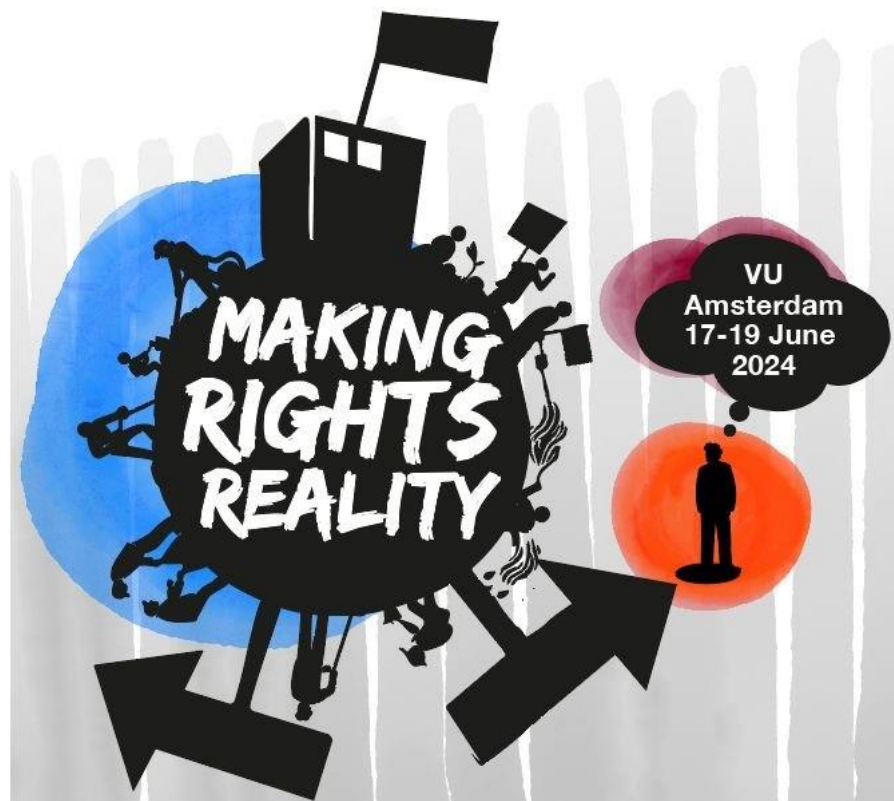


# **Making Rights Reality: The Human Rights of Undocumented Migrant Workers**

17-19 June 2024, Vrije Universiteit  
Amsterdam

**ABSTRACTS**



## ROUND 1 (SESSION 1-4)

### **Session 1: Panel** *Migration Status Precarity: The Power and Limits of Regularization*

**Chair: Martijn Stronks**

#### **MIEKE KOX, *THE LIMITS OF THE LAW: UNRAVELING UNAUTHORIZED MIGRANTS' LEGAL CONSCIOUSNESS PROCESSES***

Nation-states turn themselves to 'the law' to limit the presence of migrants without a legal status on their territory. Yet, they encounter limitations that hinder them to make these migrants (forcedly) leave the country while these migrants see themselves confronted with undesirable living conditions because of the law. This raises questions on the functioning of the law for unauthorized migrants. This study offers answers to the intriguing puzzle of how law matters to these migrants and how this is of concern for the law. Drawing on multi-sited ethnographic fieldwork among 105 (former) unauthorized migrants in the Netherlands, Surinam and Nigeria as well as participant observations in the Dutch immigration system, the study portrays unauthorized migrants' legal consciousness processes over time. By doing so, it gives these people a voice in the migration debate. Moreover, it illustrates that the Dutch authorities have created a comprehensive, multi-layered system to discourage unauthorized residence. This system – which unauthorized migrants perceive as the law – is powerful given its strong constitutive effects at the migrants' everyday, social, existential and legal level. Yet, it is also powerless if seen through an instrumental lens as unauthorized migrants may continue their unauthorized residence while the authorities lack coercive measures to realize the migrants' departure. The powerful and powerless effect differently impact on unauthorized migrants, although they are all somehow affected by it. These insights expose the legal, moral and instrumental limits of the authorities' use of the law and call for a different legal approach towards unauthorized migrants.

#### **CRISTIANO D'ORSI, *WHEN THE DEPRIVATION OF RIGHTS SEEMS TO BE NORMAL WHEN YOU ARE AN UNDOCUMENTED MIGRANT: THE CASE OF EQUATORIAL GUINEA***

Although it does not appear regularly in the news media, Equatorial Guinea, the only former Spanish colony on the continent, is one of the richest country in Africa, ranked number 3 (after Seychelles and Mauritius) in 2023 (with a \$9740 GDP per capita in 2023). Thus, we are not surprised if Equatorial Guinea also represents one of the top destinations for migrants in Africa, in 2023 being the second country with the highest net migration rate (13 migrants every 1000 people) on the continent. Yet, Equatorial Guinea is not a party either to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) nor to the International Labour Organization's Convention on Decent Work for Domestic Workers (ILO C-189). In converse, the government made a statement in the occasion of the adoption of the UN Global Compact on Migration (2018), where it highlighted that the country is dealing with the issue of migration "in a constructive manner" guaranteeing the dignity of migrants because they are "human beings".

Against this backdrop, reports show that foreigners have been often victimized in the country, including irregular immigrants from Benin, Cameroon, Ethiopia, Gabon, Ghana, Mali, Nigeria sand Togo, who represent a significant portion of the labour force. The government often requires immigrants to have relevant documents, partly to address concerns regarding trafficking in persons,



although police and gendarmes use documentation status to extort bribes from foreigners at routine traffic stops.

Yet, between 30 October 2021 and early December 2021, the local government launched a campaign against migrants accompanied by immigration raids that took place in major cities with security forces that stopped people on the street who they believed had “African foreign facial features” and demanded that they produce their identification papers. Those who did not have their documents with them were immediately arrested and detained, often regardless of their immigration status.

The vast majority of detained individuals did not receive any legal assistance, nor had access to appropriate legal procedures and due process relating to their detention. Some were deported to their home countries without due process and without access to a lawyer prior to deportation orders being carried out.

In this scenario, undocumented foreign nationals in Equatorial Guinea had been granted until 31 August, 2022 to regularize their status in the country with those failing to regularize their status by that date that could have faced fines and deportation. However, to date, it is not clear how this moratorium ended. In converse, there are recent reports showing that the government continues tight restrictions on inter-district movement, nominally to prevent crime and detect illegal migration but used for extortion attempts and to threaten immigrants. Thus, my work will try to shed light on this situation, too often neglected by the world media as well as by the African Union and, more broadly, by the international community.

#### **DELPHINE NAKACHE, *TEMPORARY MIGRANTS COMPLEX REGULARIZATION TRAJECOTIRES: THE CANADIAN CONTEXT***

This paper draws on a research project conducted between 2018 and 2024 in four Canadian provinces, which sought to investigate how and why migrants move in and out of authorized immigration status in Canada and what are the effects of those complex trajectories on migrants’ rights and protections. One major finding from the 148 migrant interviews is that precarious migration trajectories are far from being linear and predictable and can be better described as « chutes-and-ladders » (Goldring and Landolt 2021; 2013) in which migrants struggle to keep and retrieve their immigration status. “Chutes” in status trajectories are understood as the lived experience of losing the right to work or/and the right to stay, while “ladders” in legal status trajectories refer to the lived experience of gaining, temporarily or permanently, the right to stay or the right to stay and work. In this paper, we will first present how these « chutes-and-ladders » dynamics take shape in migrants’ experiences and negatively impact their rights and protections. This will be followed by a discussion regarding some key actors in this process, such as employers and legal intermediaries.

### ***Session 2: Workshop ASYLEX/CILD, Complementary protection mechanisms: successes and challenges of collaboratively using diverse international human rights***

**COORDINATORS: FABI FUGAZZA, COALIZIONE ITALIANA LIBERTÀ E DIRITTI CIVIL (CILD); JOËLLE SPAHNI, ASYLEX; DARIA SARTORI, EXECUTIVE DIRECTOR NYU PUBLIC INTEREST AND HUMAN RIGHTS CLINIC**

This workshop will discuss the complementary aspect of different mechanisms for the protection of the rights of people on the move (including, for example, Rule 39 requests for interim measures and individual applications at the European Court of Human Rights, collective complaints and immediate measures at the European Committee of Social Rights, amicus curiae and request for provisional measures to UN committees) and the success and challenges of each measure for the protection of



human rights of migrants. The workshop will also explore how different third-sector partners (who each work for the effective protection of migrant rights) can work together, using different measures and sharing best practices about the measures they're most experienced in, to help the maximum number of people and use the best protection mechanism for each vulnerable person's circumstances. We also envision looking at some regionally-based cases demonstrating the various approaches.

The workshop will also invite audience participation to explore other complementary measures that they may use and the pros and cons of each of those measures, in order to elevate the learnings and landscape view of all participants. We will also provide opportunities for real-time interactive Q&A about the measures discussed.

### **Session 3: Panel Invisible, undervalued and un(der)protected: reflecting on worker rights for (undocumented) migrants working in (platformized) paid domestic work in the UK**

**Chair: Jing Hiah**

**LAURA BERRO YOLDI, AU PAIRS: FROM CULTURAL EXCHANGE TO RECOGNIZED WORKERS IN THE UK**

Au Pairs, in practice often young women migrant workers without the legal right to stay and work, are considered to be on cultural exchange and are therefore not classed as workers in the UK and many other European countries. In practice, Au Pairs are often used as a cheap fix for the shortages in the market of care. However, the labour Au Pairs provide is very similar to fully paid caring jobs and only few differences between an Au Pair and a 'regular' nanny exist in practice. Furthermore, Au Pairs are heavily dependent on their host family, as it is the host family that provides them 'free' housing and food. In practice this results in various dependencies, vulnerabilities and social harms that Au Pairs encounter in their places of work and residence simultaneously, as these are the same. This contribution, inspired by intersectional feminist labour and care theories, argues how au pairs should be considered workers and should receive not only fair remuneration, but also have access to other social rights, such as sick pay, holiday money and occupational safety protection. Based on an ongoing PhD project in the UK on Au Pairs and the global care crisis and a Research Project on paid domestic work in the platform economy, the paper demonstrates its arguments by tapping into the everyday life stories of Au Pairs.

**THE VOICE OF DOMESTIC WORKERS (VODW), RECOGNIZING PAID CARE AND DOMESTIC WORKERS**

We, the Voice of Domestic Workers, campaign for improving the living and working conditions of migrant domestic workers in the UK. Care and domestic work have been long undervalued as it is often performed unpaid by women in families. We however argue that the work we do is crucial to families, to societies. Care and domestic services are forms of work as well. This idea of paid domestic work as being work is also very relevant for many practical issues that our members encounter. In our talk we would like to argue that the idea of the worker should also be central in the way how victims of labour exploitation are treated. Many of our members have been victims of labour exploitation in the past. While recognizing victimization is of great importance and getting assistance and help to exit exploitative conditions is too, we have found that most of our members with such pasts have preferred to be recognized as workers as well and not only as victims. As victims we are considered to be needy, while as workers we can participate on par in society. We believe that the respect that nannies, housekeepers, au pairs, babysitters and cleaners deserve can be attained by recognizing care and domestic services as work and therefor also those who perform these jobs, to be considered workers.



