ, S. y CHECA, F. (1996) *La integración social de los inmigrantes africanos en Andalucía*. Sevilla: Universidad de Sevilla. Dirección General de Acción e Inserción Social de la Consejería de Trabajo e Industria de la Junta de Andalucía

MORÉN, Ricard (1998) *Immigració estrangera, integracions i organitzacions socials a Barcelona*. Memoria de Tercer ciclo, dirigida por Àngels Pascual Departamento de Geografía de la Universidad Autónoma de Barcelona, Mimeo.

OBSERVATORIO PERMANENTE DE LA INMIGRACIÓN (OPI). Números 1, 2, 3, 4, 5, 6, 7 y 8. Ministerio de Trabajo y Asuntos Sociales. Instituto de Migraciones y Servicios Sociales.

OLIVE, Llorenç. (1999). "La nueva Ley de Extranjería, una Ley que no cambia tanto". *Revista de Trabajo Social*, núm. 156.

POPULATION DIVISION (2000) *Replacement migration: is it a solution to declining and ageing populations?* Population Division. Department of Economic and Social Affairs, United Nations.

ROQUE, Maria-Àngels (dir.) 1999 *Mujeres y migraciones en el Mediterráneo*. Barcelona: Icaria.

RUIZ DE OLABUENAGA, J. I. (1999) *Los inmigrantes irregulares en España. La vida en un sueño*. Bilbao: Universidad de Deusto.

RUIZ DE OLABUENAGA, José Ignacio.(2000). *Inmigrantes*. Editorial Acento. Madrid, 2000.

SOLANA, José Luis (en prensa) En CHECA, F. (Ed.) *IV Congreso de Inmigración Africana: las migraciones a debate organizado por el Laboratorio de Antropología social y cultural de la Universidad de Almería, y el Comité Español de UNICEF*, celebrado en Almería el 6, 7 i 8 de abril del 2000.

S.O.S. RACISMO (1999) *Informe anual 1999. Sobre el racismo en el Estado Español*. Barcelona: Icaria Editorial.

S.O.S. RACISMO (2000) *Informe anual 2000. Sobre el racismo en el Estado Español*. Barcelona: Icaria Editorial.

UNIÓN DE PAGESOS-COORDINADORA DE ORGANIZACIONES DE AGRICULTORES Y GANADEROS (1999) *Memòria temporers 1999*. Mimeo.

VVAA (1991) "Minorías étnicas: ¿integración o marginación?" En *Cuadernos de Pedagogía*, núm. 196. Número monográfico.

VVAA (1993) "Immigració" En *Quaderns de Serveis Socials*, núm. 5, nov. 93. Monográfico.

VVAA (2000) "Los vicios en extranjería". en *Aula de Migración*, suplemento 2 de Otrosí. Ilustre Colegio de Abogados de Madrid. Comisión de Extranjería, número monográfico



THE KING BAUDOUIN FOUNDATION

IMPROVING LIVING CONDITIONS

Centre for Human Development of HIV (C.H.D.)

104

A clear international presence

Current events (for instance in the area of migration flows) regularly show us how dependent a small country like Belgium is on international and above all European developments. For the King Baudouin Foundation, that dependence, coupled with the valuable contribution made by our international contacts, has always formed the basis for its activity abroad. What is more, the name of King Baudouin (1930-1993) and His moral authority have contributed to the international expectations which exist in regard to the Foundation on an international level. During the 42 years of His reign, King Baudouin was known as a man of social commitment, whose efforts were directed against all forms of injustice, both in Belgium and abroad. The formation of the King Baudouin Foundation in 1976 - at a time when the King had been on the throne for 25 years - corresponded to His desire 'to improve the living conditions of the population'. Over the years, the King Baudouin International Development Prize, the programmes for inter-ethnic relations and for street children, and the part played by the Foundation in the European Heritage Days and the European Foundation Centre, have meant that the King Baudouin Foundation has acquired a certain image abroad. Our working methods, our innovative approach, our openness and our willingness to cooperate are particularly highly valued. In order to enhance this international impact further, the Foundation will be spending € 2,587,500 on international projects in the year 2000. That budget includes setting up a campaign to help rebuilding the civil society in and around Kosovo. The Board of Governors of the Foundation is making a budget of € 1 million available every year for three years for specific projects in Albania, Kosovo, Macedonia and Serbia-Montenegro. The King Baudouin Foundation is therefore seeking to work in a dynamic and proactive way abroad as well. It aims to be an effective partner in the development of activities on specific themes together with other organisations, institutions, corporations and foundations.

