

International Day against Human Trafficking

30.07.2021

When we talk about human trafficking, we are possibly facing one of the most clandestine crimes in our society, being a reality all over the world, including countries of origin, transit and destination. We must bear in mind that the main structural factors that are part of trafficking are capitalism, the feminization of poverty, migration and racism, among others.

Different organizations advocate for improved detection, and comprehensive and specialized care for people who suffer from trafficking in all its forms. This is needed especially for women and girls, since, in much more extreme situations, as in the case of forced migration, gender inequality is aggravated, and causes most women to end up as victims of machista violence and/or trafficking for sexual exploitation. Lack of opportunities and resources, and the responsibilities they feel and have towards their families mean that economically and socio-culturally disadvantaged women and girls face a greater risk of being exploited by others. The UN Office on Drugs and Crime (UNODC) estimates that there are at least 2.5 million victims of human trafficking and according to the same source, approximately 79% of all human trafficking has the purpose of sexual exploitation.

According to the latest Global Report on Human Trafficking 2020, female representation has been increasing: out of every ten victims detected worldwide, about five are adult women and two are girls. However, we are facing a serious lack of visibility of the female collective in these circumstances and we are facing a socio-cultural naturalization of violence against women, which causes trafficking for sexual exploitation purposes to remain a taboo crime even at the border.

In the case of Melilla and Ceuta, the number of women who jump the fence is negligible, as they tend to be very exceptional cases. So how do these women get to the border from their countries? We must think about the alternatives they have to resort to in order to migrate, and about situations of forced violence they may find themselves in just because they are women, which adds to their vulnerability. The probability of dying at sea, with their children in their arms, is so high that many women join the trafficking networks knowing what awaits them, being aware that this is the only way to reach the destination country alive. But there is a clear problem, as journalist Patricia Simón mentioned in 2019 during her visit to Melilla:

"Administrations are much more focused on generating discourse against trafficking and prostitution than on fighting its causes: inequality, racism, colonialism and borders".

What is observed at the Spanish border is mainly a denial of trafficking, and a lack of coordination between institutions, organizations and the UCRIF (Central Unit for

Illegal Immigration Networks and Documentary Forgery - unit of the National Police) to actually detect and identify human trafficking. This work at the border should be done by specialized and well trained units to prevent the women from continuing in the trafficking networks when they are transferred to the mainland. Women who are in real danger should be transferred urgently and with comprehensive care by specialized organizations. Common misperception is thinking that women manage to escape the trafficking network by paying their debt. The reality is that women flee without the slightest protection, risking their lives and physical integrity (and that of their children, if there are any). For this reason, it is crucial to provide specific training to the different border professionals who work on migration issues, since we are talking about women, and sometimes about girls who are totally unprotected and in a situation of extreme vulnerability. We should not forget that the victims of trafficking arrive with traumatic experiences that often cause them to remain in a spiral of fear, to the point of not identifying themselves as victims of trafficking or not even being aware of it.

Some of them do initiate complaint procedures to obtain asylum, but in many cases they end up withdrawing it. And it is at this point that an exhaustive follow-up should begin, as it means that the woman is likely to continue to be coerced and in direct contact with the traffickers. Prostitution in Ceuta and Melilla is another reality that can lead us to identify this type of cases, together with the indicators managed by the organizations and through the follow-up of consumers.

There is also something that plays against providing a solution to this situation. The most characteristic arguments regarding the tightening of laws and border control policies is precisely the need to fight against human trafficking mafias. But it is these same laws that, according to the United Nations, mean more profits for traffickers, even more so in times of the covid-19 pandemic and border closures. The excuse of human trafficking and smuggling to tighten immigration control is something that is too integrated into the political discourse and is undeniably making an impact on public opinion. If we continue with dehumanizing migration policies, increasing security measures at borders, all lacking a cross-cutting gender perspective, the fight against this illicit business will be increasingly difficult, complicating detection and thus complicating giving women and girls the opportunity for a dignified life.

ASYLUM SEEKERS WITHOUT PASSPORT: new blockage to freedom of movement in Melilla

9.07.2021

The Law regulating the Right of Asylum and Subsidiary Protection, known as asylum, recognised in Article 13.4 of the Spanish Constitution, is the protection provided by Spain to non-EU nationals or stateless persons who are recognised as refugees in accordance with this Law, the Geneva Convention of 1951 and the New York Protocol of 1967.

To access this protection in the city of Melilla there are numerous obstacles, many of them at the administrative and/or police level, which effectively prevent the exercise of many of the rights associated with the status of asylum seeker. One of these rights is freedom of movement. Until February of this year, the **tarjetas rojas** ("red cards", which is the document accrediting the status of asylum seeker) issued in Ceuta and Melilla included **an inscription limiting their validity to the territory of these Autonomous Cities**, which prevented them from moving to the rest of Spanish territory.

However, **the Supreme Court, in its judgment no. 173/2021**, established the following:

"Any foreign citizen who has applied for international protection or asylum in the Autonomous Cities of Ceuta and Melilla has the right to freedom of movement, and to take up residence in any other city in the national territory, without this right being limited by the Administration due to his or her status as an applicant for international protection and always with the obligation of the applicant to inform the Administration of this change of address".