**THE NANNY SOLIDARITY PROJECT (NS), ON REALIZING RIGHTS AND GOOD WORKING CONDITIONS FOR (UNDOCUMENTED) MIGRANT CHILDCARE WORKERS IN THE PLATFORM ECONOMY.**

This contribution draws attention to the challenges of childcare workers in the platform economy. It demonstrates how platforms significantly shape working conditions, aggravate existing challenges and introduce new ones. Within online platforms, workers are often labelled as independent contractors, barring them from essential employment rights such as holiday and sick pay. Additionally, there's relentless pressure on rates paid for services, pushing wages below the national living wage. Some platforms even suggest setting low rates to secure jobs more easily. However, after factoring in transportation and platform fees, workers are left with minimal actual payment. Consequently, many workers face heightened financial instability. This is particularly grave for migrants with insecure immigration status, who live in constant fear of financial insecurity. Their limited options and bargaining power worsen their exploitation. Ultimately, the combination of insecure immigration status and reliance on gig economy platforms creates a vicious cycle of vulnerability for childcare workers. This contribution concludes with a few reflections on how the quality of work can be improved and rights of workers can be better respected in the platform economy.

**Session 4: Panel Legal Limitations on Access to Socio-Economic Rights**

**Chair: Nina Fokkink**

**SABIA BOUZAMBOU, DIGNITY DENIED: EXAMINING THE HUMAN RIGHTS CHALLENGES FACED BY UNDOCUMENTED MIGRANT WORKERS IN MOROCCO**

This paper delves into the multifaceted challenges surrounding the human rights of undocumented migrant workers in Morocco. Despite international conventions and domestic legislation, these workers often find themselves marginalized and vulnerable to exploitation due to their legal status. Through an analysis of legal frameworks, socio-economic factors, and case studies, this study exposes the systematic denial of dignity faced by undocumented migrant workers in Morocco. It highlights the various obstacles they encounter in accessing basic rights such as healthcare, education, and fair labor practices. Furthermore, the paper examines the role of governmental policies, civil society initiatives, and international interventions in addressing these issues. By shedding light on these challenges, this research aims to contribute to ongoing efforts aimed at protecting and promoting the human rights of undocumented migrant workers in Morocco and beyond.

**SERGEJA HRVATIĆ, THE (IM)POSSIBILITY OF EFFECTIVELY PROTECTING THE ECONOMIC AND SOCIAL RIGHTS OF MIGRANT WORKERS IN IRREGULAR SITUATION COUNCIL OF EUROPE TRIBUNALS**

Although the Council of Europe is one of the leading human rights organizations, its protection of migrant workers in irregular situation, one of the most vulnerable individuals, is inefficient. The organization's core treaties regulating human rights are not helpful in this regard. The European Social Charter does not apply to migrants in irregular situation, while the European Convention on Human Rights does not contain economic and social rights. Therefore, it seems that economic and social rights of migrants in irregular situation are inadequately regulated.

However, according to the European Court of Human Rights, the interpretation of the Convention may also apply to economic and social rights as there is no clear division between this sphere and the field covered by the Convention. The European Committee of Social Rights held that, although migrants in irregular situation are prima facie excluded from the scope of the Charter, the Charter



must remain true to its spirit and purpose of providing basic socio-economic rights to all individuals where such rights are necessary to uphold basic entitlements, such as human dignity.

Considering the margin of appreciation that States have in fulfilling economic and social rights based on their capabilities, it appears that States are only obligated to ensure that migrant workers in irregular situation are provided with human dignity. Additionally, it is noteworthy that only a small number of Council of Europe Member States have ratified the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Therefore, the economic and social rights of migrant workers in irregular situation seem to be realized and protected only through “first generation rights”.

**RONALD SERWANGA, *ASSESSING UGANDA’S EMIGRATION LEGAL FRAMEWORK AGAINST INTERNATIONAL SOCIO-ECONOMIC RIGHTS STANDARDS FOR MIGRANT WORKERS***

This paper investigates Uganda's emigration policies and their alignment with international laws on the socioeconomic rights of migrant workers, focusing on those undocumented in the Middle East. As more Ugandans move abroad, especially to the Middle East, for jobs, it becomes crucial for Uganda to update its migration policies to international standards that protect the rights of these workers. The research evaluates Uganda's emigration rules against international agreements, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), to identify similarities and differences.

The importance of this paper lies in its potential to guide policy changes in Uganda to better protect the socioeconomic rights of migrant workers abroad. By comparing Uganda's policies with international legal frameworks through desktop research, including a review of existing legal analyses, reports, and scholarly works, the paper pinpoints where Uganda's policies might not meet international norms. It provides specific recommendations for policy improvements and suggests how Uganda can implement important international treaties. This paper contributes to discussions of undocumented migrant rights and the promotion of stronger legal protections for Ugandan workers abroad.

**AYESHA RIAZ, *LEGAL AID OR AN ILLUSION: THE (NEAR) EXCLUSION OF ASYLUM SEEKERS AND UNDOCUMENTED MIGRANTS FROM ACCESSING LEGAL AID***

In this presentation, I will examine how the British State engages with the private and charitable sector to fund legal services for detained asylum seekers who are unable to pay themselves. The legal aid system has been subject to frequent and profound change since its establishment in 1949 rendering it a highly unstable system in a profession which reifies stability. My empirical research shows that between 1949 and 1988 the Law Society (professional body of solicitors) did not merely regulate the conduct of solicitors, but it also administered legal aid payments. According to my empirical research, up until 1988, the British State and the Law Society worked collaboratively as equal partners. However, after 1988, the power to regulate the conduct of solicitors was passed to various State-run bureaucracies or quangos. Therefore, the British State started interfering in the work of solicitors (especially for those that worked within the publicly funded asylum and immigration sector as they were increasingly singled out) to the extent that asylum seekers and undocumented migrants were (more or less) excluded from accessing legal aid.

The instability is strongly correlated with changes in government from Labour to Conservative and back and forth from 1988 to 2023 who appear to have a monopoly over the system. The monopoly has weakened the profession’s commitment to the system. The result of the State taking the place of the client in paying for legal services for asylum seekers has been that the State has intentionally (or unintentionally) sought to transform solicitors into civil servants because of increased bureaucratisation of this sector by applying work/quality inspection obligations for solicitors which would not apply to them where their fees were paid directly by clients. The consequence is frustration, loss of autonomy, time and money and resentment among solicitors in regards to the payment system which also has the effect of diminishing the attractiveness of legally



aided work (asylum and undocumented migrants) and thus concentrating the work in the hands of a smaller number of altruistic solicitors who are very vulnerable to being demonised by hostile governments.

## **Posters**

### **JONATHAN PRESLEY, *ILO C-189 RATIFICATION PROCESS IN KENYA: A DOMESTIC WORKER LABOR EXPORTER PERSPECTIVE***

During labour day celebrations on May 1<sup>st</sup>, 2023, the recently elected Kenyan President Ruto announced that Kenya would ratify ILO C 189 in the following months. Although the Kenyan government had previously been reticent to ratify this convention, Ruto's commitment came in the context of his government's larger policy towards increasing labour export abroad. Up to date C 189 is still not ratified in Kenya, but government officials anticipate its ratification before June of 2024.

Kenya entertains a large local informal domestic workforce and is also an important supplier of domestic workers to the GCC countries. Kenya's position as an exporter of domestic workers raises questions about why the convention has not been ratified earlier, despite pressure from Kenyan domestic worker trade unions and international organizations. To date, the only major exporter of domestic workers to have ratified C 189 is the Philippines. However, the factors at play in Kenya would seem to run contrary to research exploring C 189 ratification in the Philippines (Cherubini, et al. 2018).

Following recent qualitative fieldwork conducted with government policy makers, trade unions, and CSOs in Kenya, it emerged that ratification of C 189 is neither straightforward politically, nor universally desired, despite recent efforts to protect Kenyan migrant domestic workers abroad.

Thus this poster explores the logics, pressures, and impediments to ratification of Convention C189, from the perspective of Kenya, a domestic worker exporting country. It aims to provide insight into labour migration origin country decision making around international norm taking. It adds to a larger body of work on ratification of C189, as well as the literature of domestic worker rights claiming.

### **ANNA KOMPATSCHER, *THE RIGHT TO HEALTHCARE FOR UNDOCUMENTED WORKERS IN GERMANY, FRANCE, ITALY***

Germany, France and Italy have ratified numerous international law instruments on Workers' Rights. Both France and Germany have ratified the Global Compact for Safe, Orderly and Regular Migration (GCM). Italy and Germany have ratified the International Labor Organization's Convention on Decent Work for Domestic Workers (ILO C-189). Nevertheless, the protection of socio-economic rights for undocumented workers remains precarious. Especially access to effective healthcare is crucial for this population. They often work in dangerous jobs causing health damages and accidents, and need healthcare just as every other human. Due to their residence status, though, the human right to healthcare is often denied or restricted.

The poster will, firstly, analyse the right to healthcare in the GCM and the ILO- 189 and whether the lack of regular residence affects the entitlement to this right as set out therein. Secondly, it will compare the design of healthcare benefits granted to undocumented workers via three case studies on Germany, France and Italy. The goal is to assess if domestic norms in these countries are compatible with their international obligations.

The three states are in a comparable situation when it comes to the numbers of undocumented migrants and workers living there. Furthermore, the three countries are bound by the same



international and European human rights obligations. Nevertheless, different (legal) cultures and political choices have led to differing legal setups. The comparison between the three states shows the legislative choices exercised on how to treat undocumented workers, exhibits them as not inevitable, and showcases the variety of legal regulations granting or restricting human rights. Albeit to varying degrees, all three states, in stark contrast with the proclaimed universality of the human right to healthcare, restrict access to healthcare for undocumented workers.

## ROUND 2 (SESSION 5-8)

### *Session 5: Panel - Making Access to Socio-economic Rights*

Chair: **Lieneke Slingenberg**

#### **PEDRO SANZ DÍAZ, *ADVANCING UNDOCUMENTED MIGRANTS' ACCESS TO SOCIOECONOMIC RIGHTS: VULNERABILITY AS A NEGOTIATING TOOL***

The legal and practical exclusion of undocumented migrants from human rights available to other categories of migrants – let alone state's nationals – in pursuance of their migration policy goals comes to difficult terms with the very foundations of the international human rights legal framework and the welfare state, which require states to address structural disadvantage of marginalized groups in society by providing them with special treatment and protection to ensure their equal enjoyment of rights. However, these considerations, which have great leverage in relation to other marginalized groups, are largely absent from discussions about undocumented migrants, particularly within the case law of the European Court of Human Rights. This can arguably be explained by its especially unconstrained interpretation of states' right to control migration as an attribute of their sovereignty, with the consequence that undocumented migrants' striking vulnerability stemming from such extensive powers is often overshadowed for the sake of consistency. Drawing on the conceptualization of state membership as the main basis for distributing human rights in contemporary societies, this article provides the argument that there is room to negotiate better protection for undocumented migrants without denying the state prerogative of immigration control. Relying on the contributions made by international and regional human rights treaty bodies beyond the European Court of Human Rights, the argument calls for putting undocumented migrants' vulnerability at the centre of the discussion about their access to human rights and welfare benefits.

#### **PAMELA IJEOMA, *MOBILE TECHNOLOGY ADOPTION AMONG NIGERIAN AND GHANAIAN SELF-EMPLOYED ENTREPRENEURS IN THE NETHERLANDS***

This paper explores the adoption of mobile technology among self-employed Nigerian and Ghanaian entrepreneurs in the Bijlmer area of Amsterdam, the Netherlands. Specifically, it examines the use of mobile phones and investigates the impact of unemployment on immigrants, focusing on the extent to which these entrepreneurs have embraced mobile phone services. Nigerian and Ghanaian immigrants face several obstacles in entering professional, formal work settings in the Dutch labour market. These obstacles include Dutch language barriers, lack of social capital and skills, discrimination, employer preferences, age, unrecognized overseas qualifications and work experience, and legal status. Additionally, the study delves into the relationship between mobile phone technology and immigrant entrepreneurship, providing insights into how mobile technology influences business success. Through a comprehensive literature review, the paper addresses self-employment among Nigerian and Ghanaian immigrants in the Netherlands and their adoption of mobile phones. The findings suggest that mobile technology significantly alleviates the challenges faced by immigrants, offering new opportunities for self-employment. For immigrants marginalized by societal limitations, mobile phones serve as a catalyst for change, providing a cost-effective, durable, and accessible tool that bypasses bureaucratic constraints. The study recommends that the Dutch government support immigrant entrepreneurship, particularly for undocumented, self-





employed immigrants, by providing residence documents to enable them to legally establish their businesses.