Luc Teyart de Bornis

Managing Director



THE KING BAUDOIN FOUNDATION IN A NUTSHELL

- An independent private institution
- Set up in 1976, on the 25th anniversary of the Coronation of HM King Baudouin
- Works to improve the living conditions of the population, taking economic, social, scientific and cultural factors into account
- Active in Belgium and also abroad
- Works proactively, using its own methods, developing specific projects and establishing its own priorities
- Annual budget of about € 23,000,000
- Administered by a Board of Governors (a reflection of Belgian society - see page 7)
- A staff of about 80 people

In order to help to improve living conditions for the population, the King Baudouin Foundation deals with important social problems and challenges by encouraging solidarity and generosity and by acting as a catalyst for lasting change.

The Foundation works in a structural and proactive way:

- setting up its own operational projects and campaigns intended to have a multiplier effect
- acting as a forum and a bridge for experts and citizens
- organising awareness campaigns for a wide audience
- encouraging long-term thinking through feasibility studies, colloquia and seminars
- supporting innovative initiatives

The Foundation encourages solidarity and generosity through new forms of cooperation:

- its named funds (in a person's name) and corporate funds support initiatives relating to a specific issue - to serve the public interest
- numerous gifts and legacies provide a constant encouragement
- Transnational Giving Europe and the King Baudouin Foundation United States encourage generosity across the borders



HOW DOES THE KING BAUDOIN FOUNDATION WORK?

Since it aims to be a mirror of society, the Foundation listens to the live issues among the public and seeks out new challenges for the future. More specifically it works through:

- 1. Grants aimed at specific issues**
 - Innovative initiatives which have an exemplary function
 - Calls through leaflets, newspaper advertisements and the internet (www.kbf-fib.be)
 - For associations, organisations, institutions, new partnerships and individuals
 - Selected by an independent jury of specialists
 - Monitoring through reports, evaluations and meetings between project managers...
- 2. Forum activity**
 - A place for discussion between people with different ideas, cultures and languages
 - Serving as a bridge between citizens, institutions, organisations and public authorities
 - Seminars and colloquia with guest speakers from Belgium and abroad
- 3. Exploratory thinking about the future**
 - Studies on the development of social problems in the next decade
 - Commissions with leading personalities explore new ways of thinking and formulate specific recommendations
- 4. Raising awareness**
 - Increasing awareness of public authorities and among the general public
 - Activities which appeal to many people
- 5. Partnerships**
 - Collaboration with the public authorities, inter-governmental institutions, corporations and NGOs
 - Partnerships with European and American foundations and organisations
 - Exchanges of experience between foundations

MAIN AREAS OF ACTIVITY IN BELGIUM

The work of the King Baudouin Foundation is centred on three main areas. These reflect the economic, socio-political and cultural perspectives.

Welfare and well-being

- Promoting prosperity and welfare
 - Job creation and labour market integration for high-risk groups and encouraging dynamism in business
 - Stimulating sustainable development in socio-economic sectors
- A few specific themes: priority in agriculture and horticulture; micro-finance for the poor; minor ethnic minority groups; repression among children and young people; antibodies for future specialists in foreign trade and international management; enterprises and sustainable development*

Dynamics of society

- Promoting the commitment to and the development of a civil society
 - Improving the relationship between citizens and justice, and between the local private and public sectors
 - Advancing the role of the media
- A few specific themes: high-quality voluntary work; scientific projects between pupils, students, organisations and institutions in the Flemish, French and German-speaking Communities; young people and justice; citizens closer to justice; the role of local media consumers as media projects*

Personal development

- Guaranteeing a future for the coming generations (education, training)
 - Culture and sports as levers for social change and individual development
- A few specific themes: processes of change in primary education; dialogues between socio-cultural players and education; capacity building for individuals with leadership to serve society; sport in (underprivileged) neighbourhoods; interaction between local museums and their surrounding area*

Since Brussels has a special responsibility as the Capital of both Belgium and Europe, the Foundation also supports projects for the capital and its residents. The King Baudouin Foundation has therefore made a contribution towards Brussels, European Cultural City in the Year 2000, in which it helped to develop the Kunstberg/Mont des Arts area into a central city neighbourhood with a wide-ranging cultural impact.