Although the border and port authorities, especially in the city of Melilla, have resisted the application of this ruling (which, coming from the High Court, is directly binding), alleged mobility restrictions derived from the state of alarm, it seems clear that asylum seekers cannot continue to be prevented from moving freely around our country.

Hopes of being able to leave this city-prison and cross to the mainland were growing for many people, who would not need to wait for the famous "official departures" from the CETI (centre of temporary residence for immigrants) in which the people who could pass to the mainland were chosen without any clear or motivated criteria.

Unfortunately, many have encountered a frontal barrier to their wishes: **the Policía Nacional is withholding their passports**, confiscated at the time of the asylum interview, without which they cannot cross the Schengen border that separates Melilla from Europe. As an entity that legally accompanies many of these cases, we wonder what legal basis the Documentation Unit of Spaniards and Foreigners (la Unidad de Documentación de Españoles y Extranjeros - UDEYE) of the Policía Nacional has to carry out these actions.

At the European level, **Directive 2013/32/EU** on common procedures for granting and withdrawing international protection includes, in Article 13.2, the possibility for Member States to require *"applicants to submit documents relevant to the examination of the application, such as passports, for example"*. This "for example" should be interpreted, we understand, as a sample of the documents that may be required for the examination of the application, but in no case does it indicate the obligation to claim the originals and, much less, to refuse to return them at the request of their holders.

On the other hand, **Spanish asylum law** establishes, as one of the obligations of applicants, that of *"presenting, as soon as possible, all those elements which, together with their own declaration, contribute to substantiating their application. Among others, they may submit any documentation they have on their age, background - including that of relatives -, identity, nationality or nationalities, places of previous residence, previous applications for international protection, travel itineraries, travel documents and reasons for seeking protection"*. This requirement continues with the optional nature of such documentation.

These two legal regulations are important for two reasons: firstly, because **they do not establish the obligation to provide a passport when applying for asylum**, an excuse for which many undocumented people are finding it impossible to formalise their asylum application, so that they never gain access to the status of applicant and the rights that this entails. Secondly, because **in no case does it enable the Policía Nacional to confiscate documentation *sine die* from those who do provide it**.

In fact, the possession of a valid passport has a purely circumstantial character that does not directly influence the substantive question of the determination of refugee status. This means that such possession can be considered as a very important piece of evidence to determine the actual nationality of the applicant for international protection, i.e. **it has important evidentiary effects**. But such effects would be just as valid if, instead of confiscating the original passport, the police would, for example, make a certified photocopy of it at the time of the interview.

It is true that most of the details of these procedures end up being done more or less intuitively or through instructions from the police themselves. The uncertainty that this generates is rooted in **the absence of a regulation that develops the provisions of the Asylum Law**, which we have been waiting for since its approval in 2009. There is no doubt that many of these problems would be solved if there were a clear regulatory provision that would put an end to these disagreements in administrative practice.

In any case, even in cases where passports have been confiscated, in our opinion unnecessarily, asylum seekers should have the option of retrieving them immediately upon request, and this is not happening in Melilla. On the contrary, **the administrative-police practice is based on the mere possibility that the asylum law offers the applicants (that of providing documentation accrediting their identity, nationality and circumstances justifying their application, which may indeed include a passport), to unlawfully deny the rights of these people, such as freedom of movement.**

All this, of course, through "unorthodox" means to demonstrate once again **the bureaucratic violence that migrants suffer from in the Spanish state.** To begin with, applicants are not allowed to enter police stations, creating separate queues between nationals or residents and foreigners or undocumented migrants. They always have to wait outside the police station much longer than other people, having to hear the excuse of the UDEYE being understaffed and, in most cases, unsuccessfully, as they are often not attended to under the pretext of needing an appointment to gain access. However, getting this appointment, which is not given in person, is very complicated for people who do not know the language and often do not have a telephone or email. The entities that accompany them do not have it easy either: daily emails that go unanswered and calls that do not even get through are the most frequent result of our attempts to get an appointment.

For this reason, many of these people choose to go to the police station day after day, hoping that one day their documents will be returned to them. Many of them reside in the CETI, where they are often not well informed about the procedure to get their documents back and they go crazy from going back and forth between the CETI and the police station asking for their passports. Many others live on the streets, which makes it even more complicated to assert their status as asylum seekers. All of this generates **psychological exhaustion that turns into tension, despair and anger at the denial of their human rights.**

In addition to all this, of course, is the treatment they receive at the doors of this police station. **The verbal, structural and symbolic violence** of being kept apart, in the full sun during the hot summer in Melilla, in front of the door of the police station, unable to move from there, unable to approach an officer to ask a question, or getting a "you have to wait" as the most polite response. The message sent is clear: "you are not welcome", and these people wonder how this passport can have more power than the fact that they already have legal residence in Spain by the mere fact of being asylum seekers.

From a human rights perspective, this administrative and police practice is not only wrong, it is a violation of human rights. And from a purely human point of view, what these people experience on a daily basis is insane. Solidary Wheels calls for clarification of this situation and an immediate end to this practice which, without a clear legal basis, is leaving many people in an unjust and demoralising wait.