**MAEVE POWLICK & PEDRO OLIVEIRA, *EXPLORING INTERGENERATIONAL COLLABORATIVE SPACE WITH UNDOCUMENTED YOUTH: THE YOUTH LEADERSHIP AND RESILIENCE PROJECT***

Grounded in 100 hours of field work connected to the Youth Leadership and Resilience project with Undocumented youth in the Netherlands, this project uses an engaged and co-creative approach to build knowledge about building collaborative relationships across generations. The project evolved based on the desires, input, and needs of participants, including a series of youth-led, arts-based workshops and a culminating event. The following research questions emerged from early fieldwork: What are the critical building blocks and the role of adults in fostering and nurturing youth-adult partnerships with undocumented youth? How can we conceptualize spaces where this type of relationship can flourish? Three key themes relate to the role of adults in youth-adult partnership: finding the role of adult presence, embracing the mess, and fostering bonding and bridging. The project promoted reflection and learning about the experiences of undocumented youth and the role adults can play in supporting them and creating space for them to take the lead. The findings can advance our conceptual understanding of work with youth in two key ways: 1) by providing an example of praxis in co-creative research and 2) by developing a concept of intergenerational collaborative spaces, as an alternative to the safe space/brave space debate.

**SAEED MOKHTARZADE, *IN THE MARGINS: UPHOLDING RIGHTS AND HUMAN DIGNITY FOR UNDOCUMENTED AFGHAN MIGRANTS IN IRAN***

The irregular migration of Afghans to Iran is a long-standing example of labour mobility from south to south. Iran currently hosts approximately 4.5 million Afghan forcibly displaced persons with varying legal status and documents. Although the latest official data for 2022 anticipates over 500,000 Afghans to be undocumented, experts and local authorities observed a sharp increase in the number of irregular migrants' flows entering Iran following the Taliban's takeover of power and the deteriorating humanitarian situation in Afghanistan, in addition to expanded migrant smuggling across the border. Since Iran stopped implementing the Refugee Status Determination (RSD) procedure, most newcomers are adding to the undocumented migrant population, settling extensively in urban areas, and entering the labour market despite a lack of documentation. Economic crises and sanctions have influenced Iran's migration and labour policies for over 40 years. Thus, repatriation has been the dominant migratory policy since 2003. Since then, many undocumented Afghan migrants, mainly single male workers, have been deported. However, despite this consistent practice, the entrance flow has not decreased. This research delves into Iran's Labour Code, examining its ability to safeguard the human rights of undocumented migrants as well as the legally binding international human rights treaties. The goal is to identify normative and practical solutions to the challenges faced by undocumented migrants, as well as assess the applicability of human rights law through analytical and normative methodologies. The study's findings show that undocumented migrants often work in the private and informal labour market, but their illegal employment and lack of legal status risk their socio-economic rights. To ensure the rights of undocumented migrants, including labour rights, non-discrimination, and fair and equitable treatment, this paper recommends modifications in migration policies and legislation to comply with human rights law standards.



**Session 6: Workshop - 2022 – 2024: The road toward HUSHU House, the outcome of a dynamic cooperation of grassroots organizations, NGOs, and the municipality.**

**COORDINATORS: HUSHU HOUSE COALITION**

Rights of undocumented migrant workers, even if formally recognised, must be enforced in practice. Because undocumented migrant workers themselves are not organised, NGOs or civil society organisations must take on this role (advocacy). For successful advocacy, conditions must be met, such as: the NGOs have expertise and moral authority, convincing data and a promising strategy.

Relief versus advocacy

In the Bijlmer, Hushu House, a new Support Centre for Undocumented People, is under development. Hushu means help us help you. Hushu House is an initiative of existing, predominantly small NGOs that have united in ZON, Zuidoost Ongedocumenteerden Netwerk.

During a recent ZON study day, it emerged that assistance (medical, psychological, practical, legal) is highly developed among NGOs; advocacy, however, is absent. This is striking considering the relatively high number of undocumented people living in Southeast.

The questions we address in this presentation include:

- Sense and nonsense of the distinction between relief and advocacy.
- What explains the focus of existing NGOs on relief work?
- Are NGOs aware of the importance of advocacy?
- Are NGOs capable of advocacy?
- What does it take to link relief and advocacy in one organisation?

During the presentation, we will discuss why aid delivery is dominant, whether this is at the expense of advocacy, what advocacy requires from NGOs, possible reasons why it does not get off to a good start and what the possible consequences are. Attention will be paid to the significance of aspects such as NGO size, cooperation, the position of the municipality, alignment of intended goals, data collection and other aspects.

**Session 7: Panel - New Perspectives on Existing Rights Systems**

**Chair: Jessica Klüger**

**BEN MOKHTAR YASSINE, ENVISIONING MULTILEVEL GOVERNANCE IN AFRICA: HUMAN RIGHTS WITHIN THE AFRICAN REGIME OF MIGRATION GOVERNANCE**

This paper aims to dissect a component of the identified "African Regime of Migration Governance" by providing a nuanced understanding of this regime, particularly in the context of human rights promotion. It contrasts this approach with the prevalent securitization observed in the 'Global North's' migration governance strategies. Drawing on my thesis research, this paper delves into the African migration governance ecosystem, emphasizing its integrated and comprehensive nature. The "African regime" incorporates a broader spectrum of considerations, with a significant emphasis on the promotion and protection of migrants' rights.

Using a qualitative methodology encompassing desk and literature review, and participatory observation, my analysis reveals how the regime of migration governance strives to balance security with human rights. This approach aims to manage migration effectively while ensuring that migrants' rights are at the forefront of policy decisions. The presentation will explore how this regime can serve as a potential model for other regions, offering insights into governance structures that prioritize human rights while addressing migration challenges. Additionally, it will shed light on the implications of this regime for undocumented migrant workers, highlighting the comprehensive and humane strategies employed to protect and integrate them within African societies.



**BARBARA VON RÜTTE, CITIZENSHIP FOR UNDOCUMENTED MIGRANTS: THE UNCHARTED POTENTIAL OF THE RIGHT TO NATIONALITY**

The right to citizenship – or nationality – is recognized in Article 15 of the Universal Declaration of Human Rights and has since been included in all major human rights treaties. Still, the right to citizenship has gained little attention and its practical relevance is often disputed. States regularly oppose the adoption of concrete rights in the domain of nationality, arguing that membership in the nation state falls within states’ *domaine réservé*. As a result, human rights protection for individuals in nationality matters is weak and its enforcement in practice is even weaker. Concrete obligations that would include access to citizenship are rejected, namely in a migration context where individuals concerned might not be stateless, but lack an effective nationality. Naturalization procedures are characterized by a high degree of discretion, turning access to citizenship into a political privilege rather than a legal claim. Undocumented migrants are largely excluded from access to citizenship through naturalization. The right to access citizenship in a specific state is denied with the argument that the right to nationality lacks an addressee which would be obliged to respect, protect or fulfil it. The paper explores the mechanisms of denial of the right to citizenship in the context of irregular migration. It argues that the right to citizenship should be re-interpreted to guarantee effective protection also for undocumented migrants. Access to nationality in a legal sense should be linked to effective citizenship and actual links irrespective of a person’s migration status. The paper argues that the principle of *jus nexi* offers a pathway for a rights-based interpretation of the right to citizenship, linking the right to citizenship to a person’s actual connections and their social identity. Such an approach, it is argued, would contribute to making the right to citizenship a reality

**BAHIJA AARAAS, REGULARIZATION THROUGH WITHIN A HUMAN RIGHTS FRAMEWORK. TRANSNATIONAL TIES AND THE RIGHT TO RESPECT FOR PRIVATE LIFE OF IRREGULAR MIGRANTS.**

In this paper the status quo of the ECtHR’s approach regarding the right to respect for private life is addressed when it comes to regularization of unlawful residence of migrants. The right to respect for private life in article 8 of the ECHR is a source of enormous case law of the ECtHR on migration matters. This was already the case in cases concerning the deportation of so called ‘settled migrants’, but in the past decade the provision has also proved to be of great importance in the case of removal after long-term unlawful residence. Inspired from a similar concept in social sciences, ‘transnational ties’ will form the basis for a theoretical analysis of the Courts case law.

**JAN-HENDRIK SEELOW, WHY NOT TALK ABOUT “ONE’S OWN COUNTRY”? HOW ARTICLE 12(4) OF THE ICCPR CAN BE UTILISED TO PROTECT THE RIGHT TO REMAIN**

Article 12(4) of the International Covenant on Civil and Political Rights (ICCPR) protects the right to enter and reside in one’s own country. The provision has a distinct scope, defined by the decisions of the Human Rights Committee (CCPR), that protects close personal ties between an individual and the country they call home. It obliges States Parties to ensure safe entry and residence in one’s own country, a notion that is broader than country of nationality, and more protective than Article 8 of the European Convention of Human Rights (ECHR). Notwithstanding, the ICCPR does not enjoy any particular popularity or application in Dutch proceedings. Based on exploratory interviews and doctrinal research, I identify the reasons behind this and address the questions that necessarily come up when dealing with the provision, about its legal nature, its scope, and direct effect. I conclude that someone who does not have Dutch nationality and has been living here for a long time, and works, has relationships, speaks the language, or shows similar factors and lacks comparable ties to other countries, that that foreigner can rely on Article 12(4) of the ICCPR. The IND must then follow up on their arguments this, regardless of the residence status, the legality of the stay or the interest of the Netherlands in removal. With this article I aim to contribute, by providing arguments, to the domestic application of Article 12(4) and thus to the integration of international obligations into Dutch domestic proceedings and litigation for the protection of the right to remain.



## **Session 8 Panel: Collective Organizing**

Chair: **Anja Eleveld**

### **BERNSTEN, DE LANGE & ROBLEDO CONTRERAS, COLLECTIVISATION OF UNDOCUMENTED LATINO WORKERS IN THE NETHERLANDS DURING THE COVID-19 PANDEMIC**

Migrant workers without residence permits, also known as ‘undocumented migrants’, from Latin America are not very visible in the Netherlands, unlike Indonesians and Filipinos who organise and work together (e.g. in the IMWU (Indonesian Migrant Workers Union) and FNV domestic Workers). By contrast, in the United States, undocumented organised groups consist predominantly of Central and South Americans, which can be explained by ‘proximity’. We see a similar proximity with Latin Americans in Europe, who can easily obtain residence rights and/or visa-free travel in Spain. The group of Latin American undocumented migrants in the Netherlands has various informal ways of informing each other about work and sharing other information. But they are not visible and organised to a large extent. This paper presents research conducted in 2021 that shows that this group became more visible during COVID-19, but collectivity formation was nevertheless lacking (ZonMw funded “Migranten in de frontlinie”, De Lange et al).

The Latin Americans in our study were mainly concerned with keeping their heads above water, especially at the time when domestic work suddenly disappeared and became their main source of income. Some of their survival strategies included living with small groups of people together in one house to keep the cost of shelter low, or starting a ‘business’ to find self-employment without having to depend on an employer. The relative invisibility of this group of undocumented migrants raises a number of questions, such as how they see their future, whether they want to organize themselves to negotiate a better legal status like FNV migrant domestic workers do (for years, unfortunately without results) or beyond? Among other things, our informants indicated that they do not always trust each other, which hinders organization. At the same time, they indicated that they find the Netherlands a safe country and want to stay here, pay taxes, contribute to the economy with their labor, which could be achieved with regularization. A number of informants - working in the Netherlands - had residence procedures under way elsewhere in Europe, seemingly unaware of the risks of ‘early’ intra-EU mobility.