A specific theme: creating works of art in public areas

WHAT DOES THE KING BAUDOIN FOUNDATION DO INTERNATIONALLY?



The King Baudouin Foundation has been active internationally since 1978. Since then its resources have been expanded and its themes have been deepened. The working methods used successfully by the Foundation in Belgium are also being used internationally. The international programme for 2000 is built around four main areas:

1. The King Baudouin International Development Prize
2. Projects focusing on South-East Europe:
Ethnic minorities / Very vulnerable children / Living Heritage / Scholarships at the College of Europe in Brno for talents from South-East Europe
3. European development of the foundations sector
4. The King Baudouin Foundation US (KBFOUS) in Atlanta

What does this mean in practice?

The King Baudouin International Development Prize

Twenty years ago, due to the conviction that there is a need to foster mutual support at the level of the entire planet, the King Baudouin Foundation inaugurated the biennial King Baudouin International Development Prize. The recipient of this Prize, which is worth €150,000 is chosen by the Board of Governors of the King Baudouin Foundation. The Board acts upon a report drawn up by an independent Selection Committee, currently chaired by Dr Peter Piot, Executive Director of the joint UN program on HIV/AIDS. The Prize first of all aims to provide recognition for the actions of individuals or organisations that are making a significant contribution to the advancement of developing countries. It is also intended to remind international public opinion that the problems of development are coming into even sharper focus today than at the time when, in the aftermath of the second world war, they gradually came to take a place in the collective awareness of nations.

Winners since 1980: The Kagiso Trust (South Africa); 1982 - The Gramscian Party (Bulgaria); 1984 - The Alibi Support Organisation (L.A.S.O. Uganda); 1985 - The Landless Peasants' Movement (Brazil); 1989 - The Human Rights Commission of

Poland, chaired by Mrs. Anna Jablonska.

Projects focusing on South-East Europe

Four programmes are focusing their activities on the seven countries of the Stability Pact for South-East Europe: Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Macedonia, Romania and the Federal Republic of Yugoslavia.

Through its programme for inter-ethnic relations (since 1994) the King Baudouin Foundation aims to encourage dialogue between what are sometimes very different population groups. In partnership with other foundations (Charles Stewart Mott Foundation, European Cultural Foundation, respective national Soros Foundations), it supports small-scale local projects in the areas of culture, education, media and civil society development. From 2000 onwards the programme will be emphasising conflict prevention, in the hope that it can thereby help to build a sustainable, stable society in this region.

Since 1998 the King Baudouin Foundation has entered into a partnership with the respective national Soros Foundations through the 'Street Children/Children in the Streets' programme, which has supported some 80 specific projects. The agreement by the World Bank to cooperate in this initiative was certainly encouraging. From 2000 onwards the programme will be focusing on South-East Europe. From now on it will also be giving priority to all children who are in a situation of need (street children, victims of war, refugees, children from very underprivileged population groups).

As an extension of the secretariat of the European Heritage Days - which was provided by the Foundation since 1994 - a new programme has come into being: 'Living Heritage'. Here the restoration of important cultural heritage sites is linked to the participation of citizens and to training and employment projects.

Finally the Foundation grants 24 scholarships every year to talented individuals to allow them to complete their studies at the College of Europe in Natolin. Two thirds of those scholarships are awarded to individuals from South-East Europe. In this way the King Baudouin Foundation aims to develop a privileged link to personalities who may come to play a key part in development in their countries.

European development of the foundations sector

The King Baudouin Foundation has always had an important part to play in the world of European foundations, and above all with regard to the European Foundation Centre. In 1989 the King Baudouin Foundation was involved in the creation of the EFC.



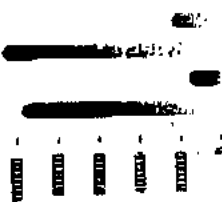
Cooperation and exchanges promote professionalisation and creativity. They have also led to development in the foundations and NGOs sector in Central and Eastern Europe. During the next few years the King Baudouin Foundation will be aiming to intensify its contribution towards the world of European foundations and share its experiences. In 2000 and 2001 Luc Tayart de Borms (the Managing Director of the King Baudouin Foundation) will be acting as President of the European Foundation Centre.

