



PLATFORM FOR INTERNATIONAL COOPERATION ON UNDOCUMENTED MIGRANTS

Regularization Strategies of Civil Society Organizations (CSOs)

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Undocumented migrants (UDM) in Europe

- To tackle irregular migration, EU has developed strict measures (e.g. community return policy, reinforcement of external borders, readmission agreements)
- Regardless of efforts, estimates of 5-8 million UDM in EU
 - Overstayers
 - Migrants who have entered clandestinely
 - Rejected asylum seekers
- No evidence that strict border controls have reduced numbers of UDM

Human rights abuses on EU's borders

- Evidence of increased resort to smugglers and migrants risking their lives to come to EU
 - Spanish NGO APDHA: Dec. 2005-June 2006, more than 3,000 UDM died trying to reach the Canary Islands (Spain) alone
- Stricter enforcement on border can have deadly consequences
 - Amnesty Int'l report (Oct. 2006) – One year after 13 UDM killed and hundreds wounded in Ceuta and Melilla, investigations on Spanish and Moroccan security still running, and no preventive measures adopted: “impunity.”

UDM largely invisible by policy makers in Europe

- All measures taken by EU have in common focus on entry or return or UDM, not on those currently in EU
- Face problems in accessing decent housing, health care, education for children
- Exclusion leads to marginalization and exploitation
- UDM have human rights, but systematically abused
- Europe should uphold its obligations to int'l human rights standards

How does civil society intervene to defend the human rights of UDM?

- PICUM's work: monitoring and reporting, awareness raising, advocacy
- Focusing on specific rights
 - Health care (project in 11 EU Member States)
 - Housing (report on housing of UDM)
 - Education (upcoming project on undocumented minors)
 - Fair working conditions (“Ten Ways...”)
- Promoting REGULARIZATION

Regularization campaigns

- Ongoing regularization campaigns
 - Permanent part of legislation
- One-off regularization campaigns
 - Specific measures installed in legislation, may be through civil society pressure

Ongoing regularization programs

- **Long-term residence**, integration in society
 - UK (14 years residence)
 - France (10 years, but new law simplifies procedures for deportation of those refused right to stay)
- **Humanitarian reasons**, also serious medical condition
 - Difficult to obtain; PICUM forthcoming study

Ongoing regularization programs

- **Labor exploitation**

- Spain 2005 Foreigners' Law
- Cooperation with labor inspection, police, NGOs and unions

One-off regularization campaigns: why do governments implement them?

- Gain more awareness and control over irregular migration
- Improve the social situation of migrants
(in response to massive protests or social pressure)
- Increase labor market transparency
(combat informal economy)
- Response to foreign policy goals (e.g. entering into trade or other agreements with another country)

(Source: Marmora, IOM: 1999, cited in Levinson, 2005)

Civil society pressure can lead to one-off regularization programs: Belgium

- Belgian campaign in 2000
 - Movement of “sans papiers” following death of Semira Adamu, Nigerian asylee
 - Made demands to new coalition government
 - Regularization for humanitarian reasons (long asylum procedure, serious illness, unable to return, or 6-year residence in Belgium)
 - Good practice: NGO Samahan helped UDM with process
- However, civil society pressure in Belgium did not result in campaign in 2006

Civil society pressure: UK

- JCWI calling for regularization to address predicament of up to 570,000 UDM in UK
- Deportation would cost £4.7 billion but regularization would bring in £1 billion (Source: IPPR)
- Recommendations:
 - Permanent regularization for those who can demonstrate 7-year residence (as opposed to 14)
 - Demonstration of 2-7 year residence makes UDM eligible for permanent stay (and meet additional criteria)
 - Victims of trafficking receive temporary stay

2005 Spanish campaign: bring the informal economy to light

- 7 February-7 May 2005
- 691,655 applications
 - 572,961 approved (82,8%)
 - 115,178 rejected (16,7%)
 - 3,516 to be determined
- Biggest regularization in Spain until present
- Four sectors: domestic services, agriculture, construction, hotel and catering services

2005 Spanish Campaign: criteria

- Applications made by employers
- Migrant worker registered in town hall before 8/8/2004
- Remained in Spain continuously during this period
- No criminal record
- Employer must show that they are registered and paying required taxes
- Employer must have signed a contract with employee for a minimum of ten months

2005 Spanish campaign: CSO observations

- Part of process depended on employers, not on workers or NGOs/unions
 - Those without work could not regularize their situation (e.g. children, sick, elderly)
 - Workers had to have a “formal” working contract
- “Business” of processing files
 - Some lawyers, agents, even municipalities charging up to 3,000 Euros to file applications
- Not well planned and unclear instructions for the whole country

(Source: CEIM, forthcoming study)

Reactions after Spanish campaign

- Real analysis of regularization will come when workers will have to renew their permits
- One year after regularization (July 2006), more than 1 million UDM in Spain
- Regularization is a means to address problem but numbers are high and unfeasible to deport all UDM.
- Regularization is not the *only* policy.

Reactions after Spanish campaign

- Spanish right-wing press and media attacking government daily
- On EU level:
 - No Community law on regularization (Member States have own legislation)
 - Abolition of internal borders and 5-year long-term residence
 - European Commission has proposed a mutual information system on national measures in area of migration and asylum which may have an impact on other Member States or Community as whole (operational in 2007).

PICUM's Recommendations

- Regularization schemes should be devised in collaboration with all interested parties, such as NGOs and trade unions.
- Clear, well-defined criteria should be established as to who qualifies for the schemes. The period in which applicants may apply should be long enough.
- UDM who have lodged a claim should not be at the risk of deportation during the procedure.

PICUM's Recommendations

- Employment and provision of social benefits should be available to claimants.
- The application should be considered by an independent body rather than the competent ministry.
- The law should provide a remedy to migrants whose applications have been rejected under the procedures.



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