During the pandemic, it was government agencies that broke new ground to support this group of undocumented migrants, a few employers jumped in; but many employers did nothing for the people who usually work in their homes which made them dip into savings and thus turn to agencies, such as the food bank, for the first time.

In this paper, we build on theories and insights on collectivity formation and organisation of e.g. undocumented South Americans in the US or Filipinos and Indonesians in the Netherlands and pay specific attention to the role and importance of physical and digital migrant networks and background characteristics of the migrants concerned. Based on this analysis, we make suggestions to encourage collective organisation among this group of labour migrants with the aim of better realisation of their rights as workers in the Netherlands.

### **DIEKMANN, OEHM & SCHMITZ, POTENTIALS AND LIMITS OF THE GERMAN SUPPLY CHAIN ACT FOR MIGRANT WORKERS: LESSONS FROM THE LORRY STRIKE OF GRÄFENHAUSEN**

The paper explores legal mechanisms and activist strategies for migrant workers to hold corporations accountable for human rights violations. The truck driver strikes in a German town called “Gräfenhausen” over unpaid wages are one example. The truckers driving for Polish companies, which in turn are contracted by German companies, were able to organize a collective protest with concrete and comprehensible demands. In addition, German trade unions, having built-up effective support structures specifically for migrant workers since the 2010s, were able to support the lorry strike.



At the same time, the coming into force of the German Supply Chain Act (GSCA), which requires businesses to prevent, avoid and remediate human rights violations in their supply chains, drew public attention to the strikes and prompted political intervention. Although the GSCA addresses labour rights violations, it does not account for the vulnerability of migrant workers. When seeking accountability, migrant workers face exacerbated obstacles. On this point, the paper assesses the potential and limits of the GSCA as a framework for collective action and for obtaining remedy. Guiding this assessment are the United Nations Guiding Principles on Business and Human Rights which draw attention to vulnerable groups like undocumented and precarious migrant workers; and the ICRMW in turn provides guidance on applying universal rights to migrant workers.

In the end, the "Gräfenhausen" case resulted in partially positive outcomes as unpaid wages were paid. Notably, activist strategies, union organizing, and intervention by the administrative supervising authority under the GSCA, the Federal Office for Economic Affairs and Export Control (BAFA), launching an investigation whether companies with commercial links fulfilled their Due Diligence Obligations, all contributed to this result. BAFA, aside from ex officio investigations, offers a grievance mechanism for rights-holders. However, its legal basis, the national "Administrative Procedures Act," was not designed for a transnational grievance mechanism in supply chains. How then does it perform? What adjustments are necessary to ensure accessibility and effectiveness in practice?

**LALAIN SIRUNO**, *THE RIGHTS-CLAIMING OF IRREGULAR FILIPINO MIGRANT DOMESTIC WORKERS IN THE NETHERLANDS*

While precise figures are unavailable, a migrant organisation estimates that between 3,000 and 8,000 Filipinos reside irregularly in the Netherlands. Many arrive with tourist or au pair visas, often with the explicit intention to overstay. They typically work in the domestic sector – as cleaners, caregivers, or child-minders. They contend with multiple precarities. For one, their irregular status restricts their access to welfare and renders their ongoing presence in the country highly insecure. The incessant possibility of getting apprehended by authorities also instils fear and stigma. They lack legal recognition as workers befitting rights, creating precarious ‘no work, no pay’ conditions and no entitlements to pension, holiday pay, or sickness benefits.

Despite of, and owing to these precarities, many of them are actively involved in organisations campaigning for recognition and claiming substantive rights. Many are members of the Dutch Trade Union Confederation and the International Domestic Workers Federation, and they organise campaign events to mobilise public support and lobby the Dutch parliament. They engage with government authorities, particularly at the local level, and speak publicly about their lived realities. During the pandemic, they played an important role supporting fellow migrants, making sure they have access to basic needs and COVID-19 testing and vaccinations. Drawing on participant observations and interview data with migrants and key informants, this paper unpacks the interaction between migrant agency and macro-level structures that produce irregularity. It contributes new insights on the conditions under which, and the processes through which irregular migrants engage in ‘citizen’ activism and political activities, making a case for how irregular migration status does not unequivocally inhibit the capacity for rights-claiming.



## ROUND 3 (SESSION 9-12)

### *Session 9: Workshop – Integrating Indigenous Perspectives: An Intersectional Approach to Claiming Rights of Women Migrant Workers*

COORDINATORS: **MYRA COLIS, MABIKAS FOUNDATION-THE NETHERLANDS**

In today's marginal world, the labor rights of migrant women are often neglected, leaving them vulnerable to exploitation and marginalization. Within the Netherlands, a diverse array of women migrants face unique challenges, ranging from precarious work conditions to legal exclusion. This workshop aims to illuminate these multifaceted issues, with a particular emphasis on the struggles faced by three distinct groups: Filipino au pairs turned domestic helpers, migrant mothers, and undocumented workers. By tapping on actionable steps, this workshop entails a commitment to incorporate indigenous and collectivist perspectives in efforts to empower women migrant workers through an intersectional lens.

### *Session 10: Panel - Migration Status Possibilities*

Chair: **Greta Albertari**

**KEVIN FREDY HINTERBERGER & JOHANNES PEYRL, ENFORCING THE RIGHTS OF UNDOCUMENTED MIGRANT WORKERS – RIGHT TO REMUNERATION AND RIGHT TO STAY**

Undocumented migrant workers have rights, but often they face different legal and practical obstacles to enforce these rights. We want to examine this problem from two legal perspectives. First, Art 6 Directive 2009/52/EC offers an enforceable right to remuneration (see also Art 17 Charter of Fundamental Rights, Art 1 Protocol No 1 ECHR). In this regard, we want to challenge certain animosities of the Austrian legal order, that the work contract of undocumented migrants is void according to the case-law of the Austrian Supreme Court. Second, we want to analyse, if a right to stay (right to regularisation) can be derived from EU or international law to enforce the rights of undocumented migrants (e.g., Art 6(4) EU Return Directive).

**BALIL ZAHOOR, ECONOMIC MIGRANTS AND CONVENTION REFUGEES ARE ALL REFUGEES: RESTRICTIVE CONVENTION DEFINITION AS CONTRIBUTORY FACTORS FOR PRECARIOUS AND DESPERATE JOURNEYS UNDERTAKEN BY ECONOMIC MIGRANTS**

Asian and African countries with political instability have been the largest producers of immigrants so far. Among these, the developing countries brought forward a greater ratio of Skilled Workers or High Net-worth Individuals (HNWIs) considering migration to developed countries. The objective these Skilled/HNWIs immigration aspirants has not just necessarily been a refuge sought rather; they have mainly wished to contribute their skills/capital in a better economy while saving themselves from the regional troubles of their respective home countries too. Furthermore, in last 15 years, migration policies for Skilled and Entrepreneur Visas became very strict and these Skilled Workers/HNWIs started considering "Refugee Claim" as one of the possible (and easier) routes for immigration because of it having lesser eligibility requirements.

Developed countries (including Canada), should therefore allow priority pathways to such refugee claim applicants because they will not be coming in to become a burden on the economy rather, they will contribute towards further development of these countries with their skills and business capital. This can be possible through introducing a new immigration category (such as a priority stream) or through inclusion of some clauses of additional consideration in the existing Asylum and Refugee Law and this can allow the developed countries to easily take the best first out of all Refugee Claim applicants.



**OLUWASEYI OLAWUYI, ADVOCATING FOR RIGHTS AND DIGNITY OF UNDOCUMENTED MIGRANTS: I4SAFE MIGRATION HUB AS A CASE STUDY**

Nigeria, like many African countries, grapples with economic instability, lack of employment opportunities, political unrest, corruption, insecurity, and social inequalities. These push factors drive desperate Nigerians and those forcibly displaced due to incessant conflicts and natural disaster to seek better prospects abroad. Undocumented migrants, particularly those from Nigeria in Europe and other advanced nations, face significant human rights challenges which include exploitation and abuse, lack of legal protection, financial instability, and difficulty in regularizing their immigration status. This paper examines the pivotal role and activities of the I4Safe Migration Hub, an initiative by Initiatives for Safe Migration and Social Justice, aimed at advancing human rights among undocumented Nigerian migrants abroad. The hub's efforts focus on promoting regular migration, thereby preventing potential migrants in Nigeria from falling into the hands of human smugglers and enabling them to make informed migration decisions. Activities at the I4Safe Migration Hub, encompass providing pre-departure information and education, legal assistance and advocacy, access to essential services, community support and empowerment, awareness and education, and advocacy for policy change. Furthermore, the I4Safe Migration Hub offers legal support and advocacy services to undocumented Nigerian migrants' abroad through collaborative efforts of partners', by facilitating access to vital services such as healthcare and education, fostering community support networks, raising awareness about migrants' rights, and advocating for policy reforms to enhance migrants' living conditions. Through these multifaceted efforts, the I4Safe Migration Hub strives to address the complex challenges faced by undocumented Nigerian migrants abroad while also tackling the root causes leading to irregular migration in Nigeria.

**Session 11: Panel – Advancing Complementary Implementation of Global Migration Law Instruments**

**Chair: Alan Desmond**

**FATIMA DIALLO** (CHAIR OF UN COMMITTEE ON MIGRANT WORKERS)

**EDGAR CORZO SOSA** (EXPERT MEMBER AND FORMER CHAIR OF THE UN COMMITTEE ON MIGRANT WORKERS)

**VASSILII YUZHANIN** (HEAD OF THE INTERNATIONAL LAW UNIT, IOM GENEVA)

**YOUNOUS ARBAOUI** (VU UNIVERSITY AMSTERDAM)

This Panel will be dedicated to the upcoming General Comment no. 6 of the UN Committee on Migrant Workers on the convergence between the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Global Compact for Safe, Orderly and Regular Migration. Paper titles forthcoming.

**Session 12: Panel - Zero-sum game of economic migration: Reconceptualising 'Integration through Rights' for Undocumented and Precarious Migrant Workers**

**Chair: Sonia Morano-Foadi, Discussant: Moritz Jesse**

This panel presents a ground-breaking approach to understanding the complex challenges confronting undocumented and precarious migrant workers. Through an exploration of micro and macro structures, the papers in this panel delve into the intricate dynamics shaping the intersection of mobility, social and labour rights, and legal frameworks for full integration. Central to our collective inquiry is the proposition that prioritising a 'rights guarantees' approach for these migrant workers could catalyse transformative institutional change. However, despite potential benefits for host societies, these gains often fail to extend to the workers themselves, leaving them vulnerable to exploitation and devoid of meaningful integration opportunities, regardless of their skill level or employment status. The panel features three papers examining the legal and policy frameworks on



undocumented migrants within the EU legal framework and in the UK. Through an exploration of migrant agency, the panel seeks to uncover strategies employed by exploited migrants to mitigate the adverse effects of coercive migration regimes and forge alternative pathways to integration amidst precarity. Drawing on the expertise of both internal and external members of the Migration & Refugees Network at Oxford Brookes University, this panel emerges from a series of symposiums and a Special Issue titled 'Zero Sum Game of Economic Migration'.

**ALEZINI LOXA, *IRREGULAR MIGRATION AND THE INTERNAL MARKET: A TALE OF UNEASY BEDFELLOWS?***

EU law making in the field of migration in general and irregular migration specifically has been criticised for its security-based approach, the dehumanization of migrants and the continuous failure to uphold human rights. Indeed, the current legal framework, with its focus on border controls and fight against crime, does not offer much leeway for the protection of undocumented migrants. The paper turns the focus away from the Area of Freedom, Security and Justice (AFSJ), and it investigates the promises and perils of using internal market arguments and legal bases for the protection of the rights of undocumented migrant workers.