The King Baudouin Foundation United States, Inc. (KBFUS) in Atlanta

KBFUS began its operations at the end of 1997 in Atlanta as a public charity. KBFUS's program agenda operates under the theme 'Building Bridges': increasing international understanding between the US and Europe, through educational exchanges or cultural exhibitions; working with international corporations with interests in the US to help them adapt to American-style philanthropy; and encouraging charitable giving across national borders. KBFUS's Board is chaired by Baron Jacobs, Chairman of the Executive Committee of UCB and Chairman of the Union of Industrial and Employers' Confederations of Europe. KBFUS organised the 'So Many Brilliant Talents: Art and Craft in the Age of Rubens' exhibition, which was opened in Atlanta in September 1999 by HRH Prince Philippe. It set up the 'KBFUS Greater Atlanta Fund, Cultural Exchanges through the Arts' (in collaboration with the Community Foundation for Greater Atlanta) which will focus on enhancing the international exposure of young artists from Metro Atlanta. It also launched the 'US/Europe Community Foundation Exchange Fellowship' in partnership with The Moti Foundation and the German Marshall Fund for the US. This programme allows senior staff from community foundations to spend significant time meeting and collaborating with their counterparts across the Atlantic. (More information: www.kbfus.org)

The King Baudouin Foundation does not offer 'receptive grants' and does not respond to any kind of ad-hoc requests for support.

The King Baudouin Foundation has an annual budget of € 23,265,500



Income

- income from own resources: € 9,475,000
- income from funds with capital: € 1,282,000
- contribution from the Belgian National Lottery: € 10,375,000
- other income: € 2,133,500

Distribution of resources

Programmes:

- welfare and well-being dynamics of society
- personal development
- Brussels capital
- decisions during the course of the year

Funds:

- named funds
- specific funds
- corporate funds



Distribution of international programmes

The international operational budget of the King Baudouin Foundation amounts to € 1,587,500 (not including the extra budget of € 1,000,000 for the Balkan region)

- King Baudouin International Development Prize
- South-East Europe
- A. Inter-ethnic relations between minorities

B. Highly vulnerable children

- C. Living Heritage
- D. Scholarships for the College of Europe in Natolin
- European expansion of the foundations sector
- King Baudouin Foundation US in Atlanta



BOARD OF GOVERNORS

- Chairman:**
 - Herman Van der Kerke..... Honorary Vice-Chair of the KU Leuven (Catholic University of Leuven), Founder and former Director of the Centrum voor Menselijke Erfelijkheid (Centre for Human Genetics) of the KU Leuven
- Vice-Chairman:**
 - Jos-Louis St..... Deputy Permanent Representative of Belgium in the European Union
- Second Vice-Chairman:**
 - Carmille Pauline..... Governor of the Parishes of Antwerp
- Managing Director (CEO):**
 - Luc Lajart de Bommis
- Governors:**
 - Hierri Belpaire..... Commissioner of the Federal Planning Bureau
 - Yvan Balyin..... Administrative Council of the KBR (Research Department of Employment, Migration and Vocational Education)
 - Dick Dierckx..... Secretary General, Vice-President Administration and Information Management of Janssen Pharmaceutica
 - Véronique De Keyser..... Professor at the Faculty of Psychology and Education Science of KU (University of Leuven)
 - Françoise Devilly..... Director-General of the EFMD (Institute for Continuing Training for Small Traders and SMEs)
 - Michiel Vitzthum..... Honorary Project Head Secretary in HRM (Human Resources) of the King Baudouin Foundation
 - James Ducoul..... Deputy of Brussels Honorary Chamber of the Royal Federation of Belgian Mayors
 - Philippe Lallemand..... Special Advisor to the General Executive of the SNRP (National Society for Public Administrations)
 - Françoise Masari..... Director of the National Bank of Belgium
 - Allard Minkie..... Director of the Flemish National Archives. Professor at UCL (Catholic University of Leuven in Leuven)
 - Françoise Palangi..... Editor in chief at the RFR (French-speaking Belgian Radio and Television)
 - Pierre Riet..... Chairman of the IBS Group
 - Théo Ruybaert..... Chairman of the ACPV (umbrella organization of Christian workers' organisations)
 - Marc Schepfers..... Chairman of the Belgian Red Cross, Managing Director Financial Management FR Bourgeois
 - Tatjana Talasz..... Member of Parliament
 - Françoise Talinas..... Judge of the European Court of Human Rights, Associate Professor at UCL
 - Isa Van der..... Secretary
 - Jacques van Ypersele de Strijbe..... Principal Policy Secretary to HM the King
 - Louis Héro Yrabeke..... Lawyer, President of the Heriot-Watt Law School Management School
 - Patricia Verbeke..... Chairman of the Management Committee of Leber Bank
 - Jan Willem..... Minister of the Royal Household