It does so by looking at the framework regulating irregular migration today and juxtaposing it to the first Commission attempt to regulate irregular migration under an internal market legal basis in the 1970s. Specifically in 1976, the Commission presented a proposal for a Directive on the harmonization of laws in the Member States to combat illegal migration and illegal employment (COM(76)331 final). The proposal was put forward under an internal market legal basis with the purpose of ensuring a level playing field for all the workers employed in the Member States, while at the same times it also included certain safeguards for migrant workers.

Contrary to the liberal approach taken by that initial proposal, in the 1990s fora of intergovernmental cooperation, the regulation of irregular migration became subsumed under the broader horizon of security considerations. Against this background and considering ECJ case law (C-311/13, Tümer and to a more limited extend C 93/18, Bajratari), the paper traces the potential of protection for undocumented migrants when the focus is on their economic function in an internal market. The investigation adds further nuance to our understanding of what EU law can and cannot deliver for undocumented migrants and the contribution questions to what extent litigation claiming rights based on economic activity can challenge the exclusionary approach of EU law.

**MATILDE VENTRELLA, *PREVENTING LABOUR EXPLOITATION OF UNDOCUMENTED MIGRANTS IN THE UK BY ADOPTING A TOLERATING POLICY***

The paper will examine the status of undocumented migrants who become victims of labour exploitation in the UK. UK immigration law does not give many opportunities to regularise the situation of undocumented migrants living within their territory. The European Court of Human Rights has ruled that irregular migrants should not be neglected by States, as their position of vulnerability can lead them to become victims of human trafficking. The ECtHR added that victims and potential victims 'need support even before the offence of human trafficking is formally established; otherwise, this would run counter to the whole purpose of victim protection in trafficking cases'. Whilst the UK legislation on slavery and human trafficking, permits the identification of victims even when they are outside the British territory and are apprehended in small boats, for example, the recent developments on irregular migration can make the identification and protection of victims very difficult as the priority of these legal developments is to expel all irregular migrants and return them to their countries of origin. The automatism between the irregular status and the expulsion of all migrants who live in this situation, can make them targets for criminal organisations aiming at exploiting their situation of irregularity as they have no alternatives than absconding. Returning migrants who are not entitled to live on the British territory has been a





failure as the Rwanda deal. Therefore, many irregular migrants live in the UK with no possibility of being regularised and integrated.

Based on these premises, the paper will propose a policy of toleration towards irregular migrants which could entail them to some job opportunities and some social rights. This analysis will be based on a comparative study between the UK and other EU countries where the tolerating policy has been adopted for many years.

**TAMSIN BARBER & SONIA MORANO-FOADI, *SHIFTING POWER DYNAMICS FOR VULNERABLE EU AND ASIAN CITIZENS WORKING IN THE UK – THE STRUGGLE BETWEEN RIGHTS AND EXPLOITATION***

This paper is based on an ongoing study which aims to evaluate the impact of the Modern Slavery legal and policy framework on Small and Medium Enterprises (SMEs) and non-standard employment and to protect vulnerable migrants working in the UK. The focus of the project is mainly on EU and Asian undocumented migrants and informal workers. The increasing vulnerability of migrant workers to labour exploitation poses a significant challenge to social integration. SMEs, a significant employer of migrant workers, are identified as particularly prone to issues of exploitation and modern slavery. This problem is attributed to a system that prioritises immigration control over workers' rights enforcement (Sehic and Vicol 2023). Asian migrant workers, in particular Vietnamese nationals, especially in the nail and beauty industry, are highlighted as particularly at risk, with a simplistic narrative categorising them either as victims or lawbreakers. Then, Post-Brexit, concerns arise for the rights and well-being of vulnerable EU citizens in the UK, protected by the Withdrawal Agreement but facing challenges in acquiring legal residency. Our study aims to fill a research gap, focusing on vulnerable Vietnamese and EU citizens in SMEs and advocating for a rights-based approach to integration, challenging xenophobic discourse and exploitative practices in the UK labour market. Overall, the paper delves into the complex interplay between support, solidarity, and exploitation under neoliberal economic conditions, shedding light on the nuanced challenges faced by Asian migrant workers and EU citizens alike.

## **ROUND 4 (SESSION 13-15) - 19 JUNE 2024**

### **Session 13** *FNV Migrant Domestic Workers Theatre Collective: Second-class Citizens in a Globalized World*

**Moderator: Dan Borjal**

**Panel members: Lita Octavia, Joann Reyes and Joy Escano.**

The United Nations estimates that there are more than 280 million international migrants around the world today. The main reasons for this phenomenon are wars, poverty and the global climate crisis.

One of the greatest ironies of our times is that, in our globalised world, borders have been abolished to give way to the free movement of money and commodities between countries, but borders are being built all around for people in search of safety or a better life for themselves and their families.

Undocumented migrants in the Netherlands experience invisible borders that reduce them to the status of 2nd-class “citizens”. They are denied access to a bank account, only limited access to health care, no legal right to housing – to name a few. In an increasingly digitalised world, without a bank account means no access to certain supermarkets, public transport, and other basic necessities to live a normal life.



The programme will consist of a theater play performed by members of the FNV Migrant Domestic Workers Union that will portray the exclusion faced by undocumented migrants, particularly undocumented migrant domestic workers, to be followed by a panel discussion and Q&A between the panel and the audience for policy changes that are needed to rectify this unjust situation.

### ***Session 14 Panel - Business as usual? Employers' part in protecting the human rights of migrant workers***

**Coordinator: Dutch Association for Migration Research (DAMR)**

**Chair: Tesseltje de Lange**

This panel has four papers each presenting a different take on whether the role of employers influences making undocumented migrant worker rights a reality. The panels' contributions sit at the intersection of policy fields less frequently explored in migration studies. At the same time, these policy fields have an impact on employer responsibilities towards migrant rights that we argue have been largely neglected. The panel remedies this along various lines: the first paper addresses finance and investment and the second consumer protection and internal market policies. In combination, these two presentations bring a novel dimension to the conference, in that they look beyond migrant labour related international treaties, nonetheless touching upon international and European law that bears relevance for migrant labour – and employers or those workers. The final two papers examine migrant employers' practices using digital platforms, and migrant workers' access to justice in claiming rights from their employers. Here, the panel is particularly relevant in light of the non-ratification in the Netherlands of ILO Convention C-189. Domestic labour remains difficult given its invisibility in the private home, and rights claims become more complicated as platform companies can shift responsibilities to employee or employer, and adding a third party in the business relationship raises new regulatory questions.

In sum, the four papers offer an interdisciplinary angle, and while they take international, EU and some national laws, policies and practices on board, they also complement the analysis with early results from empirical work.

In doing so, the authors combine different business centered approaches to the effective protection of migrant rights, with scholars from the UK, Netherlands and Croatia, and a practitioner, PICUM, stationed in Brussels.

#### **LILANA KEITH, PICUM, *UNDOCUMENTED WORKERS' RIGHTS AND COMPLAINTS MECHANISMS***

Will be presenting employer obligations vis-à-vis migrant workers and complaint mechanisms available to (undocumented) migrant workers in claiming these rights

#### **BRIDGET ANDERSON & EDA YAZICI, *IMAGINING THE EMPLOYER: NEW FINANCE CAPITAL, MIGRANT WORKERS AND EMPLOYERS***

Financialisation is one of the essential features of neoliberal capitalism. The rise of investment funds, hedge funds and private equity firms has a profound impact on corporate strategy and control over companies' business practices (Maher and Aquanno, 2021). In Britain, new finance capital as a fusion of financial and industrial capital (Maher and Aquanno, 2022) shapes many key sectors of the economy. Despite this, the influence new finance capital has on workplace precarity has been relatively under-researched. In this paper, we present preliminary reflections on the relationship between new finance capital and the conditions of migrant workers in four sectors in Britain. Drawing on early insights from the PRIME Project which analyses the conditions and politics of



irregular migrants in Europe in agriculture and food processing; older adult care; waste management and recycling; and restaurants, we ask how we imagine 'the employer' and what this means for conducting research with migrant workers in an era of financialisation. In Britain, new finance capital in older adult care has increased rapidly with the four largest care home providers owned by private equity companies, hedge funds, or offshore investment firms. Similarly, the multinational companies that provide municipal waste services in many local authorities have used private equity disposals to avoid anti-trust concerns. Private equity also increasingly dominates the restaurant and food processing sectors. By tracing the role of new finance capital in the supply chains of the four sectors we are working in, we consider the impact of financialisation on migrant workers' rights and conditions. We use this to call for a sustained engagement with what patterns of ownership and subcontracting mean for how we understand 'the employer' and its implications for migration researchers.

**IRIS GOLDNER LANG & TESSELTJE DE LANGE, *BANNING PRODUCTS OR BANNING MIGRANT WORKERS: CONSUMER PROTECTION AT WHAT COST?***

Central to this paper is the proposal for an EU regulation on banning products made using forced labour (COM(2022) 453 final 2022/0269(COD)), which falls in the policy area of the EU internal market and consumer protection. To what extent might such a regulation contribute to making migrant's rights reality? The paper critically analysis the content, objectives of and first debates on the proposal that aims to contribute to goals set in ILO Conventions and protocols on forced labour, SDG 8.7 and is linked to the Commissions' proposal for a directive on corporate sustainability due diligence. The paper will present preliminary findings from HorizonEU projects Prime & DignityFIRM, e.g. discussions with stakeholders in the agriculture supply chain. The proposed regulation can be seen as part of the Unions 'externalisation' of social rights of (migrant) workers, "leveraging its international market power (...) [to] improve labour standards around the globe." (Eustace 2023). It may also be seen as another strong arm action of the EU, like chain liability for employer sanctions forcing public responsibilities upon employers (De Lange 2011). Does it thus not coerce businesses into banning migrant workers? The main consequence of the proposal would be that companies in the EU must find reliable suppliers and conduct due diligence on supply chains (Fruscione 2023). This then raises the question of what the regulation expects of employers in practice? Does it suffice to only do business with partners who have an business certification (Martin 2021)? Our analysis offers migration scholars insights from underexplored policy fields and hopes to feed into the ongoing policy debate on consumer and corporate responsibility for banning products resulting from forced labour, without banning or tainting migrant labour.

**COLLEEN BOLAND, *NAVIGATING DIGITAL (HYBRID) MARKETPLACE LABOR PLATFORMS: MIGRANT EMPLOYERS AND CARE WORK IN AMSTERDAM***

Scholarship has addressed the domestic work sector and feminized global care chains, arguing such work is societally undervalued and can generate dependent and vulnerable positionality (Peterson, 2007; Sassen, 2008). More recently, digital platforms or social networks connecting migrant domestic employees to employers portend new informal modes of labor relationships. Studies to date examining platformization and migrant work direct less attention towards domestic work (Ticona, Mateescu, and Rosenblat, 2018). Moreover, few studies examine the employer perspective—or specifically migrant employer perspective—when inquiring into digitally mediated domestic work (Hunt, 2020; Lundström, 2013). Given this problematization, the Netherlands becomes a relevant case study: on the one hand, it is critiqued for sub-standard domestic work protections; on the other, evidence demonstrates that cities like Amsterdam host migrant populations engaging in precarious domestic work, with migrant employer populations seeking these services digitally. Building upon literature that has already offered the irregular migrant domestic worker perspective, this study asks to what extent migrant employers are aware of the applicable domestic care work regulation and/or workers' legal status and rights, their perspective on such conditions and regulation, and if digital platforms mediating domestic work play any role their awareness or perspectives. It presents



findings on rights awareness against a backdrop of globalized commodification and exploitation of migrant workers' reproductive labor, in light of future regulation of platformization in the EU "human centered" digital transition.

### **Session 15 Workshop – The Role of Municipalities in Making Rights a Reality**

COORDINATED BY **THE MUNICIPALITIES OF AMSTERDAM** (ANOUK VAN NULAND) & **UTRECHT** (JAN BRAAT AND NIENE OEPKES)

The city of Amsterdam and Utrecht distinguish between two different groups of people without official documents that reside, live and work in the city. This workshop will outline the different schemes and programmes that the cities offer for these two different groups, and will take a look at the position of the local government within the larger framework of stakeholders, and the possibilities and limitations of law and regulations. It will also address challenges encountered and, together with the participants, take a look at what the national developments mean for cities and these groups in the future.

## **ROUND 5 (SESSIONS 16-19)**

### **Session 16 Workshop - Negotiating Tricky Situations in Paid Domestic Work**

WORKSHOP MODERATORS: **DR. JING HIAH & THE NANNY SOLIDARITY NETWORK**

Paid domestic work is said to be the fastest growing sector in the platform economy in industrialized countries. However, work in the platform economy is often poorly paid, and lacks legal protection and job security. At the same time, platforms have created new avenues for work and income for (undocumented) migrant workers as well. This brings to the fore various challenges for both workers and their service recipients in negotiating fair working relations and conditions. Ever thought about how to fairly negotiate working relations and conditions in receiving or providing services in cleaning/caring? This workshop addresses various tricky situations that both workers and employers/families encounter while they navigate the digitalized labor market.

### **Session 17 Panel - The impact of micro-social realities of labour migration for the construction of new international strategies of working together for NGOs.**

**Coordinators: Thamara Cruz - [Siempre NGO](#)**

**Translation: Irene Manganini, Mónica Ávila Cúrras**

This panel aims to establish a dialogue and exchange experiences of the participants, based on their experiences as migrants and as scholars in the field of migration. A human rights perspective connects the panellists, ensuring the human rights perspective, and a non-discriminatory approach to fundamental rights, including the right to decent salaried work, as a promoter of progress and not of precariousness or inequality. In this sense, the conceptualisation of this legal framework allows us to address human mobility as part of the processes of development and globalisation, characterised by the elimination of barriers and free movement of economic capital, goods, products and thus human capital.

First, the importance of demonstrating the legislation, conventions and international agreements to assure the human rights of migrants as individuals is addressed. One of the main reasons for migrating is the search for a decent life, and the vehicle is decent work. This labour force has been, is, and will be the engine of development in the global North and South countries. In this sense, it is



essential to strengthen the work of social organisations to defend the causes that violate human rights, but with the support and coordination of international organisations responsible for protecting populations ‘on the move’. Secondly, a case study of the new configurations of migratory flows in one of the main migrant corridors, Mexico-USA has seen a significant increase in irregular migration from Central and South America is presented. These movements are considered a mass exodus in the form of migrant caravans, which generated the policy of issuing Visas for Humanitarian Reasons (2018 to 2019), which allowed people to have documents to access employment, health services and other rights.

Finally, we consider a micro perspective, in which two panellists whose analysis focuses on the work with migrant women in Belgium and Spain, carried out by non governmental organization Siempre, have documented the discrimination and institutional violence that prevents them from having decent working conditions.

In the context of the COVID-19 pandemic, it has been confirmed that migrant women play a crucial role in essential tasks, especially in care and cleaning work in Belgium and Spain. This phenomenon was already evident before the pandemic and became indispensable during COVID-19. By showing the precariousness and risk of women workers due to their migratory status, it became a subject of attention for organizations in the defense of labour and feminist rights. They are migrant women who, under the categories of migration such as family reunification, internal transmigration, asylum seekers and refugees, lack other work opportunities other than in the care sector, as part of their status as irregular migrants.

In the last decade, the so-called “undocumented” women working in these sectors have led social struggles, and socio-political organising of trade unions and have protested in front of European institutions in Brussels. Their goal is humanitarian regularisation, which would allow for access to health insurance, labour rights, pension contributions and disability protection.

The increase in migrant mobility highlights the need to restructure the economy of crucial sectors such as care, cleaning and agriculture. The question arises as to how to address these situations, ensuring labour rights, recognition of regularised stay and comprehensive protection for those who perform this essential work.

Our attention is focused on migrant women, often invisible in welfare policies, who provide services almost for free or at low wages due to their migratory status, their origin and the language barrier. Economic precariousness, lack of recognition and exposure to violence, together with the legal invisibility of their problems, pose 4 significant challenges in European countries. Inequality is exacerbated by governmental reluctance to reform labour systems, recognise the value of essential work and guarantee equal opportunities, linked to migrant origin and status.

Immigrant women in the Global North show enormous resilience in the face of a dearth of substantive support in addressing physical and mental health issues, lack of training to improve their employability, language barriers, the inability to report labour abuses, and structural and domestic violence. The implementation of inclusive, gender-sensitive and comprehensive policies that address the complexities of care work in contemporary society.

Civil society organisations play a fundamental role in providing support and highlighting the precariousness and inequalities faced by migrant women. These women are often racialised and regardless of their level of professionalisation, are subjected to precarious working conditions, especially in the field of care work in private settings, such as family environments, or when employed through temporary contracts funded by the government-subsidized “service voucher” system (Dienst Cheques/Titre en services).



These jobs not only perpetuate the economic difficulties these women will face in their old age, affecting their pensions but also negatively impact their physical health due to the use of chemical products and the lack of regulation in the materials used for their work.

**Rosa Denis and Thamara Cruz, *The Resilience of Migrant Women Who Work in Essential Jobs and the Inequalities They Face***

In the context of the pandemic, it has been confirmed that migrant women play a crucial role in essential tasks, especially in care and cleaning work in Belgium and Spain. This phenomenon was already evident before the pandemic, and became indispensable during COVID-19.

indispensable during COVID-19. By showing the precariousness and risk of women workers due to their migratory status, it became an issue of attention for labour rights and feminist organisations. It is migrant women who, under the categories of migration such as family aggregation, internal transmigration, asylum seekers and refugees, find this option as their first work experience, and irregular migrants as their only one.

In the last decade, the so-called 'undocumented' women working in these sectors have led social struggles, organising themselves into trade unions and demonstrating in front of European institutions in Brussels. Their goal is humanitarian regularisation, allowing access to health insurance, labour rights, pension contributions and disability protection.

In the context of the pandemic, it has been confirmed that migrant women play a crucial role in essential tasks, especially in care and cleaning work in Belgium and Spain. This phenomenon was already evident before the pandemic, and became indispensable during COVID-19.

indispensable during COVID-19. By showing the precariousness and risk of women workers due to their migratory status, it became an issue of attention for labour rights and feminist organisations. It is migrant women who, under the categories of migration such as family aggregation, internal transmigration, asylum seekers and refugees, find this option as their first work experience, and irregular migrants as their only one.

In the last decade, the so-called 'undocumented' women working in these sectors have led social struggles, organising themselves into trade unions and demonstrating in front of European institutions in Brussels. Their goal is humanitarian regularisation, allowing access to health insurance, labour rights, pension contributions and disability protection.

The increase in migrant mobility highlights the need to restructure the economy in crucial sectors such as care, cleaning and agriculture. The question arises as to how to address these situations, ensuring labour rights, recognition of regularised stay and comprehensive protection for those who perform this essential work?

Our focus is on migrant women, often invisible in welfare policies, who provide services almost for free or at low wages due to their migratory status, their origin and the language barrier. Economic precariousness, lack of recognition and exposure to violence, together with the legal invisibility of their problems, pose significant challenges in European countries. Inequality is exacerbated by governmental reluctance to reform labour systems, recognise the value of essential work and ensure equal opportunities, linked to migrant origin and status.

Migrant women in the Global North show enormous resilience in the face of a dearth of substantive supports in addressing physical and mental health issues, lack of training to improve their employability, language barriers and inability to report labour abuses, structural and domestic violence. The implementation of inclusive, gender-sensitive and comprehensive policies that address the complexities of care work in contemporary society.



**Elia Catalina Cruz Barajas, *Work visas for humanitarian reasons do not stop migrant caravans***

In Mexico we have a new migratory configuration, the 'Caravanas Migrantes', conceptualised as solidarity movements that allow migrants to protect and accompany each other, in order to face the risks involved in crossing Mexican territory. Some authors categorise them as organised social movements with a common purpose, which is to reach the United States. President López Obrador's proposal implemented at the beginning of his administration was one of open arms to dignify and not criminalise migrants, granting one-year work permits for humanitarian reasons, but these measures were immediately halted by the then president of the United States of America, Donald Trump, forcing him to backtrack and thus turning Mexico into a buffer country. This measure has only made things worse so far in 2023, as the number of caravan members has increased, and there have also been several incidents that threaten their human rights and integrity. According to a UNHCR report, more than 50% report experiencing violence, 94 people reported being victims of kidnapping in Mexican territory, 73 men and 21 women (January to November 2023, INM), buses with 57 unaccompanied children and adolescents were registered in Chihuahua, as well as accidents on buses carrying migrants, the fire in an INM shelter in Ciudad Juárez where 40 migrants died and dozens were injured.

*The migrant crisis today more than ever requires agreements and strategies that at the very least protect fundamental rights, activate the economy and promote inclusive citizenship. It is urgent to rethink the approaches of international organisations in order to generate real commitments and solutions. Temporary work visas and humanitarian visas are mechanisms that help to mitigate but it is important to apply sanctions to those who profit, abuse and benefit from migration.*

**Jean Cadet Odimba OnEtambalako Wetshokonda†, *The Role of NGOs in Compliance with Labor Rights of Undocumented Migrant Workers***

The International Organisation for Migration (IOM) and the International Labour Organisation (ILO) will work closely with Non-Governmental Organisations (NGOs) as set out in their constitutions. (NGOs) as set out in their constitutions. This collaboration covers a wide range of situations and reflects the diverse relationships between the parties involved. NGOs can partner with IOM, provide services, implement projects, receive funding and benefit from its technical cooperation.

Together, IOM, ILO and NGOs address issues related to the management of undocumented migration at the global level. NGOs play a crucial role in promoting regular labour migration, fostering socio-economic development in countries of origin, transit and destination, and protecting the rights and integrity of migrant workers.

It is essential that NGOs dedicated to protecting the labour rights of undocumented migrant workers are established in each country that has ratified the ILO convention. These organisations have the responsibility to defend labour rights, push legislative agendas and set domestic standards to ensure that undocumented migrant workers fully enjoy their labour rights.

In the labour field, it is important to strengthen the cooperation between the ILO, IOM and Human Rights and Humanitarian Rights NGOs in order to generate a more active dynamic to put pressure on governments and to create the necessary conditions for the labour care of undocumented migrant workers, who suffer the consequences of the non-application of the ILO conventions on the labour rights of migrants, which should also be applied to undocumented migrants who for some reason were forced to migrate without any documents and who, for this fact alone, should deserve better attention, especially if it is about sacred rights related to work.

**Session 18 Presentation Presentation from IDWF in Organizing MDWs Worldwide: Experiences in Asia, Middle East and North Africa (MENA) and North America**

**Chair: Lalaine Siruno (in-person), Chat Moderator: Conference Volunteer Team**



**COORDINATOR: BARIYAH, INTERNATIONAL DOMESTIC WORKERS FEDERATION (IDWF)**

International Reports from the IDWF Sister Organizations in Asia, Latin America and This presentation will entail background information of undocumented MDWs in some regions, experiences of why they become undocumented, factors influencing MDWs becoming undocumented, experience in organizing MDWs and focus advocacy for undocumented issues.