Jacques van Ypersele de Strijbe and Jan Willem represent the King on the Board

**THE KING BAUDOIN FOUNDATION
ENCOURAGES GENEROSITY**

The King Baudouin Foundation makes every effort to encourage solidarity and generosity. It offers various opportunities to make maximum use of gifts and legacies. Individuals, associations, organisations and businesses can also set up a named, specific or corporate fund within the Foundation that seeks to achieve a concrete objective in the public interest.

A few specific themes: scientific research into genetic diseases; health and welfare for children and vulnerable adults; safety in school environments; national protection, new construction; urban architectural development

In order to support the activities of the Foundation you can:

- make a donation (by cheque, bank transfer or credit card); gifts are tax-deductible (Belgian Income Tax Code, art. 104)
- leave a legacy to the Foundation
- individuals, organisations or companies can set up a fund within the Foundation
- for more information: www.kbs-irfb.be (your support section).

Through two initiatives, the King Baudouin Foundation is encouraging generosity across national borders:

- The King Baudouin Foundation together with other European foundations - including the Charities Aid Foundation, the Fondation de France and the Juliana Weizijn Fonds - have joined hands in setting up **Transnational Giving Europe**, a uniform framework designed to facilitate transnational giving within Europe. Its prime objective is to allow generosity to flow across the borders, enabling donors to support worthwhile initiatives outside their country of residence, while preserving all the tax benefits in that country.
- One of the objectives of the **King Baudouin Foundation United States, Inc.** (KBFIUS), an Atlanta-based public charity, is to stimulate charitable giving between the United States and Europe. (see page 6 and www.kbfus.org)

INFORMATION AND COMMUNICATION

The KBFAS and KBFAS-France relations have a tradition to elaborate programmes about the four main components of the advertisement campaign: at least every two years the annual review provides a summary of current fundations based on evaluating the year files. A lot of the press is available on www.kbfbs-frb.be, the King Baudouin Foundation's own on the Internet. The Foundation also publishes research and evaluation reports, studies focusing on the future and all kinds of publications for young professionals. With a few exceptions, all this information and all the publications are available free of charge.

If you would like to find out more:

The King Baudouin Foundation
 rue de la Constitution 21

B - 1000 Brussels

tel. 32 (0)2 511 19 40 Fax 32 (0)2 511 50 21

E-mail: info@kbs-frb.be

Internet: www.kbs-frb.be

International contacts:

- kbfbs-frb.be (Belgium and countries in South-East Europe)
- combef@kbfbs-frb.be (European programme South-East Europe)
- helend@kbfbs-frb.be (King Baudouin Society in South-East Europe)
- merced@kbfbs-frb.be (vulnerable children in South-East Europe)
- romy@kbfbs-frb.be (JS/Europe community foundation exchange fellowship)
- laurent@kbfbs-frb.be (scholarships for the College of Europe in Namur)
- warmuz@kbfbs-frb.be (European members of the Foundation's steering)
- kbfas@kbfbs-frb.be (King Baudouin International Development Prize)
- kbfas@kbfbs-frb.be (KBFAS: International Giving Europe)

PICUM

PLATFORM OF NGOs FOR INTERNATIONAL COOPERATION ON UNDOCUMENTED MIGRANTS

PICUM is a platform of NGO's in Germany, the Netherlands and Belgium that deal with issues related with asylum seekers who have been refused the right to stay and other people who have been forced into an illegal situation. PICUM is focusing on a human and basic social rights approach of this issue. Besides, ways for pragmatic solutions are sought for these matters, whilst taking in consideration that common EU policies regarding migration and asylum are getting shape quickly.

It is generally agreed that the presence of 'sans papiers' (undocumented, irregular or clandestine migrants) in our countries is a major social problem, both for the people concerned and for society as a whole. Leaving them without any support means their social exclusion. It often leads to inhumane and morally unacceptable situations tending towards their marginalisation and their becoming a risk factor in society. Therefore, the root causes of emigration should be tackled. At the same time we have to acknowledge the fact that the number of 'sans papiers' – which already is considerable – is increasing day by day in spite of all sorts of restrictive government control measures. The legal possibilities for NGOs to give support to these people by providing them with food and shelter are reducing rapidly.

By way of an enquiry made by PICUM member organisations in Germany, the Netherlands and Belgium it has been found that 'sans papiers' in these countries often are withheld the rights they are entitled to under international treaties and conventions, and that protection is lacking. For this reason the structural approach favoured by PICUM is focusing on:

- basic social rights of 'sans papiers' as a protection against their marginalisation;
- human rights of 'sans papiers' as a protection against unlawful detention and deportation;
- possibilities for regularisation of 'sans papiers'.

In the first two fields the validity of both national legislation and other governmental decisions regarding 'sans papiers' is to be checked against international conventions and treaties binding national governments and state authorities, and the application in practice of these conventions and treaties is to be verified. In the third field best practices with regard to regularisation in certain European countries are to be considered in view of their application in other European countries. Special attention should be given to developing EU policies in these fields.

PICUM has developed a two years' project dealing with the structural approach mentioned above. Information is collected on existing and ongoing research on the three issues PICUM is focusing on whilst concentrating on the situation in three European countries in particular – Germany, the Netherlands and Belgium – and comparing the outcome with the situation in Italy, France and Spain. After an analysis of the material, supplemented by further research wherever necessary, provisional conclusions will be drawn. This work will be carried out under supervision of a Steering Committee and is to be supervised by an international advisory group of legal experts. Seminars will be held in various European countries in order to check the validity of the analysis and to present provisional conclusions. Subsequently recommendations will be formulated in view of the practical application of these conclusions.

PICUM is operating an electronic information exchange system (by e-mail) on issues related with 'sans papiers'. Thus PICUM should develop into a centre of expertise where specialised knowledge in this field will be made available for PICUM member organisations and other interested parties, providing them with advice, support and facilities for advocacy. PICUM may also act as a centre for joint advocacy on behalf of its members.

Thanks to financial support by several Dutch and Belgian foundations PICUM is opening a secretariat (coordinator's office) in Brussels which should be operational as of October 1st, 2000.

For further information please contact the PICUM secretariat, c/o Gaucheretstraat 164, B-1030 Brussels, tel. +32 2 2011204 fax +32 2 2016863. E-mail: PICUM@fluechtlingsrat.de.

The following NGO's are member organisations of PICUM:

- *Germany:* Bundesarbeitsgemeinschaft Asyl in der Kirche, Cologne
Flüchtlingsrat Nordrhein-Westfalen, Dülmen
Pax Christi Deutschland, Bonn
- *The Netherlands:* ASKV-SV (Steunpunt Vluchtelingen), Amsterdam
Council of Churches in the Netherlands, Amersfoort
Missionair Centrum/Netwerk Religieuzen voor Vluchtelingen, Heerlen
Stichting VON (Vluchtelingenorganisaties Nederland)
- *Belgium:* Steunpunt Mensen zonder Papieren, Brussels
Belgisch Comité voor Hulp aan Vluchtelingen, Brussels
Protestants Sociaal Centrum, Antwerp
- *European NGOs:* Quaker Council for European Affairs, Brussels
Jesuit Refugee Service – Europe, Brussels
Pax Christi International, Brussels
Justice et Paix International, Brussels

The following NGOs are participating in an observer capacity:

Churches' Commission for Migrants in Europe (CCME), Brussels
Platform of European Red Cross Organisations (PERCO), Brussels
Solidar/Respect Network, Brussels
Espaces (Dominican Brethren), Rixensart (B)

9.9.2000/PM/draft

4.4. Conclusions

NGOs between submission and resistance

The development of the work of NGOs is dominated by the following tensions:

Repressive measures on the part of the of the federal executive branch against illegalized immigrants not only continue, but are being refined – and are, again and again, being directed against NGOs.

The NGOs – in an apparent contradiction – are also utilized in the rudimentary care of illegalized migrants when governmental agencies deem it appropriate. This is done either by leaving to NGOs a duty which is in theory a public duty, e.g. the health care of illegalized immigrants, or by trying to make the NGOs accomplices in the pursuit and persecution of the illegalized, e.g. by requesting their participation in raids against prostitution, supposedly in order to better protect women who have been forced into prostitution.