**Session 19 Panel – Civil Society in Labour Organizing**

**Chair & Translation: Thomas Spijkerboer, Laura-Camille Cyr**

**FATMA RAACH, ANALYSIS OF THE INSTITUTIONALIZED AND INFORMAL SOLIDARITIES TOWARDS MIGRANTS IN TUNISIA: THE SOLIDARITY A WAY OUT OF HUMILIATION**

This paper focus on the analysis of the different types of solidarities towards migrants in Tunisia after the February 2023 hate speech. The research and data collected by many NGOs in Tunisia shows that cases of violence increased after this date and the correlation between the violence and this political fact was established. The various existing data confirms the responsibility of the Tunisian state authorities for the violations committed on Tunisian territory, including border areas under the effective control of the Tunisian State. The scale and nature of human rights violations committed between July and October 2023 against migrants, refugees and asylum seekers were very particular. In this paper, we will first describe and classify the different typologies of violent acts and violations of migrants' rights: Forced displacement Theft and destruction of property and psychological violence, arbitrary arrests. Afterwards, we will analyze the role played by both institutional bodies, NGO's and individuals in order to reinforce the access of the migrants' victims of violence to their rights.

The analysis of the different responses to this violence will be used as a criterion in order evaluate the role of the civil society and the challenges they face when advocating for the rights of migrants.

This research is based on mixed method since it combines qualitative research and quantitative research. Methodology. Interview with representatives of NGO's, national institutions and victim of violence are done in order to collect the data. The analysis of the reports and studies prepared by different NGO's are also consulted.

**ILSE VAN LIEMPT, MINKE HAJER, ANNA ENSING & MARIA BRUGUETAS (FAIRWORK), EXCLUSION AS DEFAULT: THE LEGAL AND POLICY DYNAMICS AROUND THE PRODUCTION OF IRREGULAR MIGRATION IN THE NETHERLANDS**

This paper presents an analysis of the legal and policy infrastructure surrounding irregular migration in the Netherlands. Using the concept of "irregularity assemblage," it explores the multifaceted factors contributing to irregular conditions for migrants at the intersection of migration, employment, and welfare systems. Through a qualitative analysis of 25 years of policy trends, supplemented by expert interviews and case studies from the NGO FairWork, the paper illustrates the complexities of irregular migration governance in the Netherlands. Examining the policy areas of work, healthcare, housing, juridical assistance, and financial services, the paper highlights the complexities of migrant irregularity in the Netherlands. The findings demonstrate how the Dutch welfare state has become a tool for migration control, normalizing exclusionary practices to such an extent that the exclusion of irregular migrants becomes the default. Moreover, we demonstrate how this normalization can cause additional layers of exclusion for irregular migrants. This exclusionary trend reflects broader neoliberal shifts in welfare policies, marginalizing irregular migrants and complicating their access to essential services and legal protections, ultimately increasing their vulnerability to exploitation.





**FRANCK IYANGA, THE EXPERIENCE AND ROLE OF A MIGRANT UNION IN THE DEFENSE AND PROTECTION OF THE RIGHTS OF MIGRANT WORKERS: CASE OF MOROCCO (L'EXPERIENCE ET ROLE D'UN SYNDICAT DES MIGRANTS DANS LA DEFENSE ET LA PROTECTION DES DROITS DES TRAVAILLEURS MIGRANTS: CAS DU MAROC)**

Today, migrant workers are estimated at nearly 160 million out of a total of 290 million people on the move throughout the world, and represent 5% of the global workforce, making them invaluable players in the development of their countries of origin and destination through remittances and the expertise imported and exported by both sides.

Despite their contribution, most of them continue to be second-class citizens because of their migrant status and remain victims of various kinds of abuse in their workplaces within their host societies. They are subject to discrimination, marginalisation, injustice, social and wage inequalities and often to unfair dismissal without notice.

There are legal frameworks that define the rights and duties of these migrant workers: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the United Nations General Assembly in 1990 and ratified by the Kingdom of Morocco in 1993; ILO Convention No. 143 on migrant workers, ratified by Morocco in 2016; Convention No. 87 on freedom of association and protection of the right to organise, 1948; and the Global Compact for safe, orderly and regular migration, adopted in Marrakech in 2018. ... but unfortunately, these texts suffer from non-application and non-compliance, and others remain unratified by industrialised countries.

In Morocco, the emergence of a migrants' trade union within the democratic labour organisation (ODT) is an experiment that should be supported, given that its establishment has been an added value for migrant workers, as they have found a valid interlocutor for the defence and protection of their socio-cultural, economic and professional interests, with a view to ensuring better integration within their host society.

To remedy this situation despite the constraints of globalisation, Morocco introduced a new migration policy in 2013 under the high guidance of His Majesty King Mohammed VI, and the national immigration and asylum strategy in 2014, based on a humanist, coherent and comprehensive approach founded on the values of solidarity, welcome and respect for migrants' rights, in accordance with Morocco's international commitments and its new constitution of 2011.

Despite these significant advances, much remains to be done, given the setback to the momentum generated by these reforms.

## ROUND 6 (SESSIONS 20-24)

### **Session 20 Panel - Making Access to Healthcare**

Chair: **Michel Klein**

**MARIJKE BIJL, THE IMPORTANCE AND POSSIBILITIES OF EMBEDDING IN REGULAR CARE AND (PUBLIC) RESPONSIBILITY**

As answer to difficulties in access to healthcare for undocumented there is a tendency to organize it in separate services.

Historically, professional views of healthcare professionals have played a major role in resistance to



restrictions. Opportunities to involve healthcare professionals and public health services in strengthening decent care may be better utilized. This requires systematic effort.

**MORGAN, ANDRZEJ, SAIDI & MICHEL, *BREAKING BARRIERS! AN AI-POWERED CHATBOT FOR INCLUSIVE HEALTHCARE FOR UNDOCUMENTED MIGRANT COMMUNITIES***

Despite the unequivocal articulation of the right to health services for all people in policy documents, challenges persist in the actualisation of this entitlement by undocumented migrant communities. A stark reality persists—undocumented migrant communities grapple with formidable challenges in realising this fundamental right. This historically marginalised demographic, burdened by discrimination and marginalisation, confronts formidable barriers hindering their access to vital healthcare services, exacerbating their already disproportionate health vulnerabilities. This paper seeks to unravel the intricate web of challenges confronting undocumented individuals in accessing healthcare—a realm characterised by wicked problems interwoven with real-world constraints resisting superficial solutions. The study commences with a meticulous examination of the prevailing barriers faced by undocumented populations in Amsterdam, The Netherlands, paving the way for an exploration into the transformative potential of an AI-driven assistant system. It probes the potential of employing an AI-driven chatbot application to seamlessly tailor information to diverse circumstances, addressing unique needs effectively, not only needs of undocumented people themselves, but also people supporting them. The overarching objective is to cultivate a nuanced understanding of the distinctive healthcare needs of undocumented individuals and to assess the viability of a chatbot as an innovative intervention. Armed with insights gleaned from the exploration of the challenges, the paper aims to craft a digital solution that empowers undocumented individuals and possible helpers with the requisite information and support to navigate the intricate landscape of healthcare access. Preliminary findings underscore the limitations of existing tools in fully meeting the multifaceted needs of undocumented individuals. This is the gap that the proposed solution will address. A prototype of the chatbot is being co-developed with different stakeholders before being tested and iterated. This paper contributes to the ongoing discourse on inclusive healthcare, advocating for an approach to alleviate the challenges faced by this vulnerable population.

**ANNA KOMPATSCHER, *THE RIGHT TO HEALTHCARE FOR UNDOCUMENTED WORKERS IN GERMANY, FRANCE, ITALY***

Germany, France and Italy have ratified numerous international law instruments on Workers' Rights. Both France and Germany have ratified the Global Compact for Safe, Orderly and Regular Migration (GCM). Italy and Germany have ratified the International Labor Organization's Convention on Decent Work for Domestic Workers (ILO C-189). Nevertheless, the protection of socio-economic rights for undocumented workers remains precarious. Especially access to effective healthcare is crucial for this population. They often work in dangerous jobs causing health damages and accidents, and need healthcare just as every other human. Due to their residence status, though, the human right to healthcare is often denied or restricted.

The poster will, firstly, analyse the right to healthcare in the GCM and the ILO- 189 and whether the lack of regular residence affects the entitlement to this right as set out therein. Secondly, it will compare the design of healthcare benefits granted to undocumented workers via three case studies on Germany, France and Italy. The goal is to assess if domestic norms in these countries are compatible with their international obligations.

The three states are in a comparable situation when it comes to the numbers of undocumented migrants and workers living there. Furthermore, the three countries are bound by the same international and European human rights obligations. Nevertheless, different (legal) cultures and political choices have led to differing legal setups. The comparison between the three states shows the legislative choices exercised on how to treat undocumented workers, exhibits them as not inevitable, and showcases the variety of legal regulations granting or restricting human rights. Albeit to varying degrees, all three states, in stark contrast with the proclaimed universality of the human right to healthcare, restrict access to healthcare for undocumented workers.



## **Session 21 Panel – Intersecting Struggles, Intersecting Movements**

**Chair: Yasmina Yatti**

### **DIONYSIA KANG, *BORDERED BY INTEGRATION: A CONTEXTUALISATION OF PRECARIOUS LABOUR, PUNISHMENT, GOVERNANCE OF THE RACIALLY OTHERED IN FINLAND***

The global migration regime and labour migration reflect a continuity of racial structures sustaining colonial and imperial dominance. Food system lies in the “international nexus of capital, colonialism, white supremacy” intersecting with “immigration, labour, human rights and international trade laws” (Harris 2021). Like many countries, workers in Finnish food system are predominantly migrants and racially minoritized. They are increasingly acknowledged to be precarious and under-protected. Non-EU citizens who are racially minoritized workers tend to be stuck in performing the most labour-intensive and least protected work, such as in gig delivery, kitchen assistant and agriculture. Legal scholars have pointed out that migrant workers are vulnerable to justice gap, understood as gap between workers’ rights on paper and in practice (Rasnača, 2022). The issue of justice gaps is especially prevalent in food systems where migrants work in environments where few national citizens perform equivalent work to ensure equal treatment. Under this context, I examine how integration pathways within a racial legal context of migrant, labour and social rights fosters differentiated migrant precarity in Finland. Defined by Finnish laws, successful integration by migrants is grounded on labour market participation and national language acquisition to a working level. Based on semi-structured in-depth interviews with 13 food systems workers who self-identify as racial minorities, majority of them migrants, in Finland, I map out the ambiguities and justice gaps that foster everyday precarity as the workers ‘integrate’ into the Finnish labour market. Workers’ accounts provide bottom-up mapping of the actors, legal and normative mechanisms that influence precarity of workers, their varied experience of (under)protection and negotiation within and outside law. I use scholarship on migration and racial capitalism to contextualise how race and migration are interlocking regimes of exploitative work conditions in Finland, whereby ‘integration’ presents as racial pathway to precarity for migrant workers.

### **KHADIJA ELMADMAD, *UNDOCUMENTED WOMEN, CHILDREN AND DISABLED MIGRANT WORKERS MULTIPLE VULNERABILITIES AND THE NEED FOR SEVERAL PROTECTIONS: THE CASE OF MOROCCO***

Across the world, particularly in the Global South, undocumented migrant workers face complex problems and lack basic human rights. The situation becomes even more complicated for women and children, especially when they are living with disabilities.

Due to intersecting factors of gender, age, and disability, these migrants face several vulnerabilities and encounter significant challenges, including labour exploitation, discrimination, human trafficking, violence and limited access to essential services.

In Morocco, a transit and destination country for migrants, the plight of undocumented women, children, and handicapped workers remains largely unaddressed.

Fieldwork conducted with migrant women and children in Morocco during the COVID-19 era has uncovered the great vulnerability of those among them who were undocumented and working irregularly.