Furthermore, the protection of even just one illegalized immigrant requires enormous energy from supporters. Frequently, all resources are devoted to practical assistance – and even then, the energy output often does not even result in a positive change in the situation of the illegalized immigrant. Fundamental discussions, public reactions to executive political actions or decisions are no longer possible, and the work deteriorates to purely charitable assistance, or even just to emergency aid – quite frequently against the intentions of the NGOs themselves.

Beyond this, there is no public resonance for the organization's demands – whether pragmatic and reform-oriented or radical-fundamental – in an atmosphere that is hostile to the illegalized. Thus, the potential for frustration and burnout is enormously high in political work. Only on rare occasions is it possible to break through the silent consensus on the issue of "illegality"; this was the case with some church asylums, or the campaign against Lufthansa and their deportation business. When "illegality" is made a public issue, the discussion is usually dominated by the public outcry over "slavery," "organized crime" etc., which is designed to hinder thoughtful reflection on the topic. Even within the nationally organized refugee lobby, in migration organizations, churches and trade unions, the barrier against the topic of "illegality" is just beginning to be broken down.

Due to the minimal public discussion of these issues, the following demands rely heavily on the individual judgments of the authors of this study.

1. On a pragmatic level, the following demands should be discussed:

- Acknowledgement that "illegalized" persons live in Germany and have a right to be treated with human dignity.
- Abolition of the laws which enable the criminalization of NGOs and individuals who work with and for illegalized immigrants; in particular, sections 76 and 92 in the Law on Foreigners in Germany (obligation of public agencies to denounce, aiding and abetting illegal residency).
- Institution of the "right to rights," i.e. prohibition of the deportation of illegalized immigrants who are plaintiffs or witnesses in court cases or who wish to make a claim to wages or benefits due them by employers or insurance agencies.
- Prohibition of the arrest of a person solely because she is suspected of wanting to avoid deportation.
- Making governmental agencies once again responsible for genuinely public duties – such as health care for the illegalized and school attendance for illegalized children.
- As long as governmental agencies are unwilling to accept these responsibilities: the public financing of NGOs working in these areas.

2. On a fundamental level, the following positions and demands should be discussed:

- It is the European/German concept of the "Fortress Europe," and its effect on asylum and migration politics, which brings into being the illegalized immigrants and all the consequences of illegality, such as escape assistance/human smugglers. As long as this attitude continues to determine policy, the unification of European policies in regard to the illegalized will not oppose their being treated without dignity and being criminalized, but instead will integrate these policies to a new, universal low point. This "downward" unification should be rejected.
- The illegalization of refugees and migrants is the drawback of permitted migration. By creating a precarious, "illegal" job market, the needs and rights of human beings are subordinated to the need to remain economically viable and competitive.

**Center for Studies on Ethnicity and Migrations (CEDEM)
University of Liège**

**EASY SCAPEGOATS : UNDOCUMENTED
IMMIGRANTS IN EUROPE**

Belgian Report

By Bonaventure Kagné

Supervised by Marco Martiniello

**European Project under coordination of Freudenberg Stiftung Foundation, in
partnership with the King Baudouin Foundation**

- July 2000 -

Summary

1. Introduction

2. Legal and socio-economic exclusion of 'undocumented immigrants'

- 2.1. Treatment of undocumented immigrants by the political system and belgian public authorities (6)
- 2.2. Social help and access to health care (8)
- 2.3. Housing (10)
- 2.4. Work (11)
- 2.5. Other source of income (13)
- 2.6. Prostitution (13)
- 2.7. Family (14)
- 2.8. Distancing of undocumented immigrants ((15)
- 2.9. Exclusion of civil and political rights (16)
- 2.10. Education, training (16)
- 2.11. Access to information and possibility to communicate with other people (16)
- 2.12. Harassment, checks, etc. (17)

3. Public policies with regards to 'undocumented immigrants'

- 3.1. Regularisation campaigns (17)
- 3.2. Regularisation procedures (21)
- 3.3. Problem of the regularisation campaign (24)
- 3.4. Conclusion (25)

4. Services provided by NGO's

- 4.1. The legal and political context (26)
- 4.2. Principal NGO's for support of undocumented immigrants (26)
- 4.3. Detailed analysis of the work and experience of the NGO's (30)

Indicative Bibliography (48)

Annex