Another fieldwork undertaken with disabled migrants in 2023, in the city of Rabat and its region, has shown the dramatic status of migrant women and children living with disabilities. Some of them were forced to beg on the streets or engage in unauthorized activities. Inadequate access to justice aggravated their marginalization and abuse.

These migrants could be protected, in theory, by diverse international legal instruments and different domestic laws. They include the general and specific universal and regional human rights conventions along with some national laws guaranteeing rights to women and children as well as all the principles and regulations applying to migrants and to workers. Notably, the International



Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of December 18, 1990 which is considered by the United Nations as the Charter of all migrants. Different instruments sanctioning human trafficking and guaranteeing rights for victims of migrant smuggling can also provide protection to them. They could be covered, additionally, by various dispositions safeguarding the rights of disabled persons.

Morocco has ratified most international treaties and conventions relating to human rights and to the protection of migrants and workers. The country was particularly the second in the world to have ratified the Migrant Workers Convention in 1993. Similarly, Morocco is part of many international legal instruments penalizing human trafficking and safeguarding the rights of disabled persons. Morocco has also enacted domestic legislation protecting migrants, women, children and disabled persons as well as sanctioning human trafficking and migrants' smuggling.

However, gaps persist in the contents of these laws or in their implementation and enforcement leaving thus undocumented women, children, and disabled migrant workers vulnerable to exploitation and exclusion.

This paper aims to examine the vulnerabilities of undocumented women, children, and disabled migrants and advocate for enhanced protections to ensure their rights and dignity, precisely in the case of undocumented and disabled women and children.

Addressing these vulnerabilities necessitates a comprehensive approach that combines legal protection, inclusive policies, access to services, and awareness-raising efforts.

#### **KAMAL KITHSIRI KARUNADASA, HEWAWASAM REVULGE, EXPLANATORY HISTORICAL ANALYSIS OF AUSTRALIAN OPPRESSION OF ABORIGINALS THAT LINKS TO THEIR CURRENT MIGRATION LAWS**

This paper explores and critically analyses major historical incidents of how Indigenous sovereignty was affected by the arrival of the British in Australia. Literature shows that there were more than 500,000 indigenous Aboriginal people whose ancestors had lived in Australia for at least 50,000 years at that time. Also, historical evidence shows that the initial interaction between Australian indigenous people and British settlers occurred more than 250 years ago.

At the time of British arrival, there was no land for them to settle, and they occupied Indigenous people's land by violence and dispossession. They ignored the native peoples' presence, took over their lands, and colonised them based on the doctrine of terra nullius, or empty land. This doctrine meant their action was not considered an invasion, merely settling on vacant land, and no treaty or compensation was required.

The researcher used the literature review method for this research, and he hypothesises that the attitudes of the early British settlers and the doctrine of terra nullius influenced early discriminatory policies, laws, institutions, and organizational culture of the Department of Immigration.

Findings indicate that these Australian actions represented an oppressive brand of imperialism that denied Aboriginal history, culture, humanity, laws, and essentially even their very existence. Furthermore, those persisted and formed the basis of current adverse migration policies against asylum seekers entering Australia.

#### **JELLE KLAAS, PILP (FORMERLY, THE PUBLIC INTEREST LITIGATION PROJECT), MOVEMENT LAWYERING**

The approach of PILP to movement lawyering. How can lawyers be the best allies of movements? What does that mean for the work?

The legal victories and the approach in Ethnic Profiling case and the Roma, Sinti, Travellers case by PILP. Previous work on the social economic rights for the undocumented by Jelle Klaas.

### **Session 22 Panel – Refusing Undocumented Migrant's Labour Devaluation**

**Chair: Shahin Nasiri**



**JASMIN LILIAN DIAB, *ECHOES OF (IN)JUSTICE IN A CULTURE OF IMPUNITY: BARRIERS TO LEGAL ACCESS FOR ETHIOPIAN MIGRANT WORKERS IN LEBANON***

This study delves into the plight of migrant domestic workers (MDWs) in Lebanon, primarily focusing on the challenges imposed by the Kafala (sponsorship) system. This system, deeply ingrained in Lebanese society and supported by legal and administrative frameworks, ties a worker's residency to their employer's continuous sponsorship. Consequently, MDWs face severe exploitation and marginalization due to the imbalance of power between them and their employers. This imbalance leads to deplorable working conditions and widespread human rights violations, including but not limited to forced labor, withholding of identity documents, long working hours, non-payment of wages, and various forms of harassment. Tragically, these abuses often culminate in extreme outcomes such as suicide or fleeing their workplaces, exposing them to further risks of arrest and deportation. Despite the alarming frequency of such cases, they are rarely thoroughly investigated. The absence of effective remedies exacerbates the vulnerability of MDWs within the sponsorship system. Moreover, the residency regulations for foreigners, especially MDWs, further compound their difficulties, with unjust attributions of responsibility and challenges in complying with the stringent requirements. This study endeavors to elucidate the legal barriers faced by Ethiopian MDWs in Lebanon when navigating the judicial system. Through an analysis of over 100 criminal case files, from prosecution to verdict issuance, as well as qualitative in-depth interviews with over 67 Ethiopian MDWs living in Lebanon and over 15 experts, the study aims to advocate for reforms that safeguard the rights and dignity of migrant domestic workers in Lebanon, while also addressing the bottlenecks attached to their access to justice.

**JORDAN DEZ, *DOMESTIC WORKER RIGHTS-MAKING BETWEEN MIGRANT ASSOCIATIONS AND TRADE UNION***

Based on empirical legal research on the freedom of association and rights-making practices with migrant domestic workers in the Netherlands, the central claim of this paper is that effective protection of undocumented worker's right to join a union under the freedom of association relies on effective protection of undocumented workers right to form associations. Organizing activities of migrant associations (protected by the right to form an association) and the organizing activities of the union (protected by, inter alia, the right to join a union) are not separable from each other. Migrant associations engage in practices of 'social unionism', playing an essential role in accessing labour rights but also social rights of workers outside of the traditional union model of collective bargaining. The grassroots activism of migrant associations does not lessen the importance of the trade union and coalitions with other NGOs. Through the trade union, migrant domestic workers join together from different migrant associations as union members, and hold onto the union's power to speak to the national government, and the potential of solidarity from fellow union members. The activities protected under the freedom of association—forming migrant associations and joining a union, are essential to the protection of a host of other human rights of migrants, from social rights such as the right to healthcare, to labour rights such as wage standards. This paper will elaborate on the relevance of an interpretation of the freedom of association that protects undocumented migrants right to join and to form an association as essential for the effective protection and legal development of the human rights of migrants through the particular case of the migrant domestic workers of the Netherlands. In the effective exercise of the freedom of association for the undocumented migrant domestic workers, the practice of forming and joining a union are deeply interwoven. To separate the activities protected under these rights from each other in practice is impractical, and to do so based on migration status disconnects the most marginalized workers from the precise right that ensures their protection.

**LEILA FAGHFOURI AZAR, *RESISTING THE NEO-COLONIAL POLITICS OF LABOUR DISPOSSESSION: UNIONISATION OF ILLEGALISED MIGRANT WORKERS IN EUROPE***



In their examinations of the legal and political origins of the European regime of border control, critical voices in legal and political theory highlight the prevalence of the classed and racialised ideology of 'national citizenship' as the foundation of this regime. This ideology, as they argue, has motivated the creation of a stark division between lives deemed worthy of prosperity and 'others' destined to illegality, deportability, exploitability, and death. Particularly, critical legal scholars emphasise the deterrent function of the exclusionary practices of bordering, devised by European immigration laws, in order to hinder movements of migrants from the periphery to Europe. What they often overlook, however, is the fact that European immigration laws and their associated bordering practices are not solely designed to keep illegalised migrants 'out'. They, rather, are designed to produce 'cheap labour' out of their racialised lives and bodies which are labeled as 'surplus' yet included to serve economic needs of the Europe's neo-colonial and capitalist way of life. Taking this as a vantage point, this paper seeks to explore this overlooked dimension of the the European immigration legal regime. With a focus on the concept of 'bodily labour' in the context of anti-slavery legal regulations, this paper asks what logic enables the transformation of illegalised migrants into cheap and disposable labour. To answer this question, this paper first illustrates how the European border control regulations are instrumentalised to 'dispossess' illegalised migrants of the capacity of effective control and exchange of their bodily labour power through illegalisation and criminalisation of their employment. Next, the paper positions practices of dispossession of body and bodily power of subaltern groups at the intersection of the economic logic of global capitalism and the political ideology of (neo)colonialism. In doing so, I argue that the instrumentalisation of migration regulations to dispossess illegalised migrants of their capacity of labouring follows a similar logic. Regulations that grant, directly or indirectly, such power to states, produce, and normalise exploitative structures which work to the function of turning illegalised migrants into disposable labour and lives. In the absence of a 'New World', this goes hand in hand with the production of a periphery within the European territory, which characterises the informal economy that emplaces these workers. The paper concludes in arguing that collective unionisation of illegalised migrant workers to refuse illegalisation of their employment could be an alternative strategy against such capitalist and neo-colonial politics of labour dispossession.

### **Session 23 Workshop - Worker-driven Social Responsibility: An Effective Mechanism for Protecting Migrant Workers' Rights**

Translation assistance: **Natalia Robledo Contreras**

**COORDINATORS: RAFAELA RODRIGUEZ, THE WORKER-DRIVEN SOCIAL RESPONSIBILITY NETWORK; MIGRANT JUSTICE/JUSTICIA MIGRANTE**

**PRESENTERS FROM MIGRANT JUSTICE WILL INCLUDE AN IMMIGRANT DAIRY WORKER AND A STAFF ORGANIZER MIGRANT JUSTICE IS A U.S. HUMAN RIGHTS ORGANIZATION BASED IN A COMMUNITY OF UNDOCUMENTED IMMIGRANT DAIRY WORKERS IN THE STATE OF VERMONT.**

A vast number of industries around the world are held together by a migrant workforce that often lack basic protections. Critical international conventions that recognize the human rights of migrant workers and promote their access to justice, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), have not been signed or ratified by the United States. While ratifying the Migrant Worker Convention is far from arms reach, workers in the United States have created an alternative solution called [Worker-driven Social Responsibility \(WSR\)](#) which has brought concrete improvements and made workplace protections a reality in some of the most precarious and unprotected industries.

The Worker-driven Social Responsibility model is based on [six interconnected principles](#), bringing together worker-driven codes of conduct, binding agreements between brands at the top of supply chains, and worker-driven enforcement. A holistic combination of worker education coupled with a 24/7 complaint support line and comprehensive independent monitoring results in a mechanism that



is trusted by workers – and [aligned with the UN Guiding Principles for Business and Human Rights](#). Together, these mechanisms underpin programs that are gaining global recognition as a powerful new paradigm for protecting workers' fundamental human rights in corporate supply chains. The first iteration of the WSR model was the Fair Food Program, which was forged by the Coalition of Immokalee Workers (CIW) and protects tens of thousands of farmworkers across the US, Chile, and South Africa. As we think collectively about effective instruments to protect migrant workers, we must look to the WSR model as a way to use the power of businesses and employers to protect this precarious workforce.

Inspired and supported by the CIW, [Migrant Justice](#), a human rights organization based in Vermont, set out to build their own WSR program called Milk with Dignity in 2017. They successfully brought the ice cream company Ben & Jerry's to be the first signatory of the Milk with Dignity program.

Join us in this workshop to hear directly from Migrant Justice's worker leaders on how their Milk with Dignity program has been successful in protecting the human rights of migrant workers and the challenges that have arisen through the first 5 years of implementation. We will also be joined by Rafaela Rodriguez who helped implement the monitoring body for the Milk with Dignity program and now supports worker-led organizations in developing WSR programs.

